

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-Q

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

FOR THE QUARTERLY PERIOD ENDED: JUNE 30, 1999

OR

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

FOR THE TRANSITION PERIOD FROM \_\_\_\_\_ TO \_\_\_\_\_

COMMISSION FILE NUMBER: 0-25245

PRISON REALTY TRUST, INC.  
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

MARYLAND

(State or other jurisdiction of  
incorporation or organization)

62-1763875

(I.R.S. Employer Identification Number)

10 BURTON HILLS BLVD., SUITE 100, NASHVILLE, TENNESSEE 37215  
(ADDRESS AND ZIP CODE OF PRINCIPAL EXECUTIVE OFFICES)

(615) 263-0200

(REGISTRANT'S TELEPHONE NUMBER, INCLUDING AREA CODE)

none

(FORMER NAME, FORMER ADDRESS, AND FORMER FISCAL YEAR  
IF CHANGED SINCE LAST REPORT)

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

(Outstanding shares of the issuer's common stock, \$0.01 par value per share, as  
of August 11, 1999)

118,168,443

## PRISON REALTY TRUST, INC.

## FORM 10-Q

FOR THE QUARTERLY PERIOD ENDED JUNE 30, 1999

## INDEX

	PAGE
	----
PART I -- FINANCIAL INFORMATION	
Item 1. Financial Statements	
a) Condensed Consolidated Balance Sheets as of June 30, 1999 (Unaudited) and December 31, 1998.....	2
b) Condensed Consolidated Statements of Income (Unaudited) for the three and six months ended June 30, 1999 and 1998.....	4
c) Condensed Consolidated Statements of Cash Flows (Unaudited) for the six months ended June 30, 1999 and 1998.....	5
d) Notes to Condensed Consolidated Financial Statements.....	7
Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.....	18
Item 3. Quantitative and Qualitative Disclosures About Market Risk.....	35
PART II -- OTHER INFORMATION	
Item 1. Legal Proceedings.....	36
Item 2. Changes in Securities and Use of Proceeds.....	37
Item 3. Defaults Upon Senior Securities.....	37
Item 4. Submission of Matters to a Vote of Security Holders.....	37
Item 5. Other Information.....	37
Item 6. Exhibits and Reports on Form 8-K.....	38
SIGNATURE.....	39

## PART I -- FINANCIAL INFORMATION

## ITEM 1 -- FINANCIAL STATEMENTS.

## PRISON REALTY TRUST, INC.

## CONDENSED CONSOLIDATED BALANCE SHEETS (SEE NOTE 3)

JUNE 30, 1999 AND DECEMBER 31, 1998

(AMOUNTS IN THOUSANDS, EXCEPT SHARE AMOUNTS)

	JUNE 30, 1999	DECEMBER 31, 1998
	----- (UNAUDITED)	-----
ASSETS		
Real estate properties, at cost:		
Correctional and detention facilities	\$ 2,200,325	\$ 637,640
Less accumulated depreciation	(27,799)	(10,251)
	-----	-----
Net real estate properties	2,172,526	627,389
Cash and cash equivalents	2,052	31,141
Restricted cash	38,870	--
Notes receivable	138,549	138,549
Investments in affiliates and others	129,975	127,691
Investments in direct financing leases	74,981	77,809
Deferred tax assets	--	51,200
Assets under lease arrangements, net	44,423	--
Receivable from New CCA	10,593	--
Other assets	41,607	36,658
	-----	-----
Total assets	\$ 2,653,576	\$1,090,437
	=====	=====

The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these statements.

(Continued)

## PRISON REALTY TRUST, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS (SEE NOTE 3)  
 JUNE 30, 1999 AND DECEMBER 31, 1998  
 (AMOUNTS IN THOUSANDS, EXCEPT SHARE AMOUNTS)  
 (CONTINUED)

	JUNE 30, 1999 ----- (UNAUDITED)	DECEMBER 31, 1998 -----
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>LIABILITIES:</b>		
Distributions payable	\$ 215,642	\$ --
Bank credit facility	648,750	222,000
Notes payable	100,000	--
Convertible subordinated notes and other debt	70,796	77,833
Accounts payable and accrued expenses	99,373	81,200
Income taxes payable	5,746	14,966
Deferred gains on real estate transactions	--	125,751
Deferred gains on sales of contracts	110,996	116,701
Deferred tax liability	32,000	--
	-----	-----
Total liabilities	1,283,303	638,451
	-----	-----
<b>COMMITMENTS AND CONTINGENCIES</b>		
<b>STOCKHOLDERS' EQUITY:</b>		
Preferred stock, \$.01 par value; 10,000,000 shares authorized; 4,300,000 and 0 outstanding	43	--
Common stock, \$.01 par value; 300,000,000 shares authorized, 118,166,000 and 79,956,000 shares issued and outstanding	1,182	800
Additional paid-in capital	1,378,922	398,493
Retained earnings	--	52,693
Cumulative net income	121,018	--
Accumulated distributions	(130,892)	--
	-----	-----
Total stockholders' equity	1,370,273	451,986
	-----	-----
Total liabilities and stockholders' equity	\$ 2,653,576	\$1,090,437
	=====	=====

The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these statements.

## PRISON REALTY TRUST, INC.

CONDENSED CONSOLIDATED STATEMENTS OF INCOME (SEE NOTE 3)  
FOR THE THREE AND SIX MONTHS ENDED JUNE 30, 1999 AND 1998  
(UNAUDITED AND AMOUNTS IN THOUSANDS, EXCEPT PER SHARE AMOUNTS)

	THREE MONTHS ENDED JUNE 30, 1999	THREE MONTHS ENDED JUNE 30, 1998	SIX MONTHS ENDED JUNE 30, 1999	SIX MONTHS ENDED JUNE 30, 1998
REVENUES:				
Rental revenues	\$ 65,828	\$ --	\$ 129,468	\$ --
Interest income	5,827	--	12,041	--
Licensing fees	2,186	--	4,318	--
Management and other revenues	--	164,071	--	305,369
	73,841	164,071	145,827	305,369
EXPENSES:				
Depreciation and amortization	10,502	3,899	20,419	7,287
General and administrative	1,725	5,510	2,607	10,463
Operating	--	114,623	--	214,342
Lease	--	13,841	--	24,936
	12,227	137,873	23,026	257,028
OPERATING INCOME	61,614	26,198	122,801	48,341
Equity in earnings of subsidiaries and amortization of deferred gains	7,476	--	15,157	--
Interest expense	(7,036)	(1,785)	(15,309)	(3,276)
Interest income	--	4,205	--	8,487
Loss on disposition of property	(1,631)	--	(1,631)	--
INCOME BEFORE INCOME TAXES	60,423	28,618	121,018	53,552
Provision for change in tax status	--	--	83,200	--
Provision for income taxes	--	7,530	--	14,021
NET INCOME	60,423	21,088	37,818	39,531
DIVIDENDS TO PREFERRED SHAREHOLDERS	(2,150)	--	(4,300)	--
NET INCOME AVAILABLE FOR COMMON SHARES	\$ 58,273	\$ 21,088	\$ 33,518	\$ 39,531
NET INCOME AVAILABLE PER COMMON SHARE:				
BASIC	\$ 0.50	\$ 0.30	\$ 0.30	\$ 0.57
DILUTED	\$ 0.50	\$ 0.27	\$ 0.30	\$ 0.50
WEIGHTED AVERAGE COMMON SHARES OUTSTANDING, BASIC	116,421	70,312	111,871	69,934
WEIGHTED AVERAGE COMMON SHARES OUTSTANDING, DILUTED	117,763	78,806	112,687	78,971

The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these statements.

## PRISON REALTY TRUST, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (SEE NOTE 3)  
 FOR THE SIX MONTHS ENDED JUNE 30, 1999 AND 1998  
 (UNAUDITED AND AMOUNTS IN THOUSANDS)

	SIX MONTHS ENDED JUNE 30, 1999	SIX MONTHS ENDED JUNE 30, 1998
	-----	-----
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net income	\$ 37,818	\$ 39,531
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	20,419	7,287
Provision for change in tax status	83,200	--
Deferred and other noncash income taxes	--	1,818
Other noncash items	536	243
Loss on disposition of property	1,631	2
Equity in earnings of unconsolidated entities	(9,819)	(544)
Recognized gain on sales of contracts	(5,338)	--
Recognized gain on real estate transactions	--	(5,070)
Changes in assets and liabilities, net		
Accounts receivable	(1,412)	(24,253)
Prepaid expenses	(120)	(2,367)
Other current assets	(9,285)	(622)
Accounts payable	(9,304)	31,248
Income taxes payable	(9,220)	(10,253)
Accrued expenses and other liabilities	5,460	1,705
	-----	-----
Net cash provided by operating activities	104,566	38,725
	-----	-----
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Additions of property and equipment	(351,032)	(189,225)
Increase in restricted cash and investments	(21,682)	--
Cash acquired in purchase of CCA Prison Realty Trust	21,894	--
Payments under lease arrangements	(44,959)	--
Increase in other assets	(400)	(12,414)
Proceeds from disposal of assets	--	36,132
Acquisition of USCC subsidiaries, net of cash acquired	--	(9,341)
Payments from investment in affiliates, net	7,535	(157)
Payments received on direct financing leases and notes receivable	2,827	2,627
	-----	-----
Net cash used in investing activities	(385,817)	(172,378)
	-----	-----
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Proceeds from issuance of long-term debt	40,000	--
Payments on long-term debt	(1,286)	(22)
Proceeds from line of credit, net	148,400	140,000
Proceeds from issuance of senior notes	100,000	--
Payment of debt issuance costs	(12,290)	(2,925)
Proceeds from issuance of common stock	119,672	--
Distributions paid on common shares	(138,075)	--
Distributions paid on preferred shares	(4,300)	--
Proceeds from exercise of stock options and warrants	41	1,508
Purchase of treasury stock	--	(7,600)
	-----	-----
Net cash provided by financing activities	252,162	130,961
	-----	-----
NET DECREASE IN CASH AND CASH EQUIVALENTS	(29,089)	(2,692)
CASH AND CASH EQUIVALENTS, BEGINNING OF THE PERIOD	31,141	136,147
	-----	-----
CASH AND CASH EQUIVALENTS, END OF THE PERIOD	\$ 2,052	\$133,455
	=====	=====

(CONTINUED)

## PRISON REALTY TRUST, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (SEE NOTE 3)  
 FOR THE SIX MONTHS ENDED JUNE 30, 1999 AND 1998  
 (UNAUDITED AND AMOUNTS IN THOUSANDS)  
 (CONTINUED)

	1999	1998
	-----	-----
SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION:		
Cash paid during the period for:		
Interest (net of capitalized amounts)	\$ 984	\$ 2,921
	=====	=====
Income taxes	\$ 9,220	\$ 22,231
	=====	=====
SUPPLEMENTAL SCHEDULE OF NONCASH INVESTING AND FINANCING ACTIVITIES-		
INCREASES (DECREASES) TO CASH:		
Long-term debt was converted into common stock:		
Other assets	\$ 1,161	\$ 5
Long-term debt	(47,000)	(1,400)
Common stock	50	51
Additional paid-in capital	45,789	32
Treasury stock	--	32,812
Retained earnings	--	(31,500)
	-----	-----
	\$ --	\$ --
	=====	=====
The Company acquired treasury stock and issued common stock through the exercise of stock options:		
Common stock	\$ --	\$ 398
Additional paid-in capital	--	3,331
Retained earnings	--	(114)
Treasury stock, at cost	--	(3,615)
	-----	-----
	\$ --	\$ --
	=====	=====
The Company converted a facility from investment in direct financing lease to property and equipment by acquiring the equity in the facility from the leasing entity:		
Accounts receivable	\$ --	\$ 3,500
Property and equipment	--	(16,207)
Investment in direct financing leases	--	12,707
	-----	-----
	\$ --	\$ --
	=====	=====
The Company acquired CCA Prison Realty Trust's assets and liabilities for stock:		
Restricted cash	\$ (17,188)	\$ --
Property and equipment	(1,323,100)	--
Other assets	(9,496)	--
Accounts payable and accrued expenses	29,248	--
Line of credit	279,600	--
Distributions payable	2,150	--
Common stock	253	--
Preferred stock	43	--
Additional paid-in capital	1,081,161	--
Retained earnings	43,817	--
Accumulated distributions	--	--
	(64,594)	--
	-----	-----
Net cash acquired	\$ 21,894	\$ --
	=====	=====

The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these statements.

## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 1999

## 1. ORGANIZATION AND OPERATIONS

## BACKGROUND AND FORMATION TRANSACTIONS

Prison Realty Trust, Inc., formerly Prison Realty Corporation, a Maryland corporation (the "Company"), was formed in September 1998. Corrections Corporation of America, a Tennessee corporation ("Old CCA"), and CCA Prison Realty Trust, a Maryland real estate investment trust ("Prison Realty"), merged with and into the Company on December 31, 1998 and January 1, 1999, respectively (collectively, the "Merger"), pursuant to an Amended and Restated Agreement and Plan of Merger by and among Old CCA, Prison Realty and the Company, dated as of September 29, 1998. Reference is made to the "Notes to the Condensed Consolidated Financial Statements" for the Company included in the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 1999, filed with the Commission on May 14, 1999 (File no. 0-25245), with respect to certain Merger transactions and contractual relationships as well as other pertinent information of the Company.

The Merger has been accounted for as a reverse acquisition of the Company by Old CCA and the acquisition of Prison Realty by the Company. As such, Old CCA's assets and liabilities have been carried forward at historical cost and the provisions of reverse acquisition accounting prescribe that Old CCA's historical financial statements be presented as the Company's historical financial statements. The historical equity sections of the financial statements and earnings per share have been retroactively restated to reflect the Company's equity structure including the exchange ratio and the effects of the differences in par values of the respective companies' common stock. Prison Realty's assets and liabilities have been recorded at fair market value, as required by Accounting Principles Board Opinion No. 16.

## OPERATIONS

Prior to the Merger, Old CCA operated and managed prisons and other correctional and detention facilities and provided prisoner transportation services for governmental agencies. Old CCA also provided a full range of related services to governmental agencies, including managing, financing, developing, designing and constructing new correctional and detention facilities and redesigning and renovating older facilities. Subsequent to the Merger, the Company specializes in acquiring, developing and owning correctional and detention facilities. The Company intends to operate so as to qualify as a real estate investment trust, or REIT, for federal income tax purposes and intends to elect to qualify as a REIT commencing with its taxable year ending December 31, 1999.

The Company's results of operations for all periods prior to January 1, 1999 reflect the operating results of Old CCA and the results of operations subsequent to January 1, 1999 reflect the operating results of the Company as a REIT. The accompanying unaudited condensed consolidated financial statements compare the operating results of the Company for the three and six months ended June 30, 1999 to the three and six months ended June 30, 1998. Management believes the comparison between 1999 and 1998 is not meaningful because the 1998 results reflect the operations of Old CCA and the 1999 results of operations reflect the operating results of the Company as a REIT.



## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
 JUNE 30, 1999  
 (CONTINUED)

The following unaudited pro forma operating information presents a summary of comparable consolidated results of combined operations as a REIT of the Company and Prison Realty for the six months ended June 30, 1998, as if the Merger had occurred as of January 1, 1998 and excluding the effect of any provision for the change in tax status. The unaudited pro forma operating information is presented for comparison purposes only and does not purport to represent what the Company's results of operations actually would have been had the Merger, in fact, occurred on January 1, 1998.

PRO FORMA  
 SIX MONTHS ENDED  
 JUNE 30, 1998  
 -----

(amounts in thousands, except per share amounts)

Revenues	\$103,872
Operating income	84,389
Net income available to common shareholders	80,735
Net income per common share:	
Basic	\$ 0.88
Diluted	0.80

## 2. MERGER TRANSACTIONS AND RELATED CONTRACTUAL RELATIONSHIPS

On December 31, 1998, immediately prior to the Merger, Old CCA sold to Corrections Corporation of America, formerly Correctional Management Services Corporation, a privately-held Tennessee corporation formed in connection with the Merger ("New CCA"), all of the issued and outstanding capital stock of certain wholly-owned corporate subsidiaries of Old CCA, certain management contracts and certain other assets and liabilities, and entered into a trade name use agreement as described below. In exchange, Old CCA received an installment note in the principal amount of \$137.0 million (the "CCA Note") and 100% of the non-voting common stock of New CCA, representing a 9.5% economic interest in New CCA valued at the implied fair market value of \$4.8 million. The CCA Note has a term of 10 years and bears interest at a rate of 12% per annum. Interest only is generally payable for the first four years of the CCA Note, and the principal will be amortized over the following six years. The sale to New CCA generated a deferred gain of \$62.2 million.

On December 31, 1998, immediately prior to the Merger and in connection with the Merger, Old CCA sold to Prison Management Services, LLC, ("PMS") and Juvenile and Jail Facility Management Services, LLC ("JJFMS"), two privately-held Delaware limited liability companies formed in connection with the Merger, certain management contracts and certain other assets and liabilities relating to government-owned adult prison facilities and government-owned jails and juvenile facilities managed by Old CCA. In exchange, Old CCA received 100% of the non-voting membership interests in PMS and JJFMS which obligate PMS and JJFMS to make distributions to Old CCA equal to 95% of each companies' net income, as defined, and are valued at the combined implied fair market value of \$123.0 million. The Company succeeded to these interests as a result of the Merger, and the Company's interests in PMS and JJFMS are included in "Investments in affiliates and others" in the accompanying balance sheet. The sales to PMS and JJFMS generated a combined deferred gain of \$53.4 million. On January 1, 1999, PMS merged with Prison Management Services, Inc., a privately-held Tennessee corporation ("Service Company A") and JJFMS merged with Juvenile and Jail Facility Management Services, Inc., a

## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 1999  
(CONTINUED)

privately-held Tennessee corporation ("Service Company B," and collectively with Service Company A, the "Service Companies").

The deferred gains from the sales of contracts to New CCA and the Service Companies will be amortized into income over multi-year periods as specified by the Securities and Exchange Commission's Staff Accounting Bulletin No. 81. The Company's investments in the Service Companies are being accounted for under the equity method of accounting. The Company's investment in New CCA is being accounted for under the cost method of accounting.

Under a trade name use agreement with New CCA resulting from the Merger (the "Trade Name Use Agreement"), New CCA pays a licensing fee to the Company for the right to use the name "Corrections Corporation of America" and derivatives thereof.

On January 1, 1999, immediately after the Merger, all existing leases between Old CCA and Prison Realty were cancelled and the Company entered into a master lease agreement and leases with respect to each leased property with New CCA (the "New CCA Leases"). The terms of the New CCA Leases are twelve years which may be extended at fair market rates for three additional five-year periods upon the mutual agreement of the Company and New CCA.

On January 1, 1999, immediately after the Merger, the Company entered into a services agreement (the "Services Agreement") with New CCA pursuant to which New CCA agreed to serve as a facilitator of the construction and development of additional facilities on behalf of the Company for a term of five years from the date of the Services Agreement. In such capacity, New CCA will perform, at the direction of the Company, such services as are customarily needed in the construction and development of correctional and detention facilities, including services related to construction of the facilities, project bidding, project design, and governmental relations. In consideration for the performance of such services by New CCA, the Company agreed to pay a fee equal to 5% of the total capital expenditures (excluding the incentive fee discussed below and the 5% fee referred to herein) incurred in connection with the construction and development of a facility, plus an amount equal to approximately \$560 per bed for facility preparation services provided by New CCA prior to the date on which inmates are first received at such facility. The Board of Directors of the Company has authorized payments up to an additional 5% of the total capital expenditures (as determined above) to New CCA if additional services are requested by the Company. A majority of the Company's current development projects are subject to a fee totaling 10%.

On January 1, 1999, immediately after the Merger, the Company entered into a tenant incentive agreement (the "Tenant Incentive Agreement") with New CCA pursuant to which the Company agreed to pay to New CCA an incentive fee to induce New CCA to enter into New CCA Leases with respect to those facilities developed and facilitated by New CCA. The amount of the incentive fee was set at \$840 per bed for each facility leased by New CCA for which New CCA served as developer and facilitator. This \$840 per bed incentive fee, however, did not include an allowance for rental payments to be paid by New CCA. Therefore, on May 4, 1999, the Company and New CCA entered into an amended and restated tenant incentive agreement (the "Amended and Restated Tenant Incentive Agreement"), effective as of January 1, 1999, providing for (i) a tenant incentive fee of up to \$4,000 per bed payable with respect to all future facilities developed and facilitated by New CCA, as well as certain other facilities which, although operational on January 1, 1999, had not achieved full occupancy, and (ii) an

## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 1999  
(CONTINUED)

\$840 per bed allowance for all beds in operation at the beginning of January 1999, approximately 21,500 beds, that were not subject to the tenant allowance in the first quarter of 1999. The amount of the amended tenant incentive fee includes an allowance for rental payments to be paid by New CCA prior to the facility reaching stabilized occupancy. The term of the Amended and Restated Tenant Incentive Agreement is four years unless extended upon the written agreement of the Company and New CCA. The incentive fees with New CCA are being deferred and amortized as a reduction to rental revenues over the respective lease term.

Effective January 1, 1999, the Company entered into a four year business development agreement (the "Business Development Agreement") with New CCA which provides that New CCA will perform, at the direction of the Company, services designed to assist the Company in identifying and obtaining new business. Pursuant to the agreement, the Company has agreed to pay to New CCA a total fee equal to 4.5% of the total capital expenditures (excluding the amount of the tenant incentive fee and the services fee discussed above as well as the 4.5% fee referred to herein) incurred in connection with the construction and development of each new facility, or the construction and development of an addition to an existing facility, for which New CCA performed business development services.

### 3. BASIS OF PRESENTATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The consolidated financial statements of the Company include all the accounts of the Company and its subsidiaries subsequent to the Merger, including Prison Realty Management, Inc., a Tennessee corporation and wholly-owned management subsidiary. All significant intercompany balances and transactions have been eliminated.

The accompanying interim consolidated financial statements are unaudited. The financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and in conjunction with the rules and regulations of the United States Securities and Exchange Commission (the "Commission"). Accordingly, they do not include all of the disclosures required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting solely of normal recurring matters) necessary for a fair presentation of the financial statements for this interim period have been included. The results of operations for the interim period are not necessarily indicative of the results to be obtained for the full fiscal year. Reference is made to the audited financial statements of the Company included in the Company's Annual Report on Form 10-K for the fiscal year ending December 31, 1998, filed with the Commission on March 30, 1999 (File no. 0-25245), with respect to certain significant accounting and financial reporting policies as well as other pertinent information of the Company. Since prior to the Merger Prison Realty had operated so as to qualify as a REIT, the Company has adopted certain significant accounting policies of Prison Realty. Reference is made to the audited financial statements of Prison Realty included in Prison Realty's Annual Report on Form 10-K for the fiscal year ending December 31, 1998, filed with the Commission on March 30, 1999 (File no. 1-13049), with respect to certain significant accounting and financial reporting policies as well as other pertinent information of Prison Realty.

## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 1999  
(CONTINUED)

## 4. REAL ESTATE PROPERTIES

As discussed previously, pursuant to the Merger, the Company acquired all of the assets and liabilities of Prison Realty on January 1, 1999, including 23 leased facilities and one real estate property under construction. The real estate properties acquired by the Company in conjunction with the acquisition of Prison Realty have been recorded at estimated fair market value in accordance with the purchase method of accounting prescribed by Accounting Principles Board Opinion No. 16.

At June 30, 1999, the Company owned 51 correctional and detention facilities, of which 39 facilities were operating, nine were under construction or expansion and three were in the planning stages, with a total aggregate cost of \$2.2 billion. At June 30, 1999, New CCA leased 31 facilities from the Company, governmental agencies leased five facilities from the Company, and private operators leased three facilities from the Company. The Company expects to lease 11 of the facilities under development to New CCA.

In April 1999, the Company purchased the Eden Detention Center in Eden, Texas for \$28.0 million. The facility has a design capacity of 1,225 beds and is managed by New CCA and leased to New CCA under lease terms substantially similar to the New CCA leases.

## 5. LONG TERM DEBT

On January 1, 1999, in connection with the completion of the Merger, the Company obtained a \$650.0 million, secured credit facility (the "Credit Facility") from NationsBank, N.A., as Administrative Agent and several U.S. and non-U.S. banks. The Credit Facility includes up to a maximum of \$250.0 million in tranche B term loans and \$400.0 million in revolving loans, including a \$150.0 million subfacility for letters of credit. The term loans require principal quarterly payments of \$625,000 throughout the term of the loan with the remaining balance maturing on January 1, 2003 and the revolving loans maturing on January 1, 2002. Interest rates, unused commitment fees, and letter of credit fees on the Credit Facility are subject to change based on the Company's senior debt rating. The Credit Facility is secured by mortgages on the Company's real property. At June 30, 1999, the weighted average borrowing rate under the Credit Facility was 7.89% and the outstanding borrowings thereunder were \$648.8 million.

On August 4, 1999, the Company completed an amendment and restatement of the Credit Facility (the "Amended Credit Facility") increasing amounts available to the Company under the original Credit Facility to \$1.0 billion through the addition of \$350.0 million tranche C term loans. The tranche C term loans will be payable in equal quarterly installments in the amount of \$875,000 through the calendar quarter ending September 30, 2002 with the balance to be paid in full on December 31, 2002. Under the Amended Credit Facility, Lehman Commercial Paper, Inc. ("LCPI") replaced NationsBank, N.A., as Administrative Agent.

The Amended Credit Facility, similar to the Credit Facility, provides for interest rates, unused commitment fees, and letter of credit fees to change based on the Company's senior debt rating. As with the Credit Facility, the Amended Credit Facility bears interest at variable rates of interest based on a spread over the base rate or LIBOR (as elected by the Company), which spread is determined by reference to the Company's credit rating. The revised spread ranges from 0.50% to 2.25% for base rate loans and from 2.00% to 3.75% for LIBOR rate loans. These ranges replace the original spread ranges of

## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 1999  
(CONTINUED)

0.25% to 1.25% for base rate loans and 1.375% to 2.75% for LIBOR rate loans. The term loan portions of the Amended Credit Facility bear interest at a variable base rate equal to 4.0% in excess of LIBOR. This revised rate replaces the variable base rate equal to 3.25% in excess of LIBOR in the Credit Facility.

The Amended Credit Facility, similar to the Credit Facility, is secured by mortgages on the Company's real property. Borrowings are limited based on a revised borrowing base formula which considers, among other things, eligible real estate. The Amended Credit Facility contains certain revised financial covenants, primarily: (a) maintenance of leverage, interest coverage, debt service coverage and total indebtedness ratios, and (b) restrictions on the incurrence of additional indebtedness. The Amended Credit Facility restricts the Company's ability to make the 1999 cash payment of the Special Dividend (as herein defined) unless (a) the Company has liquidity of at least \$75.0 million at the dividend declaration date and (b) the Company receives at least \$100.0 million in cash proceeds for the issuance of equity or similar securities from a new investor receiving representation on the Company's Board of Directors and (c) New CCA receives at least \$25.0 million in cash proceeds from the issuance of any combination of equity securities and subordinated debt. The Company may, however, pay up to \$31.0 million in cash if only (a) and (c) above are achieved. The Company was in compliance with all covenants under the Credit Facility through August 4, 1999 and currently, is in compliance with all covenants under the Amended Credit Facility. The Company expects to incur expenses of approximately \$40 million related to this amendment and restatement.

On June 11, 1999 the Company completed its offering of \$100.0 million aggregate principal amount of 12% Senior Notes due 2006 (the "Notes"). Interest on the Notes will be paid semi-annually in arrears and the Notes have a seven year non-callable term due June 1, 2006. Net proceeds from the offering were approximately \$95 million after deducting expenses payable by Prison Realty in connection with the offering. The Company used the net proceeds from the sale of the Notes for general corporate purposes and to repay revolving bank borrowings under its Credit Facility.

On January 29, 1999, the Company issued \$20.0 million of convertible subordinated notes due in 2009 with interest payable semi-annually at 9.5%. The notes are convertible into shares of the Company's common stock at a conversion price of \$28.00 per share. This issuance constituted the second tranche of a commitment by the Company to issue an aggregate of \$40.0 million of convertible subordinated notes, with the first \$20.0 million tranche issued in December, 1998 under substantially similar terms.

On March 8, 1999, the Company issued a \$20.0 million convertible subordinated note to Sodexho Alliance, S.A. ("Sodexho") pursuant to a forward contract assumed by the Company from Old CCA in the Merger. The note bore interest at LIBOR plus 1.35% and was convertible into shares of the Company's common stock at a conversion price of \$7.80 per share. On March 8, 1999, Sodexho converted (i) \$7.0 million of convertible subordinated notes bearing interest at 8.5% into 1.7 million shares of the Company's common stock at a conversion price of \$4.09 per share, (ii) \$20.0 million of convertible notes bearing interest at 7.5% into 700,000 shares of the Company's common stock at a conversion price of \$28.53 and (iii) \$20.0 million of convertible subordinated notes bearing interest at LIBOR plus 1.35% into 2.6 million shares of the Company's common stock at a conversion price of \$7.80 per share.

The \$30.0 million of 7.5% convertible subordinated notes issued to PMI Mezzanine Fund L.P. in connection with the Merger require that the Company revise the conversion price as a result of the payment of a dividend or the issuance of stock or convertible securities below market price. As of June

## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 1999  
(CONTINUED)

30, 1999, the conversion price for the notes was \$24.79 as compared to \$27.42 at issuance. This change in conversion price resulted from dividends paid by the Company in 1999 and from the conversion of the Sodexo convertible subordinated note on March 8, 1999 into 1.7 million shares of common stock at a conversion price of \$4.09 per share and 2.6 million shares of common stock at a conversion price of \$7.80 per share.

## 6. DISTRIBUTIONS TO STOCKHOLDERS

On March 4, 1999, the Company's Board of Directors declared a distribution of \$0.60 per share on the Company's common stock, comprised of a regular quarterly dividend of \$0.55 per share and a special dividend of \$0.05 per share for the quarter ended March 31, 1999, to common stockholders of record on March 19, 1999, payable on March 31, 1999. These distributions were paid on March 31, 1999. In addition, the Board of Directors declared a quarterly dividend on the Company's 8.0% Series A Cumulative Preferred Stock of \$0.50 per share to preferred stockholders of record on March 31, 1999, payable on April 15, 1999. These dividends were paid on April 15, 1999.

On May 11, 1999, the Company's Board of Directors declared a distribution of \$0.60 per share on the Company's common stock, comprised of a regular quarterly dividend of \$0.55 per share and a special dividend of \$0.05 per share for the quarter ended June 30, 1999, to common stockholders of record on June 18, 1999, payable on June 30, 1999. These distributions were paid on June 30, 1999. In addition, the Board of Directors declared a quarterly dividend on the Company's 8.0% Series A Cumulative Preferred Stock of \$0.50 per share to preferred stockholders of record on June 30, 1999, payable on July 15, 1999. These dividends were paid on July 15, 1999.

The Company, as a REIT, cannot complete any taxable year with accumulated earnings and profits from a taxable corporation. Accordingly, to preserve its REIT status, the Company will distribute Old CCA's accumulated earnings and profits to which it succeeded in the Merger (the "Special Dividend"). The Company anticipates that it will make this distribution to all holders of shares of its common stock in December 1999. This total distribution is estimated at \$225.0 million and has been accrued on the Company's balance sheet at June 30, 1999 net of a two quarterly prepayments totaling \$11.5 million. These prepayments represent \$0.05 per share paid out in March 1999 and \$0.05 per share paid out in June 1999. At the time of payment, the Company intends to allocate any overage between the Company's regular quarterly dividends paid and an amount equal to 95% of the Company's taxable net income toward the payment of the Special Dividend. Certain provisions of the Amended Credit Facility restrict the Company's ability to make the 1999 cash payment of the Special Dividend in cash, as described in Note 5, "Long Term Debt."

## 7. CONTINGENCIES

Since May 26, 1999, fifteen complaints have been filed in federal court in the United States District Court for the Middle District of Tennessee, Nashville Division, alleging securities fraud in connection with the agreements entered into by the Company in May of this year to increase the tenant incentive and other payments from the Company to New CCA, the Company's primary tenant. A complaint substantially identical to the majority of those filed in federal court in Tennessee has been filed in the United States District Court for the Eastern District of New York. The Company believes it is likely that the complaint filed in the United States District Court for the Eastern District of New York will be transferred to the United States District Court for the Middle

## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 1999  
(CONTINUED)

District of Tennessee and that all of the complaints will be consolidated into one action. Additionally, a purported shareholders derivative complaint was filed in the Chancery Court for Davidson County, Tennessee in Nashville against the Company and the members of its board of directors regarding the increased payments to New CCA. The Company is investigating the allegations in the complaints, and although their outcome is not determinable, the Company intends to defend these actions vigorously.

## 8. EARNINGS PER SHARE

SFAS 128, "Earnings per Share," has been issued effective for fiscal periods ending after December 15, 1997. SFAS 128 establishes standards for computing and presenting earnings per share. The Company adopted the provisions of SFAS 128 in the fourth quarter of 1997. Under the standards established by SFAS 128, earnings per share are measured at two levels: basic earnings per share and diluted earnings per share. Basic earnings per share for the Company was computed by dividing net income by the weighted average number of common shares outstanding during the period. Diluted earnings per share was computed by dividing net income (as adjusted) by the weighted average number of common shares after considering the additional dilution related to convertible preferred stock, convertible subordinated notes, options and warrants. For the three and six months ended June 30, 1999, earnings per share for basic and diluted were the same, respectively.

## 9. COMPREHENSIVE INCOME

In June 1997, the Financial Accounting Standards Board issued SFAS No. 130, "Reporting Comprehensive Income", effective for fiscal years beginning after December 15, 1998. SFAS No. 130 requires that changes in the amounts of certain items, including gains and losses on certain securities, be shown in the Financial Statements. The Company adopted the provisions of SFAS No. 130 on January 1, 1998. The Company's comprehensive income is equivalent to net income for the six months ended June 30, 1999.

## 10. RELATIONSHIP WITH CORRECTIONS CORPORATION OF AMERICA

New CCA is a private prison management company which operates and manages the substantial majority of facilities owned by the Company. As a result of the Merger and certain contractual relationships existing between the Company and New CCA, the Company has significant sources of income from New CCA. In addition, the Company pays New CCA for services rendered to the Company in the development of its correctional and detention facilities. As of June 30, 1999, New CCA leased 31 of the 39 operating facilities owned by the Company.

## INCOME

For the three and six months ended June 30, 1999, the Company recognized rental revenue from New CCA of \$63.2 million and \$124.0 million, respectively.

For the three months and six months ended June 30, 1999, the Company recognized interest income of \$4.1 million and \$8.2 million, respectively, on the CCA Note in the principal amount of \$137.0 million from New CCA. The interest is due from New CCA by December 31, 1999.

## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
JUNE 30, 1999  
(CONTINUED)

The Company also recognized \$2.2 million and \$4.3 million in licensing fee revenues from New CCA for the use of the name "Corrections Corporation of America" for the three and six months ended June 30, 1999, respectively.

## TENANT INCENTIVE AGREEMENT

The Amended and Restated Tenant Incentive Agreement between the Company and New CCA allows for Company payment of tenant incentive fees to induce New CCA to enter into New CCA Leases with respect to those facilities developed and facilitated by New CCA. The amount of the amended tenant incentive fee includes an allowance for rental payments to be paid by New CCA prior to the facility reaching stabilized occupancy. Pursuant to the Amended and Restated Tenant Incentive Agreement the Company pays (i) a tenant incentive fee of up to \$4,000 per bed payable with respect to all future facilities developed and facilitated by New CCA, as well as certain other facilities which, although operational on January 1, 1999, had not achieved full occupancy, and (ii) an \$840 per bed allowance for all beds in operation at the beginning of January 1999, approximately 21,500 beds, that were not subject to the tenant allowance in the first quarter of 1999. For the six months ended June 1999, the Company had paid tenant incentive fees of \$45.0 million of which \$18.1 million related to the \$840 per bed allowance on the aforementioned 21,500 beds. These fees are being amortized against rental revenues over the life of the leases. The amount of unamortized incentives pursuant to the Amended and Restated Tenant Incentive Agreement, as of June 30, 1999 is \$44.4 million.

## PAYMENT FOR SERVICES

The Company has entered into the Business Development Agreement and the Services Agreement with New CCA, which provide for the Company to pay fees to New CCA for services rendered to the Company for obtaining new construction projects (4.5% of expected project expenditures) and facilitating the construction and development of facilities (up to 10% of actual construction expenditures) and facility preparation services (\$560 per new bed) provided by New CCA prior to the date on which inmates are first received at such facility. Costs incurred by the Company under these construction and development agreements are capitalized as part of the facilities' development cost. For the three and six months ended June 30, 1999, costs incurred related to the Business Development Agreement were \$3.3 million and \$11.9 million, respectively. Costs incurred related to the Services Agreement for the three and six months ended June 30, 1999 were \$14.4 million and \$26.5 million, respectively.



## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
 JUNE 30, 1999  
 (CONTINUED)

## NEW CCA FINANCIAL INFORMATION

The following summarized unaudited operating information presents New CCA's results of operations for the three and six months ended June 30, 1999:

	THREE MONTHS ENDED JUNE 30, 1999 ----- (AMOUNTS IN THOUSANDS)	SIX MONTHS ENDED JUNE 30, 1999 ----- (AMOUNTS IN THOUSANDS)
Revenues	\$ 127,617	\$ 244,109
Net loss	(22,492)	(48,134)

The following summarized unaudited balance sheet information presents New CCA's financial position as of June 30, 1999:

	JUNE 30, 1999 ----- (AMOUNTS IN THOUSANDS)
Current assets	\$ 94,955
Total assets	224,995
Current liabilities	49,910
Deferred credits	64,479
Total liabilities	251,389
Stockholders' equity	(26,394)

The following summary presents New CCA's cash flows for the six months ended June 30, 1999:

	SIX MONTHS ENDED JUNE 30, 1998 ----- (AMOUNTS IN THOUSANDS)
Cash flows provided by operating activities	\$ 3,091
Cash flows used in investing activities	(1,256)
Cash flows used in financing activities	(6,125)
	-----
Net decrease in cash for the six months ended June 30, 1999	\$(4,290) =====

New CCA has utilized cash from equity issuances and from payments from the Company for tenant incentive arrangements and services provided to the Company to offset its operating losses. New CCA expects to continue to use these sources of cash and its availability under a line of credit to offset its anticipated losses from operations. Cash used in investing activities consists of equipment additions. Cash used in financing activities consists of line of credit issuance fee.

The Company has included additional financial information of New CCA for the six months ended June 30, 1999 herein under "Results of Operations" contained in "Management's Discussion and Analysis of Financial Condition and Results of Operations."

## PRISON REALTY TRUST, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
 JUNE 30, 1999  
 (CONTINUED)

The following unaudited operating information presents a combined summary of the Service Companies' results of operations for the three and six months ended June 30, 1999:

	THREE MONTHS ENDED JUNE 30, 1999 -----	SIX MONTHS ENDED JUNE 30, 1999 -----
	(AMOUNTS IN THOUSANDS)	
Revenues	\$70,596	\$139,678
Net income	5,059	10,335

The following unaudited balance sheet information presents a combined summary of the Service Companies' financial position as of June 30, 1999:

	JUNE 30, 1999 -----
	(AMOUNTS IN THOUSANDS)
Current assets	\$ 60,197
Total assets	156,345
Current liabilities	31,016
Total liabilities	32,586
Stockholders' equity	123,759
Total dividends accrued	7,381
Company share of dividends accrued	7,381

## PRISON REALTY TRUST, INC.

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

The following discussion should be read in conjunction with the financial statements and notes thereto appearing elsewhere in this report.

This Quarterly Report on Form 10-Q, including "Management's Discussion and Analysis of Financial Condition and Results of Operations," contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These forward-looking statements reflect the Company's current views with respect to future events and financial performance, and these statements can be identified, without limitations, by the use of the words "anticipates," "believes," "estimates," "expects," "intends," "plans," "projects" and similar expressions. Forward-looking statements are subject to risks, uncertainties and other factors that may cause actual results or outcomes to differ materially from future outcomes expressed or implied by the forward-looking statement. Such factors include, but are not limited to, risks associated with the corrections and detention industry, competitive market conditions, strength of the real estate markets in which the Company operates and general economic conditions. The Company disclosed such risks in detail in its Annual Report on Form 10-K for the fiscal year ended December 31, 1998, filed with the Commission on March 30, 1999 (File No. 0-25245). Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. The Company undertakes no obligation to publicly revise these forward-looking statements to reflect events or circumstances occurring after the date hereof or to reflect the occurrence of unanticipated events.

## OVERVIEW.

Reference is made to the "Management's Discussion and Analysis of Financial Condition and Results of Operations" for the Company included in the Company's Quarterly Report on Form 10-Q for the quarter ending March 31, 1999, filed with the Commission on May 14, 1999 (File no. 0-25245), with respect to certain Merger transactions and contractual relationships as well as other pertinent information of the Company.

The Company was formed in September 1998 and commenced operations on January 1, 1999 after completion of the Merger. On December 31, 1998, immediately prior to the Merger, and in connection with the Merger, Old CCA sold to New CCA all of the issued and outstanding capital stock of certain wholly-owned corporate subsidiaries of Old CCA, certain management contracts and certain other assets and liabilities, and entered into the Trade Name Use Agreement, as described below. In exchange, Old CCA received an installment note in the principal amount of \$137.0 million (the "CCA Note") and 100% of the non-voting common stock of New CCA, representing a 9.5% economic interest. The CCA Note has a term of 10 years and bears interest at a rate of 12% per annum.

On December 31, 1998, immediately prior to the Merger and in connection with the Merger, Old CCA sold to Prison Management Services, LLC, ("PMS") and Juvenile and Jail Facility Management Services, LLC ("JJFMS"), two privately-held Delaware limited liability companies formed in connection with the Merger, certain management contracts and certain other assets and liabilities relating to government-owned adult prison facilities and government-owned jails and juvenile facilities managed by Old CCA. In exchange, Old CCA received 100% of the non-voting membership interests in PMS and JJFMS which obligate PMS and JJFMS to make distributions to Old CCA equal to 95% of each companies' net income, as defined, and are valued at the combined implied fair market value of \$123.0 million. The Company succeeded to these interests as a result of the Merger, and the Company's interests in PMS and JJFMS are included in "Investments in affiliates and others" in the accompanying balance sheet. The sales to PMS and JJFMS generated a combined deferred gain of \$53.4 million. On January 1,

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

1999, PMS merged with Prison Management Services, Inc., a privately-held Tennessee corporation ("Service Company A") and JJFMS merged with Juvenile and Jail Facility Management Services, Inc., a privately-held Tennessee corporation ("Service Company B," and collectively with Service Company A, the "Service Companies").

Under a trade name use agreement with New CCA resulting from the Merger (the "Trade Name Use Agreement"), New CCA pays a licensing fee to the Company for the right to use the name "Corrections Corporation of America" and derivatives thereof.

The Merger has been accounted for as a reverse acquisition of the Company by Old CCA and the acquisition of Prison Realty by the Company. As such, Old CCA's assets and liabilities have been carried forward at historical cost and Old CCA's historical financial statements are presented as the continuing accounting entity's historical financial statements.

The Company's principal business strategy is to design, build and finance new correctional and detention facilities and to lease these facilities under long-term "triple net" leases to government entities and qualified private prison managers, as well to expand its existing facilities. In addition, the Company acquires existing facilities meeting certain investment criteria from government and private prison owners.

Substantially all of the Company's revenues are derived from: (i) rents received under triple net leases of correctional and detention facilities, (ii) dividends from investments in the non-voting stock of certain subsidiaries, (iii) interest income on the CCA Note, and (iv) license fees earned under the Trade Name Use Agreement. New CCA currently leases 31 of the Company's 39 operating facilities pursuant to the New CCA Leases and is the Company's primary tenant.

As New CCA is the lessee of a substantial majority of the Company's facilities, the Company is dependent for its rental revenues upon New CCA's ability to make the lease payments required under the New CCA Leases for such facilities. New CCA's obligation to make payments under the New CCA Leases is not secured by any of the assets of New CCA, although the obligations under the New CCA Leases are cross-defaulted so that the Company could terminate all the leases if New CCA fails to make required lease payments. If this were to happen, however, the Company would be required to renegotiate existing leases or incentive fee arrangements, to find other suitable lessees or to risk losing its ability to elect or maintain REIT status, as applicable. New CCA experienced a net loss of \$22.5 million and \$48.1 million for the three and six months ended June 30, 1999, respectively and had \$3.1 million of cash flow provided by operating activities for the first six months ended June 30, 1999. Net decrease in cash and cash equivalents for the six months ended June 30, 1999 by New CCA was \$4.3 million. New CCA has utilized cash from equity issuances and from payments from the Company for tenant incentive arrangements and services provided to the Company to offset its operating losses. New CCA expects to continue to use these sources of cash and its availability under a line of credit to offset its anticipated losses from operations.

In monitoring the ability of New CCA to satisfy its obligations under the lease agreements, the Company reviews on a quarterly basis (i) the net increase or decrease in cash of New CCA, (ii) the amount of available cash of New CCA (iii) the amount of outstanding borrowings under New CCA's credit facility and (iv) lease coverage ratios. On this basis, the Company believes that New CCA has sufficient assets and borrowing capacity to enable it to satisfy its obligations under such lease agreements at this time; however, there can be no assurance that New CCA will have such assets, borrowing capacity or income

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

in the future. A delay in payments from New CCA would likely require the Company to borrow funds in order to continue its dividend policy. Moreover, while the Company has leases with tenants other than New CCA, there can be no assurance that the Company will be successful in obtaining lease agreements with lessees other than New CCA to an extent such that the Company is not dependent on New CCA as the primary source of its revenues. Due to the unique nature of correctional and detention facilities, the Company may be unable to locate suitable replacement lessees or to attract such lessees, and may, therefore, be required to provide additional tenant incentives or reduce the amounts to be received by the Company under its lease agreements. The Company will continue to monitor the performance of New CCA, and, to the extent New CCA's financial performance exceeds expectations, the Company will attempt to modify its contractual relationships with New CCA to make them more favorable to the Company.

The Company, together with its wholly owned management subsidiary, Prison Realty Management, Inc., incurs operating and administrative expenses including, principally, compensation expenses for its executive officers and other employees, office rental and related occupancy costs and various expenses incurred in the process of acquiring additional properties. The Company is self-administered and managed by its executive officers and staff, and does not engage a separate advisor or pay an advisory fee for administrative or investment services, although the Company does procure property related services from New CCA and engage legal, accounting, tax and financial advisors from time to time. The primary non-cash expense of the Company is depreciation of its correctional and detention facilities.

The Company expects to leverage its portfolio of real estate equity investments and will incur long and short-term indebtedness, and related interest expense, from time to time.

The Company has made distributions to its stockholders in amounts not less than the amounts required to maintain REIT status under the Code and, in general, in amounts exceeding taxable income.

## RESULTS OF OPERATIONS.

The Company commenced operations on January 1, 1999 as a result of the Merger. The Merger was accounted for as a reverse acquisition of the Company by Old CCA and the purchase of Prison Realty by the Company. As such, Old CCA was treated as the acquiring company and Prison Realty was treated as the acquired company for financial reporting purposes. The provisions of purchase method of accounting prescribe that Old CCA's historical financial statements be presented as the Company's historical financial statements. Management believes that comparison of financial results between 1999 and 1998 is not meaningful because the 1998 results reflect the operations of Old CCA and the 1999 results of operations reflect the operating results of the Company as a REIT.

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

To provide a more reasonable prior period comparison, the following table presents the results of operations of the Company for the six months ended June 30, 1999 and the pro forma results of operations of the Company for the six months ended June 30, 1998 as if the Merger had occurred on January 1, 1998.

(UNAUDITED AND AMOUNTS IN THOUSANDS)

	SIX MONTHS ENDED JUNE 30, 1999	PROFORMA SIX MONTHS ENDED JUNE 30, 1998
	-----	-----
REVENUES:		
Rental revenue	\$ 129,468	\$ 83,406
Interest income	12,041	17,324
Licensing fees	4,318	3,142
	-----	-----
Total revenues	145,827	103,872
	-----	-----
EXPENSES:		
Depreciation and amortization	20,419	17,733
General and administrative	2,607	1,750
	-----	-----
Total expenses	23,026	19,483
	-----	-----
OPERATING INCOME	122,801	84,389
Equity in earnings of subsidiaries and amortization of deferred gains	15,157	13,529
Interest expense	(15,309)	(13,614)
Loss on disposition of property	(1,631)	--
		-----
INCOME BEFORE TAX EFFECTS AND DIVIDENDS TO PREFERRED SHAREHOLDERS	\$ 121,018	\$ 84,304
	=====	=====

RENTAL REVENUES -- For the three and six months ended June 30, 1999, rental revenues were \$65.8 million and \$129.5 million, respectively, and were generated from the leasing of correctional and detention facilities. During the year, the Company began leasing two new facilities, one in February 1999 and one in April 1999, respectively, in addition to the 37 facilities which were previously leased as of the beginning of the year.

INTEREST INCOME -- For the three and six months ended June, 1999, interest income was \$5.8 million and \$12.0 million, respectively. The \$137.0 million CCA Note bears interest at 12% and generated \$4.1 million and \$8.2 million in interest income for the three and six months ended June 30, 1999. The remaining \$1.7 million and \$3.8 million, respectively, was a result of interest earned on cash used to collateralize letters of credit for certain construction projects, direct financing leases and investments of cash prior to the funding of construction projects.

LICENSING FEES -- For the three and six months ended June 30, 1999, licensing fees were \$2.2 million and \$4.3 million, respectively. The licensing fees were earned as a result of the Trade Name Use Agreement which granted New CCA the right to use the name "Corrections Corporation of America" and derivatives thereof subject to specified terms and conditions therein. The fee is based upon gross revenues of New CCA, subject to a limitation of 2.75% of the gross revenues of the Company.

DEPRECIATION AND AMORTIZATION-- For the three and six months ended June 30, 1999, depreciation expense was \$10.5 million and \$20.4 million, respectively. Depreciation expense as a percentage of

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

rental revenues for the three and six months ended June 30, 1999 was 16.0 % and 15.8%, respectively. The Company uses the straight-line depreciation method over the 50 and five year lives of buildings and machinery and equipment, respectively.

GENERAL AND ADMINISTRATIVE EXPENSES -- For the three and six months ended June 30, 1999, general and administrative expenses were \$1.7 million and \$2.6 million, respectively. General and administrative expenses were 2.6% and 2.0% of total rental revenues for the three and six months ended June 30, 1999. General and administrative expenses consist primarily of management salaries and benefits, legal and other administrative costs.

LOSS ON DISPOSITION OF PROPERTY - During the second quarter, the Company incurred a noncash loss of \$1.6 million as a result of a settlement with the State of South Carolina for property previously owned by Old CCA. Under the settlement dated June 1999, the Company, as the successor to Old CCA, will receive \$6.5 million in three installments by June 30, 2001 for the transferred assets. The net proceeds were approximately \$1.6 million less than the surrendered assets depreciated book value. As of June 30, 1999, the Company had a receivable of \$6.5 million related to this settlement of which \$3.5 million was received by the Company in July 1999.

EQUITY IN EARNINGS OF SUBSIDIARIES AND AMORTIZATION OF DEFERRED GAINS -- For the three and six months ended June 30, 1999, equity in earnings of subsidiaries and amortization of deferred gains were \$7.5 million and \$15.2 million, respectively. The equity in earnings of the Service Companies were \$4.8 million and \$9.8 million, respectively, for the three and six months ended June 30, 1999. The amortization of the deferred gain on the sales of contracts to the Service Companies was \$2.7 million and \$5.4 million for the three and six months ended June 30, 1999.

INTEREST EXPENSE -- For the three and six months ended June 30, 1999, interest expense was \$7.0 million and \$15.3 million, respectively. Interest expense is based on outstanding convertible notes payable balances and borrowings under the Company's bank credit facility and 12% senior notes due 2006, including amortization of loan costs and unused fees. Interest expense is reported net of capitalized interest on construction in progress of \$9.3 million and \$16.4 million, respectively, for the three and six months ended June 30, 1999.

CHANGE IN TAX STATUS -- In connection with the Merger, the Company intends to change its tax status from a C-Corporation to a REIT effective January 1, 1999. As of December 31, 1998, the Company's balance sheet reflected \$51.2 million in deferred tax assets. In accordance with the provisions of Statement of Financial Accounting Standards No. 109, the Company was required to provide a provision for these deferred tax assets, excluding any tax liabilities required for subsequent periods, upon completion of the Merger and the election to be taxed as a REIT. As such, the Company's results of operations reflect a provision for change in tax status of \$83.2 million for the six months ended June 30, 1999.

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

## NEW CCA FINANCIAL INFORMATION

The following unaudited operating information presents New CCA's results of operations for the six months ended June 30, 1999:

	SIX MONTHS ENDED JUNE 30, 1999 -----
(UNAUDITED AND AMOUNTS IN THOUSANDS)	
REVENUES	\$ 244,109 -----
EXPENSES:	
Operating	168,502
Trade name use agreement	4,318
Lease	124,484
General and administrative	11,740
Depreciation and amortization	4,135
	----- 313,179 -----
OPERATING LOSS	(69,070)
Interest expense, net	10,870
	-----
LOSS BEFORE INCOME TAXES	(79,940)
BENEFIT FOR INCOME TAXES	(31,806)
	-----
NET LOSS	\$ (48,134) =====

The following unaudited balance sheet information presents New CCA's financial position as of June 30, 1999:

	JUNE 30, 1999 ----- (UNAUDITED)
(AMOUNTS IN THOUSANDS)	
CURRENT ASSETS:	
Cash and cash equivalents	\$ 14,767
Accounts receivable, net of allowances	65,207
Prepaid expenses	5,366
Deferred tax assets	328
Other current assets	9,287
	-----
Total current assets	94,955
PROPERTY AND EQUIPMENT, NET	23,456
OTHER LONG-TERM ASSETS:	
Investment in contracts	65,320
Deferred tax assets	31,478
Other	9,786
	-----
Total assets	\$ 224,995 =====

(CONTINUED)



## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

The following unaudited balance sheet information presents New CCA's financial position as of June 30, 1999 (Continued):

	JUNE 30, 1999
	-----
	(UNAUDITED)
(CONTINUED)	
(AMOUNTS IN THOUSANDS)	
LIABILITIES AND STOCKHOLDERS' EQUITY	
CURRENT LIABILITIES:	
Accounts payable	\$ 13,370
Accrued salaries and wages	7,907
Accrued property taxes	4,741
Accrued interest	8,220
Deferred revenue	176
Other accrued expenses	15,496
	-----
Total current liabilities	49,910
LONG-TERM DEBT	137,000
DEFERRED CREDITS	64,479
	-----
Total liabilities	251,389
	-----
COMMITMENTS AND CONTINGENCIES	
STOCKHOLDERS' EQUITY	
Common stock- Class A; \$0.01 (one cent) par value; 9,349 issued and outstanding; 100,000 shares authorized	93
Common stock- Class B; \$0.01 (one cent) par value; 981 issued and outstanding; 100,000 shares authorized	10
Additional paid-in capital	25,133
Deferred compensation	(3,496)
Retained deficit	(48,134)
	-----
Total stockholders' equity	(26,394)
	-----
Total liabilities and stockholders' equity	\$ 224,995
	=====

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

The following is the unaudited cash flow statement for New CCA for the six months ended June 30, 1999:

	SIX MONTHS ENDED JUNE 30, 1999 -----
(UNAUDITED AND AMOUNTS IN THOUSANDS)	
CASH FLOWS FROM OPERATING ACTIVITIES:	
Net loss	\$ (48,134)
Adjustments to reconcile net loss to net cash provided by operating activities	
Depreciation and amortization	4,135
Amortization of deferred credits	(1,763)
Deferred credit payments received from Prison Realty	66,242
Deferred income taxes	(31,806)
Other noncash items	397
Write-off of debt issuance costs	2,706
Changes in assets and liabilities, net	
Trade accounts receivable	(1,130)
Prepaid expenses	(763)
Other current assets	(3,592)
Other long-term assets	2,591
Accounts payable	(1,193)
Accrued salaries and wages	3,488
Accrued property taxes	440
Deferred revenue	(3,598)
Accrued interest	8,220
Other accrued expenses	6,851
	-----
Net cash provided by operating activities	3,091
	-----
CASH FLOWS FROM INVESTING ACTIVITIES:	
Property and equipment additions, net	(1,256)
	-----
Net cash used in investing activities	(1,256)
	-----
CASH FLOWS FROM FINANCING ACTIVITIES:	
Payment of debt issuance costs	(6,125)
	-----
Net cash used in financing activities	(6,125)
	-----
NET DECREASE IN CASH AND CASH EQUIVALENTS	(4,290)
CASH AND CASH EQUIVALENTS, BEGINNING OF THE PERIOD	19,057
	-----
CASH AND CASH EQUIVALENTS, END OF THE PERIOD	\$ 14,767
	=====

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

The Company owns 100% of the non-voting stock of the Service Companies, which manage certain government-owned prison and jail facilities under the "Corrections Corporation of America" name. On a quarterly basis, the Company receives 95% of the net income, as defined, of each Service Company through ownership of the non-voting stock.

The following unaudited operating information presents a combined summary of the Service Companies' results of operations for the three and six months ended June 30, 1999:

	SIX MONTHS ENDED JUNE 30, 1999 ----- (AMOUNTS IN THOUSANDS)
Revenues	\$139,678
Net income	10,335

The following unaudited balance sheet information presents a combined summary of the Service Companies' financial position as of June 30, 1999:

	JUNE 30, 1999 ----- (AMOUNTS IN THOUSANDS)
Current assets	\$ 60,197
Total assets	156,345
Current liabilities	31,016
Total liabilities	32,586
Stockholders' equity	123,759
Total dividends accrued	7,381
Company share of dividends accrued	7,381

## LIQUIDITY AND CAPITAL RESOURCES.

The Company's growth strategy includes acquiring, developing and expanding correctional and detention facilities as well as other properties. The Company expects that it generally will not be able to fund its growth with cash from its operating activities because the Company will be required to distribute to its stockholders at least 95% of its taxable income each year to qualify as a REIT. Consequently, the Company will be required to rely primarily upon the availability of debt or equity capital to fund the construction and acquisitions of and improvements to correctional and detention facilities.

On January 1, 1999, in connection with the completion of the Merger, the Company obtained a \$650.0 million, secured credit facility (the "Credit Facility") from NationsBank, N.A., as Administrative Agent and several U.S. and non-U.S. banks. The Credit Facility includes up to a maximum of \$250.0 million in tranche B term loans and \$400.0 million in revolving loans, including a \$150.0 million subfacility for letters of credit. The term loans require principal quarterly payments of \$625,000 throughout the term of the loan with the remaining balance maturing on January 1, 2003 and the revolving loans maturing on January 1, 2002. Interest rates, unused commitment fees, and letter of credit fees on the Credit Facility are subject to change based on the Company's senior debt rating. The Credit Facility is secured by

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

mortgages on the Company's real property. At June 30, 1999, the weighted average borrowing rate under the Credit Facility was 7.89% and the outstanding borrowings thereunder were \$648.8 million.

On August 4, 1999, the Company completed an amendment and restatement of the Credit Facility (the "Amended Credit Facility") increasing amounts available to the Company under the original Credit Facility to \$1.0 billion through the addition of \$350.0 million tranche C term loans. The tranche C term loans will be payable in equal quarterly installments in the amount of \$875,000 through the calendar quarter ending September 30, 2002 with the balance paid in full on December 31, 2002. Under the Amended Credit Facility, Lehman Commercial Paper, Inc. ("LCPI") replaced NationsBank, N.A., as Administrative Agent.

The Amended Credit Facility, similar to the original Credit Facility, provides for interest rates, unused commitment fees, and letter of credit fees to change based on the Company's senior debt rating. As with the Credit Facility, the Amended Credit Facility bears interest at variable rates of interest based on a spread over the base rate or LIBOR (as elected by the Company), which spread is determined by reference to the Company's credit rating. The revised spread ranges from 0.50% to 2.25% for base rate loans and from 2.00% to 3.75% for LIBOR rate loans. These ranges replace the original spread ranges of 0.25% to 1.25% for base rate loans and 1.375% to 2.75% for LIBOR rate loans. The term loan portions of the Amended Credit Facility bear interest at a variable base rate equal to 4.0% in excess of LIBOR. This revised rate replaces the variable base rate equal to 3.25% in excess of LIBOR in the Credit Facility.

The Amended Credit Facility, similar to the original Credit Facility, is secured by mortgages on the Company's real property. Borrowings are limited based on a revised borrowing base formula which considers, among other things, eligible real estate. The Amended Credit Facility contains certain revised financial covenants, primarily: (a) maintenance of a leverage, interest coverage, debt service coverage and total indebtedness ratios, and (b) restrictions on the incurrence of additional indebtedness. The Amended Credit Facility restricts the Company's ability to make the 1999 cash payment of the Special Dividend (as herein defined) unless (a) the Company has liquidity of at least \$75.0 million at the dividend declaration date and (b) the Company receives at least \$100.0 million in cash proceeds for the issuance of equity or similar securities from a new investor receiving representation on the Company's Board of Directors and (c) New CCA receives at least \$25.0 million in cash proceeds from the issuance of any combination of equity securities and subordinated debt. The Company may, however, pay up to \$31.0 million in cash if only (a) and (c) above are achieved. The Company was in compliance with all covenants under the Credit Facility through August 4, 1999 and currently, is in compliance with all covenants under the Amended Credit Facility. The Company expects to incur expenses of approximately \$40 million related to this amendment and restatement.

On June 11, 1999 the Company completed its offering of \$100.0 million aggregate principal amount of 12% Senior Notes due 2006 (the "Notes"). Interest on the Notes will be paid semi-annually in arrears and the Notes have a seven year non-callable term due June 1, 2006. Net proceeds from the offering were approximately \$95 million after deducting expenses payable by Prison Realty in connection with the offering. The Company intends to use the net proceeds from the sale of the Notes for general corporate purposes and to repay revolving bank borrowings under its Credit Facility. The Credit Facility repayments do not permanently reduce the commitments under the credit facility.

On March 8, 1999, the Company issued a \$20.0 million convertible subordinated note to Sodexo pursuant to a forward contract assumed by the Company from Old CCA in the Merger. Interest on the note was payable at LIBOR plus 1.35% and the note was convertible into shares of the Company's

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

common stock at a conversion price of \$7.80 per share. On March 8, 1999, Sodexho converted (i) \$7.0 million of convertible subordinated notes bearing interest at 8.5% into 1.7 million shares of common stock at a conversion price of \$4.09 per share, (ii) \$20.0 million of convertible notes bearing interest at 7.5% into 700,000 shares of common stock at a conversion price of \$28.53 and (iii) \$20.0 million of convertible subordinated notes bearing interest at LIBOR plus 1.35% into 2.6 million shares of common stock at a conversion price of \$7.80 per share.

On January 29, 1999, the Company issued \$20.0 million of convertible subordinated notes due in 2009 with interest payable semi-annually at 9.5%. The notes are convertible into shares of the Company's common stock at a conversion price of \$28.00 per share. This issuance constituted the second tranche of a commitment by the Company to issue an aggregate of \$40.0 million of convertible subordinated notes, with the first \$20.0 million tranche issued in December, 1998 under substantially similar terms.

The \$30.0 million of 7.5% convertible subordinated notes issued to PMI Mezzanine Fund L.P. in connection with the Merger require that the Company revise the conversion price as a result of the payment of a dividend or the issuance of stock or convertible securities below market price. As of June 30, 1999, the conversion price for the notes was \$24.79 as compared to \$27.42 at issuance. This change in conversion price resulted from dividends paid by the Company in 1999 and from the conversion of the Sodexho convertible subordinated note on March 8, 1999 into 1.7 million shares of common stock at a conversion price of \$4.09 per share and 2.6 million shares of common stock at a conversion price of \$7.80 per share.

On January 11, 1999, the Company filed a Registration Statement on Form S-3 to register an aggregate of \$1.5 billion in value of its common stock, preferred stock, common stock rights, warrants and debt securities for sale to the public (the "Shelf Registration Statement"). Proceeds from sales under the Shelf Registration Statement have been and will be used for general corporate purposes, including the acquisition and development of correction and detention facilities. During the six months ended June 30, 1999, the Company issued and sold approximately 6.7 million shares of its common stock under the Shelf Registration Statement, resulting in net proceeds to the Company of approximately \$120 million.

On May 14, 1999, the Company registered 10.0 million shares of the Company's common stock for issuance under the Company's Dividend Reinvestment and Stock Purchase Plan (the "Plan"). The Plan provides a method of investing cash dividends in, and making optional monthly cash purchases of the Company's common stock, at prices reflecting a discount between 0% and 5% from the market price of the common stock on the NYSE. As of June 30, 1999, the Company has issued 1,039,025 shares under the Plan with 1,036,441 of these shares issued under the Plan's optional cash feature resulting in proceeds of \$10.0 million which were received by the Company on July 1, 1999.

The Company expects to meet its short-term liquidity requirements generally through cash provided by operations and borrowings provided from the Notes and the Amended Credit Facility. The Company used the net proceeds from the sale of the Notes for general corporate purposes and to repay revolving bank borrowings under its Credit Facility. The Credit Facility repayments did not permanently reduce the commitments under the credit facility.

The Company, as a REIT, cannot complete any taxable year with accumulated earnings and profits from a taxable corporation. Accordingly, to preserve its REIT status, the Company will distribute Old CCA's accumulated earnings and profits to which it succeeded in the Merger (the "Special Dividend"). The Company anticipates that it will make this distribution to all holders of shares of its common stock in

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

December 1999. This total distribution is estimated at \$225.0 million and has been accrued on the Company's balance sheet at June 30, 1999 net of a two quarterly prepayments totaling \$11.5 million. These prepayments represent \$0.05 per share paid out in March 1999 and \$0.05 per share paid out in June 1999. At the time of payment, the Company intends to allocate any overage between the Company's regular quarterly dividends paid and an amount equal to 95% of the Company's taxable net income toward the payment of the Special Dividend. Certain provisions of the Amended Credit Facility restrict the Company's ability to make the 1999 cash payment of the Special Dividend in cash, as previously described.

All facilities owned by the Company will be leased to third parties generally under triple net leases, which require the lessee to pay substantially all expenses associated with the operation of such facilities. As a result of these arrangements, the Company does not believe it will be responsible for any significant expenses in connection with the facilities during the terms of the New Leases. The Company anticipates entering into similar leases with respect to all properties acquired in the future.

The Company expects to meet its long-term liquidity requirements for the funding of real estate property development and acquisitions (including fees for property related services and tenant incentives to New CCA) by borrowing under the Amended Credit Facility and by issuing equity or debt securities in public or private transactions. For facilities to be owned by the Company and managed by governmental entities, the Company may elect to finance some or all of the total project cost through non-recourse long-term debt secured by the stream of lease payments. The Company anticipates that as a result of its initially low debt to total capitalization ratio and its intention to maintain a debt to total capitalization ratio of 50% or less, it will be able to obtain financing for its long-term capital needs. However, there can be no assurance that such additional financing or capital will be available on terms acceptable to the Company. The Company may, under certain circumstances, borrow additional amounts in connection with the renovation or expansion of facilities, the acquisition of additional properties, or as necessary, to meet certain distribution requirements imposed on REITs under the Code.

On January 1, 1999, immediately after the Merger, the Company entered into the Services Agreement with New CCA pursuant to which New CCA agreed to serve as a facilitator of the construction and development of additional facilities on behalf of the Company for a term of five years from the date of the Services Agreement. In such capacity, New CCA agreed to perform, at the direction of the Company, such services as are customarily needed in the construction and development of correctional and detention facilities, including services related to construction of the facilities, project bidding, project design, and governmental relations. In consideration for the performance of construction and development services by New CCA pursuant to the Services Agreement, the Company agreed to pay a fee equal to 5% of the total capital expenditures (excluding the incentive fee discussed below and the 5%

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

fee herein referred to) incurred in connection with the construction and development of a facility, plus an amount equal to approximately \$560 per bed for facility preparation services provided by New CCA prior to the date on which inmates are first received at such facility. The Board of Directors of the Company has authorized payments of up to an additional 5% of the total capital expenditures (as determined above) to New CCA if additional services are requested by the Company. A majority of the Company's current development projects are subject to a fee totaling 10%. Costs incurred related to the Services Agreement for the three and six months ended June 30, 1999 were \$14.4 million and \$26.5 million, respectively.

On January 1, 1999, immediately after the Merger, the Company entered into the Tenant Incentive Agreement with New CCA pursuant to which the Company agreed to pay to New CCA an incentive fee to induce New CCA to enter into New CCA Leases with respect to those facilities developed and facilitated by New CCA. The amount of the incentive fee was set at \$840 per bed for each facility leased by New CCA for which New CCA served as developer and facilitator. This \$840 per bed incentive fee, however, did not include an allowance for rental payments to be paid by New CCA.

On May 4, 1999, the Company and New CCA entered into the Amended and Restated Tenant Incentive Agreement, effective as of January 1, 1999, providing for (i) a tenant incentive fee of up to \$4,000 per bed payable with respect to all future facilities developed and facilitated by New CCA, as well as certain other facilities which, although operational on January 1, 1999, had not achieved full occupancy and (ii) an \$840 per bed allowance for all beds in operation at the beginning of January 1999, approximately 21,500 beds, that were not subject to the tenant allowance in the first quarter of 1999. The amount of the amended tenant incentive fee includes an allowance for rental payments to be paid by New CCA prior to the facility reaching stabilized occupancy. The term of the Amended and Restated Tenant Incentive Agreement is four years unless extended upon the written agreement of the Company and New CCA. The incentive fees with New CCA are being deferred and amortized as a reduction to rental revenues over the respective lease term. For the six months ended June 1999, the Company had paid tenant incentive fees of \$45.0 million of which \$18.1 million related to the \$840 per bed allowance on the aforementioned 21,500 beds. These fees are being amortized against rental revenues over the life of the leases. The amount of unamortized incentives pursuant to the Amended and Restated Tenant Incentive Agreement, as of June 30, 1999 is \$44.4 million.

Effective January 1, 1999, the Company entered into a business development agreement (the "Business Development Agreement") with New CCA which provides that New CCA will perform, at the direction of the Company, services designed to assist the Company in identifying and obtaining new business. Pursuant to the agreement, the Company has agreed to pay to New CCA a total fee equal to 4.5% of the total capital expenditures (excluding the amount of the tenant incentive fee and the services fee discussed above as well as the 4.5% fee referred to herein) incurred in connection with the construction and development of each new facility, or the construction and development of an addition to an existing facility, for which New CCA performed business development services. For the three and six months ended June 30, 1999, costs incurred related to the Business Development Agreement were \$3.3 million and \$11.9 million, respectively.

## YEAR 2000 COMPLIANCE.

The Company has completed an initial assessment and remediation of its key information technology systems including its client server and minicomputer hardware and operating systems and critical financial and nonfinancial applications. Based on this initial assessment, the Company believes that these key information technology systems are Year 2000 compliant. However, there can be no assurance that coding errors or other defects will not be discovered in the future. The Company is in the process of evaluating the remaining noncritical information technology systems for Year 2000 compliance.

The Company depends upon the proper functioning of third-party computer and non-information technology systems. These third parties include commercial banks and other lenders, construction contractors, architects and engineers and vendors such as the providers of telecommunications and utilities. The Company has initiated communications with third parties with whom it has important financial or operational relationships to determine the extent to which they are vulnerable to the Year 2000 issue. The Company has not yet received sufficient information from all parties about their remediation plans to predict the outcome of their efforts.

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

The Company is currently developing a contingency plan that is expected to address financial and operational problems that might arise on and around January 1, 2000. This contingency plan would include establishing additional sources of liquidity that could be drawn upon in the event of systems disruption and identifying alternative vendors and back-up processes that do not rely on computers, whenever possible. The Company's key information technology systems were Year 2000 compliant when acquired in the Merger. As such, the Company has incurred no expenses through June 30, 1999 and expects to incur no material costs in the future on Year 2000 remediation efforts.

Because New CCA is the lessee of a substantial majority of the Company's facilities, the Company may be vulnerable to New CCA's failure to remedy its Year 2000 issues. The failure of New CCA to remedy its Year 2000 problems could result in the delayed collection of lease payments by the Company, potentially resulting in liquidity stress. New CCA's Year 2000 compliance program is focused on addressing Year 2000 readiness in the following areas: (i) New CCA's information technology hardware and software; (ii) material non-information technology systems; (iii) Year 2000 compliance of third parties with which Operating Company has a material relationship; (iv) systems used to track and report assets not owned by New CCA (e.g. inmate funds and personal effects); and (v) development of contingency plans.

New CCA has completed an initial assessment and remediation of its key information technology systems including its client server and minicomputer hardware and operating systems and critical financial and nonfinancial applications. Remediation efforts as of the date hereof include upgrades of New CCA's minicomputer hardware and critical financial applications. Based on this initial assessment and remediation efforts, New CCA believes that these key information technology systems are Year 2000 compliant. However, there can be no assurance that coding errors or other defects will not be discovered in the future. New CCA is in the process of evaluating the remaining noncritical information technology systems for Year 2000 compliance.

New CCA manages facilities it leases from the Company, and facilities owned by and leased from government entities. New CCA is currently evaluating whether the material non-information technology systems such as security control equipment, fire suppression equipment and other physical plant equipment at the facilities it leases from the Company are Year 2000 compliant. New CCA also intends to request that the owners of the government facilities it manages provide Year 2000 certification for material information technology and non-information technology systems at those facilities. All of New CCA's managed correctional facilities, as a part of general operating policy, have existing contingency plans that are deployed in the event key operational systems, such as security control equipment fail (e.g. when a power failure occurs). In addition, the correctional facilities' key security systems are "fail secure" systems which automatically "lock down" and are then operated manually should the related electronic components fail. Therefore, New CCA management believes no additional material risks associated with the physical operation of its correctional facilities are created as a result of potential Year 2000 issues.

New CCA depends upon the proper functioning of third-party computer and non-information technology systems. These third parties include government agencies for which New CCA provides services, commercial banks and other lenders, construction contractors, architects and engineers, and vendors such as providers of food supplies and services, inmate medical services, telecommunications and utilities. New CCA has initiated communications with third parties with whom it has important financial or operational relationships to determine the extent to which they are vulnerable to the Year 2000 issue.



## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

New CCA has not yet received sufficient information from all parties about their remediation plans to predict the outcome of their efforts. If third parties with whom New CCA interacts have Year 2000 problems that are not remedied, the following problems could result: (i) in the case of construction contractors and architects and engineers, in the delayed construction of correctional facilities; (ii) in the case of vendors, in disruption of important services upon which New CCA depends, such as medical services, food services and supplies, telecommunications and electrical power, (iii) in the case of government agencies, in delayed collection of accounts receivable potentially resulting in liquidity stress, or (iv) in the case of banks and other lenders, in the disruption of capital flows potentially resulting in liquidity stress.

New CCA is also evaluating Year 2000 compliance of other software applications used to track and report assets that are not the property of New CCA. This includes applications used to track and report inmate funds and the inmates' personal effects.

New CCA is currently developing a contingency plan that is expected to address financial and operational problems that might arise on and around January 1, 2000. This contingency plan would include establishing additional sources of liquidity that could be drawn upon in the event of systems disruption and identifying alternative vendors and back-up processes that do not rely on computers, whenever possible. New CCA management expects to have the contingency plan completed by fall 1999.

New CCA has incurred and expects to continue to incur expenses allocable to internal staff, as well as costs for outside consultants, computer systems' remediation and replacement and non-information technology systems' remediation and replacement (including validation) in order to achieve Year 2000 compliance. New CCA currently estimates that these costs will total approximately \$4.0 million. Of this total, it is estimated that \$2.5 million will be for the repair of software problems and \$1.5 million will be for the replacement of problem systems and equipment. These costs are expensed as incurred. Management of New CCA believes there will be no material impact on New CCA's financial condition or results of operations resulting from other information technology projects being delayed due to Year 2000 efforts.

The costs of New CCA's Year 2000 compliance program and the date on which New CCA plans to complete it are based on current estimates, which reflect numerous assumptions about future events, including the continued availability of certain resources, the timing and effectiveness of third-party remediation plans and other factors. New CCA can give no assurance that these estimates will be achieved, and actual results could differ materially from New CCA's plans. Specific factors that might cause such material differences include, but are not limited to, the availability and cost of personnel trained in this area, the ability to locate and correct relevant computer source codes and embedded technology, the results of internal and external testing and the timeliness and effectiveness of remediation efforts of third parties.

Management's estimate of the Company's most reasonably likely worst case scenario involves the replacement of hardware, software or equipment if coding errors or other defects are discovered in the future. The foregoing notwithstanding, management does not currently believe that the costs of assessment, remediation or replacement of the Company's systems, or the potential failure of third parties' systems will have a material adverse effect on the Company's business, financial condition, results of operations or liquidity.

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

## FUNDS FROM OPERATIONS.

Management believes Funds from Operations is helpful to investors as a measure of the performance of an equity REIT because, along with cash flows from operating activities, financing activities and investing activities, it provides investors with an understanding of the ability of the Company to incur and service debt and make capital expenditures. The Company computes Funds from Operations in accordance with standards established by the White Paper on Funds from Operations approved by the Board of Governors of NAREIT in 1995, which may differ from the methodology for calculating Funds from Operations utilized by other equity REITs, and accordingly, may not be comparable to such other REITs. The White Paper defines Funds from Operations as net income (loss), computed in accordance with generally accepted accounting principles ("GAAP"), excluding gains (or losses) from debt restructuring and sales of property, plus real estate related depreciation and amortization and after adjustments for unconsolidated partnerships and joint ventures. Further, Funds from Operations does not represent amounts available for management's discretionary use because of needed capital replacement or expansion, debt service obligations, or other commitments and uncertainties. Funds from Operations should not be considered as an alternative to net income (determined in accordance with GAAP) as an indication of the Company's financial performance or to cash flows from operating activities (determined in accordance with GAAP) as a measure of the Company's liquidity, nor is it indicative of funds available to fund the Company's cash needs, including its ability to make distributions. The Company believes that in order to facilitate a clear understanding of the consolidated operating results of the Company, Funds from Operations should be examined in conjunction with net income as presented in the consolidated financial statements.

The following table presents the Company's Funds from Operations for the three and six months ended June 30, 1999:

	THREE MONTHS ENDED JUNE 30, 1999	SIX MONTHS ENDED JUNE 30, 1999
	-----	-----
	(AMOUNTS IN THOUSANDS)	
FUNDS FROM OPERATIONS:		
Net income available to common shareholders	\$ 58,273	\$ 33,518
Plus: real estate depreciation	10,502	20,419
Add back non-recurring items:		
Change in tax status	--	83,200
Loss on disposition of property	1,631	1,631
	-----	-----
	\$ 70,406	\$138,768
	=====	=====

## CASH FLOW FROM OPERATING, INVESTING AND FINANCING ACTIVITIES

The Company's cash flow provided by operating activities was \$104.6 million for the six months ended June 30, 1999 and represents net income plus depreciation and amortization and changes in the various components of working capital. The Company's cash flow used in investing activities was \$385.8 million for the six months ended June 30, 1999 and represents acquisitions of real estate properties and payments made under lease arrangements. The Company's cash flow provided by financing activities was \$252.2 million for the six months ended June 30, 1999 and represents proceeds from the issuance of common

## PRISON REALTY TRUST, INC.

ITEM 2- MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND  
RESULTS OF OPERATIONS  
(CONTINUED)

stock, issuance of long-term debt, borrowings under the Credit Facility and the Notes and payments of dividends on the preferred and common shares.

## INFLATION

The Company does not believe that inflation has had or will have a direct adverse effect on its operations. The New CCA Leases generally contain provisions which will mitigate the adverse impact of inflation on net income. These provisions include clauses enabling the Company to pass through to New CCA certain operating costs, including real estate taxes, utilities and insurance, thereby reducing the Company's exposure to increases in costs and operating expenses resulting from inflation. Additionally, the New CCA Leases contain provisions which provide the Company with the opportunity to achieve increases in rental income in the future.

## PRISON REALTY TRUST, INC.

## ITEM 3. -- QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

The Company's primary market risk exposure is to changes in U.S. interest rates. The Company is exposed to market risk related to its Amended Credit Facility and certain other indebtedness as discussed in "Management's Discussion and Analysis of Financial Condition and Results of Operation -- Liquidity and Capital Resources". The interest on the Amended Credit Facility and such other indebtedness is subject to fluctuations in the market. If the interest rate for the Credit Facility debt was 100 basis points higher or lower during the three months and six ended June 30, 1999, the Company's interest expense net of amounts capitalized would have been increased or decreased by approximately \$0.6 million or \$1.3 million, respectively.

As of June 30, 1999, the Company had outstanding \$100.0 million of its senior Notes with a fixed interest rate of 12.0%, \$40.0 million of convertible notes with a fixed interest rate of 9.5%, \$30.0 million of convertible notes with a fixed interest rate of 7.5% and \$107.5 million of preferred stock with a fixed dividend rate of 8%. Similarly, as of June 30, 1999, the Company had a note receivable in the amount of \$137.0 million with a fixed interest rate of 12%. Because the interest and dividend rates with respect to these instruments are fixed, a hypothetical 10% decrease in market interest rates would not have a material impact on the Company. The Amended Credit Facility required the Company to hedge \$325.0 million of its floating rate debt on or before August 16, 1999. The Company has entered into certain swap arrangements guaranteeing that it will not pay an index rate greater than 6.51% on outstanding balances of at least (a) \$325.0 million through December 31, 2001 and (b) \$200.0 million through December 31, 2002.

Additionally, the Company may, from time to time, invest its cash in a variety of short-term financial instruments. These instruments generally consist of highly liquid investments with original maturities at the date of purchase between three and 12 months. While these investments are subject to interest rate risk and will decline in value if market interest rates increase, a hypothetical 10% increase in market interest rates would not materially affect the value of these investments.

The Company also uses, or intends to use, long-term and medium-term debt as a source of capital. These debt instruments, if issued, will typically bear fixed interest rates. When these debt instruments mature, the Company may refinance such debt at then-existing market interest rates which may be more or less than the interest rates on the maturing debt. In addition, the Company may attempt to reduce interest rate risk associated with a forecasted issuance of new debt. In order to reduce interest rate risk associated with these transactions, the Company may occasionally enter into interest rate protection agreements.

The Company does not believe it has any other material exposure to market risks associated with interest rates.

The Company does not have a material exposure to risks associated with foreign currency fluctuations related to its operations. The Company does not use derivative financial instruments in its operations or investment portfolio.

## PRISON REALTY TRUST, INC.

## PART II -- OTHER INFORMATION

## ITEM 1. LEGAL PROCEEDINGS.

## FEDERAL COURT LITIGATION

Since May 26, 1999, fifteen complaints have been filed in federal court in the United States District Court for the Middle District of Tennessee, Nashville Division, alleging securities fraud in connection with the agreements entered into by the Company in May of this year to increase the tenant incentive and other payments from the Company to New CCA, the Company's primary tenant. Thirteen of these complaints name as defendants the Company, Doctor R. Crants and D. Robert Crants, III. The remaining two complaints name as defendants the Company, Doctor R. Crants, D. Robert Crants, III, Sodexho Alliance, S.A., all current directors of the Company and all of the former directors of Old CCA. A complaint substantially identical to the majority of those filed in federal court in Tennessee has been filed in the United States District Court for the Eastern District of New York. All of these complaints allege violations of federal securities laws based on the allegation that the Company and the individual defendants knew or should have known of the increased payments to New CCA prior to the date on which they were disclosed to the public and that, therefore, certain public filings and representations made by the Company and certain individuals were false and misleading. All of the complaints purport to be brought as class actions on behalf of one of two separate classes: (i) a class of all persons who publicly acquired shares of the Company on the open market from the time of the Merger through mid May of 1999, together with all former shareholders of Prison Realty who acquired shares of the Company as a result of the Merger, or (ii) a class of all persons who publicly acquired shares of the Company on the open market from the time of the Merger through mid May of 1999, together with all former shareholders of Prison Realty and shareholders of Old CCA who acquired shares of the Company as a result of the Merger. The Company believes it is likely that the complaint filed in the United States District Court for the Eastern District of New York will be transferred to the United States District Court for the Middle District of Tennessee and that all of the complaints will be consolidated into one action. The Company is investigating the allegations in the complaints, and although their outcome is not determinable, the Company intends to defend these actions vigorously.

## STATE COURT LITIGATION

A purported shareholders derivative complaint was filed in the Chancery Court for Davidson County, Tennessee in Nashville against the Company, the current directors of the Company, persons who were directors of the Company at the time the agreements regarding the increased payments to New CCA were made, and New CCA. The derivative action alleges, among other things, that the directors of the Company violated their fiduciary duties in approving the increased payments to New CCA. The Company also intends to defend this action vigorously.

## MOTION TO SHOW CAUSE IN CCA SHAREHOLDER LITIGATION

The plaintiffs in the case In re Corrections Corporation of America Shareholder Litigation, which was filed in 1998 challenging the Merger and was settled based on certain revisions to the structure of the Merger, have filed a motion in the Chancery Court for Davidson County, Tennessee in Nashville to show cause why the defendants in that case are not in violation of the court order approving the settlement and should not be held in contempt. The motion alleges that the decisions in May, 1999, regarding the increased payments to New CCA violate the terms of the Stipulation of Settlement reached in that case and, therefore, also violate the order of the court of February 26, 1999, approving the settlement. The Company believes the motion is without merit and has responded accordingly. The matter is currently under advisement by the court.

## PRISON REALTY TRUST, INC.

## ITEM 2. CHANGES IN SECURITIES AND USE OF PROCEEDS.

None.

## ITEM 3. DEFAULTS UPON SENIOR SECURITIES.

None.

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

The Company's 1999 Annual Meeting of Stockholders was held on May 11, 1999. A total of 84,573,667 shares of the Company's common stock, constituting a quorum of those shares entitled to vote, were represented at the meeting by stockholders either present in person or by proxy. At such meeting the following six (6) nominees for election as directors of the Company were elected without opposition, no nominee for director receiving less than 84,108,356 votes, or 99.4% of the shares represented at the meeting: D. Robert Crants, III, John W. Eakin, Jr., Ted Feldman, Ned Ray McWherter, and Jackson W. Moore as Class I directors; and Jean-Pierre Cuny as a Class III director. The stockholders also approved and/or ratified the following proposals presented to them pursuant to the vote totals indicated next to each item:

PROPOSAL	VOTE (# OF SHARES)		
	FOR	AGAINST	ABSTAINED
Approval of an amendment to the Company's Charter to change the name of the Company to Prison Realty Trust, Inc.	84,088,478	386,643	98,546
Ratification of the action of the Board of Directors in selecting the firm of Arthur Andersen LLP to be the independent auditors of the Company for the fiscal year ending December 31, 1999	82,424,870	135,740	2,013,057

## ITEM 5. OTHER INFORMATION.

## COMPLETION OF HIGH YIELD NOTE OFFERING

On June 11, 1999, the company completed the issuance and sale of \$100.0 million of its senior Notes, generating net proceeds to the Company, after the deduction of offering expenses, of approximately \$95.0 million. Lehman Brothers Inc. was the underwriter of the offering. The Company used the net proceeds from the offering for general corporate purposes and to repay revolving bank borrowing under the Credit Facility. More detailed information regarding the Notes and the related offering can be found herein under Note 5 to the Company's Condensed Consolidated Financial Statements and under "Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources."

## AMENDMENT TO AND RESTATEMENT OF CREDIT FACILITY

On August 4, 1999, the Company completed the Amended Credit Facility, increasing amounts available to the Company to \$1.0 billion through the addition of a \$350.0 million term loan. Lehman Brothers

acted as advisor and lead arranger in connection with the expansion and Lehman Commercial Paper, Inc. and serves as Administrative Agent of the amended and restated facility. More detailed information regarding the Amended Credit Facility can be found herein under Note 5 to the Company's Condensed Consolidated Financial Statements and under "Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources."

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K.

(a) Exhibits.

- 1.1 Amended and Restated Underwriting Agreement, dated June 11, 1999, by and between the Company and Lehman Brothers Inc.
- 4.1 Indenture dated as of June 10, 1999 by and between the Company and State Street Bank and Trust Company, as trustee, relating to the issuance of debt securities.
- 4.2 First Supplemental Indenture, by and between the Company and State Street Bank and Trust Company, as trustee, dated as of June 11, 1999 relating to the \$100.0 million aggregate principal amount of the Company's 12% Senior Notes due 2006.
- 10.1 Amended and Restated Credit Agreement, dated as of August 4, 1999, by and among the Company, as Borrower, certain subsidiaries of the Company, as Guarantor, the several lenders from time to time party thereto, Lehman Commercial Paper Inc., as Administrative Agent, Societe Generale, as Documentation Agent, The Bank of Nova Scotia, as Syndication Agent, SouthTrust Bank, N.A., as Co-Agent, and Lehman Brothers Inc., as Advisor, as Lead Arranger, and as Book Manager.
- 27.1 Financial Data Schedule (For SEC use only).

(b) Reports on Form 8-K

The Company's Current Report on Form 8-K, as filed with the Commission on May 25, 1999 (File no. 0-25245), relating to (i) the filing of a Preliminary Prospectus to the Company's Registration Statement on Form S-3 (Reg. no. 333-70419) covering the public offering of its senior unsecured notes, and (ii) the levels of occupancy at the facilities owned by the Company and New CCA, the Company's primary tenant.

The Company's Current Report on Form 8-K, as filed with the Commission on June 4, 1999 (File no. 0-25245) relating to certain litigation commenced against the Company as the result of the disclosure of increased payments by the Company to New CCA.

SIGNATURE

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

PRISON REALTY TRUST, INC.

Date: August 16, 1999

/s/ Vida H. Carroll

-----  
Vida H. Carroll  
Chief Financial Officer/  
Chief Accounting Officer



EXHIBIT 1.1

EXECUTION COPY

\$100,000,000

PRISON REALTY TRUST, INC.

12% SENIOR NOTES DUE 2006

AMENDED AND RESTATED UNDERWRITING AGREEMENT

June 11, 1999

Lehman Brothers Inc.  
Three World Financial Center  
New York, New York 10285

Dear Sirs:

Prison Realty Trust, Inc., a Maryland corporation (the "Company"), proposes, upon the terms and considerations set forth herein, to issue and sell to you ("Lehman Brothers") \$100,000,000 in aggregate principal amount of its 12% Senior Notes due 2006 (the "Notes") pursuant to the terms of an indenture, as supplemented by an indenture supplement, dated as of June 11, 1999 (collectively, the "Indenture"), between the Company and State Street Bank and Trust Company, as trustee (the "Trustee"), relating to the Notes. This is to confirm the agreement concerning the purchase of the Notes from the Company by Lehman Brothers.

1. Representations, Warranties and Agreements of the Company. The Company represents, warrants and agrees that:

(a) A registration statement on Form S-3 (File No. 333-70419), including a prospectus, with respect to the Notes has (i) been prepared by the Company in conformity with the requirements of the United States Securities Act of 1933, as amended (the "Securities Act") and the rules and regulations (the "Rules and Regulations") of the United States Securities and Exchange Commission (the "Commission") promulgated thereunder, (ii) been filed with the Commission under the Securities Act and (iii) become effective under the Securities Act; and a registration statement on Form S-3 (File No. 333-80413), including a prospectus, with respect to the Notes has (i) been prepared by the Company in conformity with the requirements of the Securities Act and the Rules and Regulations, (ii) been filed with the Commission under the Securities Act and (iii) become effective under the Securities Act; and the Indenture shall be qualified under the Trust Indenture Act of 1939 (the "Trust Indenture Act") and the applicable rules and regulations thereunder. Copies of such registration

statements have been delivered by the Company to you. As used in this Agreement, "Effective Time" means the date and the time as of which each such registration statement, or the most recent post-effective amendment thereto, if any, was declared effective by the Commission; "Effective Date" means the date of the Effective Time; "Preliminary Prospectus" means each prospectus included in each such registration statement, or amendments thereof, before it became effective under the Securities Act and any prospectus filed with the Commission by the Company with the consent of Lehman Brothers pursuant to Rule 424(a) of the Rules and Regulations; "Registration Statement" means collectively, each such registration statement, as amended at the Effective Time, including all information contained in the final prospectus filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations in accordance with Section 5 hereof and deemed to be a part of each registration statement as of the Effective Time pursuant to paragraph (b) of Rule 430A of the Rules and Regulations; "Prospectus" means such final prospectus including any supplemental prospectus, as first filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations, or if no such prospectus was so filed the form of prospectus that was included in the Registration Statement at the Effective Time; and references herein to the Registration Statement, a Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents and financial statements incorporated or deemed to be incorporated therein pursuant to Item 12 of Form S-3 which were filed under the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the "Exchange Act"), on or before the Effective Date of the Registration Statement or the issue date of such Preliminary Prospectus or Prospectus, as the case may be. The Commission has not issued any order preventing or suspending the use of any Preliminary Prospectus or Prospectus; and no stop order suspending the effectiveness of the Registration Statement is in effect, and no proceedings for such purpose are pending before or threatened by the Commission.

(b) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement or the Prospectus will, when they become effective or are filed with the Commission, as the case may be, conform in all respects to the requirements of the Securities Act and the Rules and Regulations and do not and will not, as of the applicable effective date (as to the Registration Statement and any amendment thereto) and as of the applicable filing date (as to the Prospectus and any amendment or supplement thereto) contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided that no representation or warranty is made as to information contained in or omitted from the Registration Statement or the Prospectus in reliance upon and in conformity with written information furnished to the Company by Lehman Brothers specifically for inclusion therein; and the Indenture conforms in all material respects to the requirements of the Trust Indenture Act and the applicable rules and regulations thereunder; provided that

no representation or warranty is made as to the statement of eligibility and qualification on Form T-1 of the Trustee under the Trust Indenture Act or as to information contained in or omitted from the Registration Statement or the Prospectus in reliance upon and in conformity with written information furnished to the Company by Lehman Brothers specifically for inclusion therein, which information is described in Section 8(e) hereof.

(c) The market-related and industry-related data and estimates included in the Prospectus are based on or derived from sources which the Company believes to be reliable and accurate.

(d) The Company and each of its subsidiaries (as defined in Section 14) have been duly incorporated and are validly existing as corporations in good standing under the laws of their respective jurisdictions of incorporation, are duly qualified to do business and are in good standing as foreign corporations in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, except to the extent that the failure to be so qualified could not be reasonably expected to have a material adverse effect on the general affairs, management, consolidated financial position, stockholders' equity, results of operations, business or prospects of the Company and its subsidiaries, taken as a whole (a "Material Adverse Effect"), and have all power and authority necessary to own or hold their respective properties and to conduct the businesses in which they are engaged; and none of the subsidiaries of the Company is a "significant subsidiary," as such term is defined in Rule 405 of the Rules and Regulations.

(e) The Company has an authorized capitalization as set forth in the Prospectus, and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and conform to the description thereof contained in the Prospectus; and all of the issued shares of capital stock of each subsidiary of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and (except for directors' qualifying shares) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims other than liens or encumbrances in favor of the lenders under the Company's Bank Credit Facility, dated as of January 1, 1999, as described in the Prospectus.

(f) This Agreement has been duly authorized, executed and delivered by the Company.

(g) The Indenture has been duly authorized, and on the Delivery Date (as defined below) when duly executed by the proper officers of the Company (assuming due execution and delivery by the Trustee) and delivered by the Company, will constitute a valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to the

effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding in equity or at law).

(h) The Notes have been duly and validly authorized by the Company and when duly executed by the Company in accordance with the terms of the Indenture and, assuming due authentication of the Notes by the Trustee, upon delivery to Lehman Brothers against payment therefor in accordance with the terms hereof, will constitute valid and binding obligations of the Company entitled to the benefits of the Indenture and enforceable in accordance with their terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding in equity or at law); and the Notes, when issued and delivered, will conform in all material respects to the description thereof contained in the Prospectus.

(i) The execution, delivery and performance of this Agreement and the Indenture by the Company and the consummation of the transactions contemplated hereby and thereby (including the issuance and sale of the Notes and the use of the proceeds from the sale thereof as described in the Prospectus under the caption "Use of Proceeds") will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, except for such conflicts, breaches, violations or defaults as could not, in the aggregate, be reasonably expected to have a Material Adverse Effect, nor will such actions result in any violation of the provisions of the charter or by-laws of the Company or any of its subsidiaries or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties or assets, except for such violations as could not, in the aggregate, be reasonably expected to have a Material Adverse Effect; and except for (i) the registration of the Notes under the Securities Act, (ii) the qualification of the Indenture under the Trust Indenture Act and (iii) such consents, approvals, authorizations, registrations or qualifications as may be required under the Exchange Act and applicable state securities laws in connection with the purchase and distribution of the Notes by Lehman Brothers, no consent, approval, authorization or order of, or filing or registration with, any such court or governmental agency or body is required for the execution, delivery and performance of this Agreement, or the Indenture by the Company and the consummation of the transactions contemplated hereby and thereby.

(j) With the exception of two Registration Rights Agreements, each dated December 31, 1998, in connection with the Company's issuance to PMI Mezzanine Fund, L.P. of its 7.5% convertible subordinated notes in the aggregate principal amount of \$30.0 million and the Company's issuance to MDP Ventures IV LLC of its 9.5% convertible subordinated notes in the aggregate principal amount of \$40.0 million, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company owned or to be owned by such person or to require the Company to include such securities in the securities registered pursuant to the Registration Statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Securities Act.

(k) Except as described in the Prospectus, the Company has not sold or issued any securities with terms that are substantially similar to the Notes during the six-month period preceding the date of the Prospectus, including any sales pursuant to Rule 144A under, or Regulations D or S of, the Securities Act.

(l) Neither the Company nor any of its subsidiaries has sustained, since the date of the latest audited financial statements included or incorporated by reference in the Prospectus, any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Prospectus; and, since such date, there has not been any change in the capital stock or long-term debt of the Company or any of its subsidiaries or any material adverse change, or any development involving a prospective material adverse change, in or affecting the general affairs, management, financial position, stockholders' equity or results of operations, business or prospects of the Company and its subsidiaries (a "Material Adverse Change"), otherwise than as set forth or contemplated in the Prospectus.

(m) The financial statements (including the related notes and supporting schedules) included or incorporated by reference in the Prospectus present fairly the financial condition and results of operations of the entities purported to be shown thereby, at the dates and for the periods indicated, and have been prepared in conformity with generally accepted accounting principals applied on a consistent basis throughout the periods involved.

(n) Arthur Andersen LLP, who has certified certain financial statements of the Company, whose report appears in the Prospectus or is incorporated by reference therein and who has delivered the initial letter referred to in Section 7(h) hereof, are independent public accountants as required by the Securities Act and the Rules and Regulations.

(o) The Company and each of its subsidiaries have good and

marketable title in fee simple to all real property and good and marketable title to all personal property owned by them, in each case free and clear of all liens, encumbrances and defects except such as are described in the Prospectus or such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and its subsidiaries; all real property and buildings held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases, with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company and its subsidiaries; neither the Company nor, to the best of the knowledge of the Company, any lessee under a lease, relating to any of the real property or facilities owned by the Company, is in default under or has any rights to terminate any of the leases relating to the real property or facilities owned by the Company and the Company does not know of any event which, but for the passage of time or the giving of notice, or both, would constitute a default or under or termination of any of such leases, except such defaults or termination rights that could not be reasonably expected to have a Material Adverse Effect on the Company; and, except as disclosed in the Prospectus, neither the Company nor, to the best of the knowledge of the Company, any other party under a management contract, relating to any of the real property or facilities owned by the Company, is in default under any of the management contracts relating to the real property or facilities owned by the Company, the Company has not received any notice of any rights to terminate any of such management contracts and the Company does not know of any event which, but for the passage of time or the giving of notice, or both, would constitute a default or under or termination of any of such management contracts, except such defaults or termination rights that could not be reasonably expected to have a Material Adverse Effect on the Company.

(p) The Company and each of its subsidiaries carry, or are covered by, insurance in such amounts and covering such risks as is reasonably adequate for the conduct of their respective businesses and the value of their respective properties and as is customary for companies engaged in similar businesses in similar industries.

(q) Except as described in the Prospectus, the Company and each of its subsidiaries own or possess adequate rights to use all material trademarks, service marks, trade names, trademark registrations, service mark registrations and licenses necessary for the conduct of their respective businesses and have no reason to believe that the conduct of their respective businesses will conflict with, and have not received any notice of any claim of conflict with, any such rights of others.

(r) Except as described in the Prospectus, there are no legal or governmental proceedings pending to which the Company or any of its

subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, could be reasonably expected to have a Material Adverse Effect; and to the best of the Company's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others.

(s) There are no contracts or other documents which are required to be described in the Prospectus or filed as exhibits to the Registration Statement by the Securities Act or by the Rules and Regulations which have not been described in the Prospectus or filed as exhibits to the Registration Statement incorporated therein by reference as permitted by the Rules and Regulations.

(t) No relationship, direct or indirect, exists between or among the Company on the one hand, and the directors, officers, stockholders, customers or suppliers of the Company on the other hand, which is required to be described in the Prospectus which is not so described.

(u) No labor disturbance by the employees of the Company exists or, to the knowledge of the Company, is imminent which could be reasonably expected to have a Material Adverse Effect.

(v) The Company is in compliance in all material respects with all presently applicable provisions of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder ("ERISA"); no "reportable event" (as defined in ERISA) has occurred with respect to any "pension plan" (as defined in ERISA) for which the Company would have any liability; the Company has not incurred and does not expect to incur liability under (i) Title IV of ERISA with respect to termination of, or withdrawal from, any "pension plan" or (ii) Sections 412 or 4971 of the Internal Revenue Code of 1986, as amended, including the regulations and published interpretations thereunder (the "Code"); and each "pension plan" for which the Company would have any liability that is intended to be qualified under Section 401(a) of the Code is so qualified in all material respects and nothing has occurred, whether by action or by failure to act, which would cause the loss of such qualification.

(w) The Company has filed all federal, state and local income and franchise tax returns required to be filed through the date hereof and has paid all taxes due thereon, and no tax deficiency has been determined adversely to the Company or any of its subsidiaries which has had (nor does the Company have any knowledge of any tax deficiency which, if determined adversely to the Company or any of its subsidiaries, could be reasonably expected to have) a Material Adverse Effect.

(x) The Company has been organized in conformity with the

requirements for qualification as a real estate investment trust under the Internal Revenue Code of 1986, as amended (the "Code"), and it has operated and intends to continue to operate in such a manner as to enable it to meet the requirements for taxation as a real estate investment trust under the Code commencing with the Company's taxable year ending December 31, 1999.

(y) Since the date as of which information is given in the Prospectus through the date hereof, and except as may otherwise be disclosed in the Prospectus, the Company has not (i) issued or granted any securities, (ii) incurred any liability or obligation, direct or contingent, other than liabilities and obligations which were incurred in the ordinary course of business, (iii) entered into any transaction not in the ordinary course of business or (iv) declared or paid any dividend on its capital stock.

(z) The Company (i) makes and keeps accurate books and records and (ii) maintains internal accounting controls which provide reasonable assurance that (A) transactions are executed in accordance with management's authorization, (B) transactions are recorded as necessary to permit preparation of its financial statements and to maintain accountability for its assets, (C) access to its assets is permitted only in accordance with management's authorization and (D) the reported accountability for its assets is compared with existing assets at reasonable intervals.

(aa) Neither the Company nor any of its subsidiaries (i) is in violation of its charter or by-laws, (ii) is in default in any material respect, and no event has occurred which, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any material indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it is bound or to which any of its properties or assets is subject or (iii) is in violation in any material respect of any law, ordinance, governmental rule, regulation or court decree to which it or its property or assets may be subject or has failed to obtain any material license, permit, certificate, franchise or other governmental authorization or permit necessary to the ownership of its property or to the conduct of its business.

(ab) Neither the Company nor any of its subsidiaries, nor any director, officer, agent, employee or other person associated with or acting on behalf of the Company or any of its subsidiaries, has used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977; or made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment.



(ac) There has been no storage, disposal, generation, manufacture, refinement, transportation, handling or treatment of toxic wastes, medical wastes, hazardous wastes or hazardous substances by the Company or any of its subsidiaries (or, to the knowledge of the Company, any of their predecessors in interest) at, upon or from any of the property now or previously owned or leased by the Company or its subsidiaries in violation of any applicable law, ordinance, rule, regulation, order, judgment, decree or permit or which would require remedial action under any applicable law, ordinance, rule, regulation, order, judgment, decree or permit, except for any violation or remedial action which could not be reasonably expected to have, singularly or in the aggregate with all such violations and remedial actions, a Material Adverse Effect; there has been no material spill, discharge, leak, emission, injection, escape, dumping or release of any kind onto such property or into the environment surrounding such property of any toxic wastes, medical wastes, solid wastes, hazardous wastes or hazardous substances due to or caused by the Company or any of its subsidiaries or with respect to which the Company or any of its subsidiaries have knowledge, except for any such spill, discharge, leak, emission, injection, escape, dumping or release which could not be reasonably expected to have, singularly or in the aggregate with all such spills, discharges, leaks, emissions, injections, escapes, dumpings and releases, a Material Adverse Effect; and the terms "hazardous wastes," "toxic wastes," "hazardous substances" and "medical wastes" shall have the meanings specified in any applicable local, state, federal and foreign laws or regulations with respect to environmental protection.

(ad) Neither the Company nor any subsidiary is an "investment company" within the meaning of such term under the United States Investment Company Act of 1940 and the rules and regulations of the Commission thereunder.

2. Purchase of the Notes by Lehman Brothers. On the basis of the representations, warranties and agreements contained in, and subject to the terms and conditions of, this Agreement, the Company agrees to sell to Lehman Brothers, and Lehman Brothers agrees to purchase from the Company, all of the Notes at an aggregate purchase price equal to 97.00% of the principal amount thereof (the "Purchase Price").

The Company shall not be obligated to deliver any of the Notes, except upon payment for all the Notes to be purchased pursuant to this Agreement as provided herein.

3. Offering of Notes by Lehman Brothers. Upon authorization by Lehman Brothers of the release of the Notes, Lehman Brothers proposes to offer the Notes for sale upon the terms and conditions set forth in the Prospectus.

4. Delivery of and Payment for the Notes. Delivery of and payment for the Notes shall be made at the office of Latham & Watkins, 885 Third Avenue New York, New York 10022 at 10:00 A.M., New York City time, on the third full business day following the date of

this Agreement or at such other date or place as shall be determined by agreement between Lehman Brothers and the Company. This date and time are sometimes referred to as the "Delivery Date." On the Delivery Date, the Company shall deliver or cause to be delivered certificates representing the Notes to Lehman Brothers for the account of Lehman Brothers against payment to or upon the order of the Company of the purchase price by wire transfer in immediately available funds. Time shall be of the essence, and delivery at the time and place specified pursuant to this Agreement is a further condition of the obligation of Lehman Brothers hereunder. Upon delivery, the Notes shall be registered in such names and in such denominations as may be set forth in the Indenture. For the purpose of expediting the checking and packaging of the certificates for the Notes, the Company shall make the certificates representing the Notes available for inspection by Lehman Brothers in New York, New York, not later than 2:00 P.M., New York City time, on the business day prior to the Delivery Date.

5. Further Agreements of the Company. The Company agrees:

(a) To prepare the Prospectus in a form approved by Lehman Brothers and to file such Prospectus pursuant to Rule 424(b) under the Securities Act not later than Commission's close of business on the second business day following the execution and delivery of this Agreement or, if applicable, such earlier time as may be required by Rule 430A(a)(3) under the Securities Act; to make no further amendment or any supplement to the Registration Statement or to the Prospectus except as permitted herein; to advise Lehman Brothers, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any supplement to the Prospectus or any amended Prospectus has been filed and to furnish Lehman Brothers with copies thereof; to advise Lehman Brothers, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or the Prospectus, of the suspension of the qualification of the Notes for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or the Prospectus or suspending any such qualification, to use promptly its best efforts to obtain its withdrawal;

(b) To furnish promptly to Lehman Brothers and to counsel for Lehman Brothers a signed copy of the Registration Statement as originally filed with the Commission, and each amendment thereto filed with the Commission, including all consents and exhibits filed therewith;

(c) To deliver promptly to Lehman Brothers such number of the following documents as Lehman Brothers shall reasonably request: (i) conformed copies of the Registration Statement as originally filed with the Commission and each amendment thereto (in each case excluding exhibits other than this

Agreement, the Indenture and the computation of per share earnings) and (ii) each Preliminary Prospectus, the Prospectus and any amended or supplemented Prospectus; and, if the delivery of a prospectus is required at any time after the Effective Time in connection with the offering or sale of the Notes or any other securities relating thereto and if at such time any events shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus is delivered, not misleading, or, if for any other reason it shall be necessary to amend or supplement the Prospectus in order to comply with the Securities Act, to notify Lehman Brothers and, upon their request, to file such document and to prepare and furnish without charge to Lehman Brothers and to any dealer in securities as many copies as Lehman Brothers may from time to time reasonably request of an amended or supplemented Prospectus which will correct such statement or omission or effect such compliance;

(d) To file promptly with the Commission any amendment to the Registration Statement or the Prospectus or any supplement to the Prospectus that may, in the judgment of the Company or Lehman Brothers, be required by the Securities Act or requested by the Commission;

(e) Prior to filing with the Commission any amendment to the Registration Statement or supplement to the Prospectus or any Prospectus pursuant to Rule 424 of the Rules and Regulations, to furnish a copy thereof to Lehman Brothers and counsel for Lehman Brothers and obtain the consent of Lehman Brothers to the filing;

(f) As soon as practicable, to make generally available to the Company's security holders and to deliver to Lehman Brothers earnings statements of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Securities Act and the Rules and Regulations (including, at the option of the Company, Rule 158);

(g) So long as any of the Notes are outstanding, to furnish to Lehman Brothers copies of all materials furnished by the Company to its shareholders and all public reports and all reports and financial statements furnished by the Company to the principal national securities exchange upon which the Common Stock may be listed pursuant to requirements of or agreements with such exchange or to the Commission pursuant to the Exchange Act or any rule or regulation of the Commission thereunder;

(h) Promptly from time to time to take such action as Lehman Brothers may reasonably request to qualify the Notes for offering and sale under the securities laws of such jurisdictions as Lehman Brothers may request and to

comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Notes;

(j) To apply the net proceeds from the sale of the Notes being sold by the Company as set forth in the Prospectus;

(k) To take such steps as shall be necessary to ensure that neither the Company nor any subsidiary shall become an "investment company" within the meaning of such term under the United States Investment Company Act of 1940 and the rules and regulations of the Commission thereunder; and

(l) For a period of 90 days from the date of the Prospectus, not to, directly or indirectly, sell, offer to sell, contract to sell, grant any option to purchase, issue any instrument convertible or exchangeable for, or otherwise transfer or dispose of (or enter into any transaction or device which is designed to, or could be expected to, result in the disposition in the future of), any debt securities of the Company or any of its subsidiaries, except with the prior consent of Lehman Brothers.

6. Expenses. The Company agrees to pay (a) the costs incident to the authorization, issuance, sale and delivery of the Notes and any taxes payable in that connection; (b) the costs incident to the preparation, printing and filing under the Securities Act of the Registration Statement and any amendments and exhibits thereto; (c) the costs of distributing the Registration Statement as originally filed and each amendment thereto and any post-effective amendments thereof (including, in each case, exhibits), any Preliminary Prospectus, the Prospectus (including, without limitation, exhibits) and any amendment or supplement to the Preliminary Prospectus and Prospectus, all as provided in this Agreement; (d) the costs of reproducing and distributing this Agreement; (e) the filing fees incident to securing any required review by the National Association of Securities Dealers, Inc. of the terms of sale of the Notes; (f) any applicable listing or other fees; (g) the fees and expenses of qualifying the Notes under the securities laws of the several jurisdictions as provided in Section 5(h) and of preparing, printing and distributing a Blue Sky Memorandum (including related fees and expenses of counsel to Lehman Brothers); (h) any fees charged by securities rating services for rating the Notes; and (i) all other costs and expenses incident to the performance of the obligations of the Company under this Agreement; provided, that (x) the Company and Lehman Brothers will bear their own "road show" expenses, (y) the Company, on the one hand, and Lehman Brothers, on the other hand, will each bear one half of the cost of the charter air craft used in connection with the "road show" relating to the offering of the Notes and (z) the only legal expenses of Lehman Brothers to be borne by the Company pursuant to this Section 6 are pursuant to clause (g) of this Section 6.

7. Conditions of Lehman Brothers' Obligations. The obligations of Lehman Brothers hereunder are subject to the accuracy, when made and on the Delivery Date, of the representations and warranties of the Company contained herein, to the performance by the

Company of its obligations hereunder, and to each of the following additional terms and conditions:

(a) The Prospectus shall have been timely filed with the Commission in accordance with Section 5(a); no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or threatened by the Commission; any request of the Commission for inclusion of additional information in the Registration Statement or the Prospectus or otherwise shall have been complied with.

(b) Lehman Brothers shall not have discovered and disclosed to the Company on or prior to the Delivery Date that the Registration Statement or the Prospectus or any amendment or supplement thereto contains an untrue statement of a fact which, in the opinion of Latham & Watkins, counsel for Lehman Brothers, is material or omits to state a fact which, in the opinion of such counsel, is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(c) All corporate proceedings and other legal matters incident to the authorization, form and validity of this Agreement, the Indenture, the Notes, the Registration Statement and the Prospectus, and all other legal matters relating to this Agreement and the transactions contemplated hereby shall be reasonably satisfactory in all material respects to counsel for Lehman Brothers, and the Company shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.

(d) Miles & Stockbridge P.C. shall have furnished to Lehman Brothers its written opinion, as counsel to the Company, addressed to Lehman Brothers and dated the Delivery Date, in form and substance reasonably satisfactory to Lehman Brothers, to the effect that:

(i) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Maryland and has the corporate power and authority to own or hold its properties and conduct the businesses in which it is engaged as such properties and businesses are described in the Prospectus;

(ii) The Company has authorized capital stock as described under the caption "Description of Common Stock--General" set forth in the Prospectus, and all of the issued shares of capital stock of the Company, comprising 117,076,081 shares of common stock, \$0.01 par value per share, and 4,300,000 shares of 8% Series A Cumulative Preferred Stock, have been duly authorized and validly issued and are fully paid and non-assessable, and the description of the common stock, \$0.01

par value per share, of the Company and the preferred stock of the Company, consisting solely of the shares of preferred stock, \$0.01 par value, designated 8.0% Series A Cumulative Preferred Stock, conform to the description thereof set forth under the caption "Description of Capital Stock" in the Prospectus, including under the caption "New Prison Realty Capital Stock" in the prospectus that is incorporated therein by reference;

(iii) The execution and delivery of and the performance of its obligations under each of the Underwriting Agreement and the Indenture by the Company have been duly authorized by the Company;

(iv) The issuance and sale of the Notes by the Company have been duly authorized by the Company;

(v) The execution and delivery by the Company of this Agreement and the Indenture and the consummation by the Company of the transactions contemplated hereby and thereby will not result in any violation of the provisions of the charter or bylaws of the Company or, to the knowledge of such counsel, any applicable law, rule or regulation of any Maryland court or governmental agency having jurisdiction over the Company, except for such violations that could not, singly or in the aggregate, be reasonably expected to have a Material Adverse Effect; and

(vi) No consent, approval, authorization, order, registration or qualification of or with any Maryland governmental agency or body or, to our knowledge, any Maryland court is required for the issue and sale of the Notes by the Company and the compliance by the Company with the provisions of this Agreement, except for such consents, approvals, authorizations, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Notes by Lehman Brothers.

In rendering such opinion, such counsel may state that its opinion is limited to matters governed by the laws of the State of Maryland.

(e) Stokes & Bartholomew, P.A. shall have furnished to Lehman Brothers its written opinion, as counsel to the Company, addressed to Lehman Brothers and dated the Delivery Date, in form and substance reasonably satisfactory to Lehman Brothers, to the effect that:

(i) The Company has been duly formed and is validly existing as a corporation under the laws of the State of Maryland, with corporate power and authority to own its properties and conduct its businesses as now conducted, and based solely upon certificates from public officials, is duly qualified to do business and is in good standing as a foreign

corporation in each jurisdiction in which its ownership or lease of property or the conduct of its businesses requires such qualification, except to the extent that the failure to be so qualified could not be reasonably expected to have Material Adverse Effect;

(ii) As of the dates specified therein, the Company had authorized and issued capital stock as set forth under the caption "Capitalization" in the Prospectus. All of the issued shares of the capital stock of the Company have been duly authorized and validly issued and conform to the description thereof contained in the Prospectus;

(iii) The Indenture has been duly executed and delivered by the Company, is duly qualified under the Trust Indenture Act and, assuming that the Indenture is a valid and binding agreement of the Trustee, constitutes a valid and binding agreement of the Company;

(iv) The Notes have been duly executed and issued by the Company and, assuming due authentication thereof by the Trustee and upon payment delivery in accordance with the terms of this Agreement, will constitute valid and binding obligations of the Company;

(v) This Agreement has been duly executed and delivered by the Company;

(vi) To such counsel's knowledge, there are no preemptive or other rights to subscribe for or to purchase, nor any restriction upon the transfer of, any Notes pursuant to the Company's charter or by-laws or any agreement or other instrument known to such counsel;

(vii) The Company and each of its subsidiaries have good and marketable title in fee simple to all real property owned by them, in each case free and clear of all liens, encumbrances and defects except such as are described in the Prospectus or such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and its subsidiaries; and all real property and buildings held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases, with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company and its subsidiaries;

(viii) To the best of such counsel's knowledge, and other than as set forth in the Prospectus, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is

the subject of which, if determined adversely to the Company or any of its subsidiaries, could be reasonably expected to have a Material Adverse Effect; and, to the best of such counsel's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others;

(ix) To the best of such counsel's knowledge, and with the exception of two Registration Rights Agreements, each dated December 31, 1998, in connection with the Company's issuance to PMI Mezzanine Fund, L.P. of its 7.5% convertible subordinated notes in the aggregate principal amount of \$30.0 million and the Company's issuance to MDP Ventures IV LLC of its 9.5% convertible subordinated notes in the aggregate principal amount of \$40.0 million, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company owned or to be owned by such person or to require the Company to include such securities in the securities registered pursuant to the Registration Statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Securities Act;

(x) The statements contained in the Prospectus under the captions "Business-Relationship with CCA," "Business-CCA Leases," "Business-Other Agreements," "Business-CCA Note," "Business-License Fees," "Business-Relationship with the Service Companies" and "Business-Governmental Regulation," insofar as they describe charter documents, contracts, statutes, rules and regulations and other legal matters, constitute an accurate summary thereof in all material respects;

(xi) The statements contained in the Prospectus under the caption "Material United States Federal Tax Considerations" or "Material Federal Income Tax Consequences," insofar as they purport to constitute summaries of matters of United States federal tax law and regulations or legal conclusions with respect thereto, constitute accurate summaries of the matters described therein in all material respects;

(xii) All of the issued shares of capital stock of each subsidiary of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims other than liens or encumbrances in favor of the lenders under the Company's Bank Credit Facility, dated as of January 1, 1999, as described in the Prospectus;



(xiii) To such counsel's knowledge, there are no contracts or documents of a character required by the Securities Act or by the rules and regulations thereunder to be described in the Registration Statement or the Prospectus or to be filed as exhibits to the Registration Statement which are not described or filed as required by the Securities Act or by the rules and regulations thereunder;

(xiv) The execution and delivery by the Company of this Agreement and the Indenture and the consummation by the Company of the other transactions contemplated hereby and thereby and by the Prospectus will not (A) to the knowledge of such counsel, result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument of the Company or any of its subsidiaries, except for such breaches or violations that could not, singly or in the aggregate, be reasonably expected to have a Material Adverse Effect or (B) result in any violation of the provisions of the charter or bylaws of the Company or any of its subsidiaries, or, to the knowledge of such counsel, any applicable law, rule or regulation with respect to the Company or any of its subsidiaries or, to the knowledge of such counsel, any rule or regulation or order of any court or governmental agency having jurisdiction over the Company or any of its subsidiaries, except for such violations that could not, singly or in the aggregate, be reasonably expected to have a Material Adverse Effect; and, to the knowledge of such counsel, except for such consents, approvals or authorizations of, or filings, registrations or qualifications with, governmental authorities as may be required under the Securities Act and the rules and regulations thereunder, the Trust Indenture Act and the rules and regulations thereunder or applicable states securities or Blue Sky laws, rules or regulations in connection with the purchase and distribution of the Notes by Lehman Brothers, no consent, approval, authorization or order of, or filing or registration with, any such court or governmental agency or body is required in connection with the execution and delivery by the Company of this Agreement or the Indenture or the consummation by the Company of the other transactions contemplated hereby and thereby and by the Prospectus and the issuance and sale of the Notes by the Company; and

(xv) The Registration Statement and the Prospectus and any further amendments or supplements thereto made by the Company prior to the Delivery Date (other than the financial statements and related schedules therein, as to which such counsel need express no opinion) comply as to form in all material respects with the requirements of the Securities Act and the Rules and Regulations.

In rendering such opinion, such counsel may (i) state that its opinion is limited to matters governed by the Federal laws of the United States of America, the laws of the State of Tennessee and the General Corporation Law of the State of Delaware and that such counsel is not admitted in the State of Delaware; (ii) rely (to the extent such counsel deems proper and specifies in its opinion), as to matters involving the application of the laws of other jurisdictions upon the opinion of other counsel of good standing, provided that such counsel is satisfactory to counsel for Lehman Brothers and furnishes a copy of its opinion to Lehman Brothers.

Such counsel shall also have furnished to Lehman Brothers a written statement, addressed to Lehman Brothers and dated the Delivery Date, in form and substance satisfactory to Lehman Brothers, to the following effect: Such counsel has not independently verified the accuracy, completeness or fairness of the statements made or included in the Registration Statement or the Prospectus and does not take responsibility therefor, except as and to the extent set forth in paragraphs (xi) and (xii) above. In the course of the preparation by the Company of the Registration Statement and the Prospectus, such counsel participated in conferences with certain officers and employees of the Company and with representatives of Arthur Andersen LLP, the Company's independent auditors. Based upon such counsel's examination of the Registration Statement and the Prospectus, such counsel's investigations made in connection with the preparation of the Registration Statement and the Prospectus and such counsel's participation in the conferences referred to above, (i) such counsel is of the opinion that the Registration Statement, as of its effective date, and the Prospectus, as of June 4, 1999, complied as to form in all material respects with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder, except that in each case such counsel need not express an opinion with respect to the financial statements or other financial data contained or incorporated by reference in the Registration Statement or the Prospectus, and (ii) such counsel has no reason to believe that the Registration Statement, as of its effective date, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading or that the Prospectus contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that in each case such counsel need not express an opinion with respect to the financial statements or other financial data contained or incorporated by reference in the Registration Statement or the Prospectus.

In addition, Stokes & Bartholomew, P.A. shall have furnished to Lehman Brothers its written opinion, as special tax counsel to the Company, addressed to Lehman Brothers and dated the Delivery Date, in form and substance reasonably satisfactory to Lehman Brothers.

(f) Simpson Thacher & Bartlett, special New York counsel for the Company, shall have furnished to Lehman Brothers its written opinion addressed to Lehman Brothers and dated the Delivery Date, in form and substance reasonably satisfactory to Lehman Brothers, to the effect that:

(i) The Indenture was duly qualified under the Trust Indenture Act and, assuming the Indenture has been duly authorized, executed and delivered by the Company and, assuming that the Indenture is a valid and binding agreement of the Trustee, the Indenture constitutes a valid and legally binding instrument of the Company enforceable against the Company in accordance with its terms;

(ii) Assuming the Notes have been duly authorized, executed and issued by the Company and, assuming due authentication thereof by the Trustee and upon payment and delivery in accordance with the terms of this Agreement, the Notes will constitute valid and legally binding obligations of the Company enforceable in accordance with their terms and entitled to the benefits of the Indenture;

(iii) No consent, approval, authorization, order, registration or qualification of or with any Federal or New York governmental agency or body or, to our knowledge, any Federal or New York court is required for the issue and sale of the Notes by the Company and the compliance by the Company with all of the provisions of this Agreement, except for the registration under the Securities Act and the Exchange Act of the Notes and such consents, approvals, authorizations, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Notes by Lehman Brothers;

(iv) The statements made in the Prospectus under the caption "Description of Notes," insofar as they purport to constitute summaries of the documents referred to therein, constitute accurate summaries of the terms of such documents in all material respects;

(v) The Registration Statement has become effective under the Securities Act and the Prospectus was filed pursuant to Rule 424(b) of the Rules and Regulations and, to our knowledge, no stop order suspending the effectiveness of the Registration Statement has been issued or proceeding for that purpose has been instituted or threatened by the Commission; and

(vi) The Company is not an "investment company" within the meaning of and subject to regulation under the Investment Company Act of 1940, as amended.

In rendering such opinion, such counsel may state that its opinion is limited to matters governed by the Federal laws of the United States of America and the laws of the State of New York.

(g) Lehman Brothers shall have received from Latham & Watkins, counsel for Lehman Brothers, such opinion or opinions, dated the Delivery Date, with respect to the issuance and sale of the Notes, the Registration Statement, the Prospectus and other related matters as Lehman Brothers may reasonably require, and the Company shall have furnished to such counsel such documents as they reasonably request for the purpose of enabling them to pass upon such matters.

(h) At the time of execution of this Agreement, Lehman Brothers shall have received from Arthur Andersen LLP a letter, in form and substance satisfactory to Lehman Brothers, addressed to Lehman Brothers and dated the date hereof (i) confirming that they are independent public accountants within the meaning of the Securities 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 Commission and (ii) stating, as of the date hereof (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the Prospectus, as of a date not more than five days prior to the date hereof), the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants' "comfort letters" to underwriters in connection with registered public offerings.

(i) With respect to the letter of Arthur Andersen LLP referred to in the preceding paragraph and delivered to Lehman Brothers concurrently with the execution of this Agreement (the "initial letter"), the Company shall have furnished to Lehman Brothers a letter (the "bring-down letter") of such accountants, in form and substance satisfactory to Lehman Brothers, addressed to Lehman Brothers and dated the Delivery Date (i) confirming that they are independent public accountants within the meaning of the Securities 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 Commission, (ii) stating, as of the date of the bring-down letter (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the Prospectus, as of a date not more than five days prior to the date of the bring-down letter), the conclusions and findings of such firm with respect to the financial information and other matters covered by the initial letter and (iii) confirming in all material respects the conclusions and findings set forth in the initial letter.

(j) The Company shall have furnished to Lehman Brothers a certificate, dated the Delivery Date, of its Chairman of the Board, its President or a Vice President and its chief financial officer stating that:

(i) The representations, warranties and agreements of the Company in Section 1 are true and correct as of the Delivery Date; the Company has complied with all its agreements contained herein; and the conditions set forth in Sections 7(a), 7(k), 7(l) and 7(m) have been fulfilled; and

(ii) They have carefully examined the Registration Statement and the Prospectus and, in their opinion (A) as of the Effective Date, the Registration Statement and Prospectus did not include any untrue statement of a material fact and did not omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and (B) since the Effective Date no event has occurred which should have been set forth in a supplement or amendment to the Registration Statement or the Prospectus.

(k) (i) Neither the Company nor any of its subsidiaries shall have sustained since the date of the latest audited financial statements included in the Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Prospectus or (ii) since such date there shall not have been any change in the capital stock or long-term debt of the Company or any of its subsidiaries or any change, or any development involving a prospective change, in or affecting the general affairs, management, financial position, stockholders' equity or results of operations of the Company and its subsidiaries, otherwise than as set forth or contemplated in the Prospectus, the effect of which, in any such case described in clause (i) or (ii), is, in the judgment of Lehman Brothers, so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Notes being delivered on the Delivery Date on the terms and in the manner contemplated in the Prospectus.

(l) Subsequent to the execution and delivery of this Agreement (i) no downgrading shall have occurred in the rating accorded the Company's debt securities by any "nationally recognized statistical rating organization," as that term is defined by the Commission for purposes of Rule 436(g)(2) of the Rules and Regulations and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities.

(m) Subsequent to the execution and delivery of this Agreement there shall not have occurred any of the following: (i) trading in securities generally on the New York Stock Exchange or the American Stock Exchange or in the over-the-counter market, or trading in any securities of the Company on any exchange or in the over-the-counter market, shall have been suspended or minimum prices

shall have been established on any such exchange or such market by the Commission, by such exchange or by any other regulatory body or governmental authority having jurisdiction, (ii) a banking moratorium shall have been declared by Federal or state authorities, (iii) the United States shall have become engaged in hostilities, there shall have been an escalation in hostilities involving the United States or there shall have been a declaration of a national emergency or war by the United States or (iv) there shall have occurred such a material adverse change in general economic, political or financial conditions (or the effect of international conditions on the financial markets in the United States shall be such) as to make it, in the judgment of Lehman Brothers, impracticable or inadvisable to proceed with the public offering or delivery of the Notes being delivered on the Delivery Date on the terms and in the manner contemplated in the Prospectus.

All opinions, letters, evidence and certificates mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for Lehman Brothers.

#### 8. Indemnification and Contribution.

(a) The Company shall indemnify and hold harmless Lehman Brothers, its officers and employees and each person, if any, who controls Lehman Brothers within the meaning of the Securities Act, from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof (including, but not limited to, any loss, claim, damage, liability or action relating to purchases and sales of Notes), to which Lehman Brothers, that officer, employee or controlling person may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, liability or action arises out of, or is based upon, (i) any untrue statement or alleged untrue statement of a material fact contained (A) in any Preliminary Prospectus, the Registration Statement or the Prospectus or in any amendment or supplement thereto, or (B) in any blue sky application or other document prepared or executed by the Company (or based upon any written information furnished by the Company) specifically for the purpose of qualifying any or all of the Notes under the securities laws of any state or other jurisdiction (any such application, document or information being hereinafter called a "Blue Sky Application"), (ii) the omission or alleged omission to state in any Preliminary Prospectus, the Registration Statement or the Prospectus, or in any amendment or supplement thereto, or in any Blue Sky Application any material fact required to be stated therein or necessary to make the statements therein not misleading or (iii) any act or failure to act or any alleged act or failure to act by Lehman Brothers in connection with, or relating in any manner to, the Notes or the offering contemplated hereby, and which is included as part of or referred to in any loss, claim, damage, liability or action arising out of or based upon matters covered by clause (i) or (ii) above (provided that the Company shall not be liable in the case of any matter covered by this clause (iii) to the extent that it is determined in a final judgment by a court of

competent jurisdiction that such loss, claim, damage, liability or action resulted directly from any such acts or failures to act undertaken or omitted to be taken by Lehman Brothers through its gross negligence or willful misconduct), and shall reimburse Lehman Brothers and each such officer, employee or controlling person promptly upon demand for any legal or other expenses reasonably incurred by Lehman Brothers, that officer, employee or controlling person in connection with investigating or defending or preparing to defend against any such loss, claim, damage, liability or action as such expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, liability or action arises out of, or is based upon, any untrue statement or alleged untrue statement or omission or alleged omission made in any Preliminary Prospectus, the Registration Statement or the Prospectus, or in any such amendment or supplement, or in any Blue Sky Application, in reliance upon and in conformity with written information concerning Lehman Brothers furnished to the Company by or on behalf of Lehman Brothers specifically for inclusion therein and described in Paragraph 8(e); and provided further that as to any Preliminary Prospectus this indemnity agreement shall not inure to the benefit of Lehman Brothers, its officers or employees or any person controlling Lehman Brothers on account of any loss, claim, damage, liability or action arising from the sale of Notes to any person by Lehman Brothers if Lehman Brothers failed to send or give a copy of the Prospectus, as the same may be amended or supplemented, to that person within the time required by the Securities Act, and the untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact in such Preliminary Prospectus was corrected in the Prospectus, unless such failure resulted from non-compliance by the Company with Section 5(c). For purposes of the last proviso to the immediately preceding sentence, the term "Prospectus" shall not be deemed to include the documents incorporated therein by reference, and Lehman Brothers shall not be obligated to send or give any supplement or amendment to any document incorporated by reference in any Preliminary Prospectus or the Prospectus to any person other than a person to whom Lehman Brothers had delivered such incorporated document or documents in response to a written request therefor. The foregoing indemnity agreement is in addition to any liability which the Company may otherwise have to Lehman Brothers or to any officer, employee or controlling person of Lehman Brothers.

(b) Lehman Brothers shall indemnify and hold harmless the Company, its officers and employees, each of its directors, and each person, if any, who controls the Company within the meaning of the Securities Act, from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof, to which the Company or any such director, officer or controlling person may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, liability or action arises out of, or is based upon, (i) any untrue statement or alleged untrue statement of a material fact contained (A) in any Preliminary Prospectus, the Registration Statement or the Prospectus or in any

amendment or supplement thereto, or (B) in any Blue Sky Application or (ii) the omission or alleged omission to state in any Preliminary Prospectus, the Registration Statement or the Prospectus, or in any amendment or supplement thereto, or in any Blue Sky Application any material fact required to be stated therein or necessary to make the statements therein 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 concerning Lehman Brothers furnished to the Company by or on behalf of Lehman Brothers specifically for inclusion therein, and shall reimburse the Company and any such director, officer or controlling person for any legal or other expenses reasonably incurred by the Company or any such director, officer or controlling person in connection with investigating or defending or preparing to defend against any such loss, claim, damage, liability or action as such expenses are incurred. The foregoing indemnity agreement is in addition to any liability which Lehman Brothers may otherwise have to the Company or any such director, officer, employee or controlling person.

(c) Promptly after receipt by an indemnified party under this Section 8 of notice of any claim or the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party in writing of the claim or the commencement of that action; provided, however, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have under this Section 8 except to the extent it has been materially prejudiced by such failure and, provided further, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have to an indemnified party otherwise than under this Section 8. If any such claim or action shall be brought against an indemnified party, and it shall notify the indemnifying party thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense thereof with counsel reasonably satisfactory to the indemnified party. After notice from the indemnifying party to the indemnified party of its election to assume the defense of such claim or action, the indemnifying party shall not be liable to the indemnified party under this Section 8 for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided however, that any indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense thereof but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the employment thereof has been specifically authorized by the indemnifying party in writing, (ii) such 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 and in the reasonable judgment of such counsel it is advisable for such indemnified party to employ separate counsel or (iii) the indemnifying party has failed to assume the defense of



such action and employ counsel reasonably satisfactory to the indemnified party, in which case, if such indemnified party notifies the indemnifying party in writing that it elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of such action on behalf of such indemnified party, it being understood, however, that the indemnifying party shall not, in connection with any one such 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 reasonable fees and expenses of more than one separate firm of attorneys at any time for all such indemnified parties, which firm shall be designated in writing by Lehman Brothers, if the indemnified parties under this Section 8 consist of Lehman Brothers or any of their respective officers, employees or controlling persons, or by the Company, if the indemnified parties under this Section consist of the Company or any of the Company's directors, officers, employees or controlling persons. No indemnifying party shall (i) without the prior written consent of the indemnified parties (which consent shall not be unreasonably withheld), settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding, or (ii) be liable for any settlement of any such action effected without its written consent (which consent shall not be unreasonably withheld), but if settled with the consent of the indemnifying party or if there be a final judgment of the plaintiff in any such action, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment.

(d) If the indemnification provided for in this Section 8 shall for any reason be unavailable to or insufficient to hold harmless an indemnified party under Section 8(a) or 8(b) in respect of any loss, claim, damage or liability, or any action in respect thereof, referred to therein, then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage or liability, or action in respect thereof, (i) in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and Lehman Brothers on the other from the offering of the Notes or (ii) if the allocation provided by clause (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 (i) above but also the relative fault of the Company, on the one hand and Lehman Brothers on the other with respect to the statements or omissions which resulted in such loss, claim, damage or liability, or action in respect thereof, as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand and Lehman Brothers on the other with respect

to such offering shall be deemed to be in the same proportion as the total net proceeds from the offering of the Notes purchased under this Agreement (before deducting expenses) received by the Company, on the one hand, and the total underwriting discounts and commissions received by Lehman Brothers with respect to the Notes purchased under this Agreement, on the other hand, bear to the total gross proceeds from the offering of the Notes under this Agreement, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or Lehman Brothers, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and Lehman Brothers agree that it would not be just and equitable if contributions pursuant to this Section were to be determined by pro rata allocation (even if Lehman Brothers were treated as one entity for such purpose) or by any other method of allocation which does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, damage or liability, or action in respect thereof, referred to above in this Section shall be deemed to include, for purposes of this Section 8(d), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 8(d), Lehman Brothers shall not be required to contribute any amount in excess of the amount by which the total price at which the Notes underwritten by it and distributed to the public was offered to the public exceeds the amount of any damages which Lehman Brothers has otherwise paid or become liable to pay by reason of any untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(e) Lehman Brothers confirms and the Company acknowledges that the statements with respect to the public offering of the Notes by Lehman Brothers set forth as the fifth paragraph, the first sentence of the eighth paragraph, and the ninth paragraph under the caption "Underwriting" in the Prospectus are correct and constitute the only information concerning Lehman Brothers furnished in writing to the Company by or on behalf of Lehman Brothers specifically for inclusion in the Registration Statement and the Prospectus.

9. Termination. The obligations of Lehman Brothers hereunder may be terminated by Lehman Brothers by notice given to and received by the Company prior to delivery of and payment for the Notes if, prior to that time, any of the events described in Sections 7(k), 7(l) or 7(m), shall have occurred or if Lehman Brothers shall decline to purchase the Notes for any reason permitted under this Agreement.

10. Reimbursement of Lehman Brothers' Expenses. If (a) the Company shall fail to tender the Notes for delivery to Lehman Brothers by reason of any failure, refusal or inability on the part of the Company to perform any agreement on its part to be performed, or because any other condition of the obligations hereunder required to be fulfilled by the Company is not fulfilled, the Company will reimburse Lehman Brothers for all reasonable out-of-pocket expenses (including fees and disbursements of counsel) incurred by Lehman Brothers in connection with this Agreement and the proposed purchase of the Notes, and upon demand the Company shall pay the full amount thereof to Lehman Brothers. If this Agreement is terminated pursuant to Section 9 by reason of the default of Lehman Brothers, the Company shall not be obligated to reimburse Lehman Brothers on account of those expenses.

11. Notices, etc. All statements, requests, notices and agreements hereunder shall be in writing, and:

(a) if to Lehman Brothers, shall be delivered or sent by mail, telex or facsimile transmission to Lehman Brothers Inc., Three World Financial Center, New York, New York 10285, Attention: Syndicate Department (Fax: 212-526-6588), with a copy, in the case of any notice pursuant to Section 8(c), to the Director of Litigation, Office of the General Counsel, Lehman Brothers Inc., 3 World Financial Center, 10th Floor, New York, NY 10285;

(b) if to the Company, shall be delivered or sent by mail, telex or facsimile transmission to the address of the Company set forth in the Registration Statement or Prospectus, Attention: Michael W. Devlin (Fax: 615-263-0212), with a copy to Elizabeth E. Moore, Esq., Stokes & Bartholomew, P.A., 424 Church Street, Suite 2800, Nashville, Tennessee 37219;

provided however, that any notice to Lehman Brothers pursuant to Section 8(c) shall be delivered or sent by mail, telex or facsimile transmission to Lehman Brothers at its address set forth in its acceptance telex to Lehman Brothers, which address will be supplied to any other party hereto by Lehman Brothers upon request. Any such statements, requests, notices or agreements shall take effect at the time of receipt thereof. The Company shall be entitled to act and rely upon any request, consent, notice or agreement given or made by Lehman Brothers Inc.

12. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon Lehman Brothers, the Company and their respective successors. This Agreement and the terms and provisions hereof are for the sole benefit of only those persons, except that (A) the representations, warranties, indemnities and agreements of the Company contained in this Agreement shall also be deemed to be for the benefit of the person or persons, if any, who control Lehman Brothers within the meaning of Section 15 of the Securities Act and (B) the indemnity agreement of Lehman Brothers contained in Section 8(c) of this Agreement shall be deemed to be for the benefit of directors of the Company, officers of the Company who have signed the Registration Statement and any person controlling the Company within the meaning of Section 15 of the Securities Act. Nothing in this Agreement is intended or shall be construed to give any person, other than the persons referred to in this Section 12, any

legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein.

13. Survival. The respective indemnities, representations, warranties and agreements of the Company and Lehman Brothers contained in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall survive the delivery of and payment for the Notes and shall remain in full force and effect, regardless of any investigation made by or on behalf of any of them or any person controlling any of them.

14. Definition of the Terms "Business Day" and "Subsidiary." For purposes of this Agreement, (a) "business day" means any day on which the New York Stock Exchange, Inc. is open for trading and (b) "subsidiary" has the meaning set forth in Rule 405 of the Rules and Regulations.

15. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF NEW YORK.

16. Counterparts. This Agreement may be executed in one or more counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed to be an original but all such counterparts shall together constitute one and the same instrument.

17. Headings. The headings herein are inserted for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

[Signature page follows]

If the foregoing correctly sets forth the agreement among the Company and Lehman Brothers, please indicate your acceptance in the space provided for that purpose below.

Very Truly Yours,

PRISON REALTY TRUST, INC.

By /s/ Michael W. Devlin

-----  
Name: Michael W. Devlin  
Title: Chief Operating Officer

Accepted:

LEHMAN BROTHERS INC.

By /s/ Edward B. McGeough

-----  
Authorized Representative

=====  
PRISON REALTY TRUST, INC.

To

STATE STREET BANK AND TRUST COMPANY

Trustee

Indenture

Dated as of June 10, 1999  
=====

## TABLE OF CONTENTS

Page

## ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION.....	1
Section 1.01. Definitions .....	1
Section 1.02. Compliance Certificates and Opinions .....	11
Section 1.03. Form of Documents Delivered to Trustee.....	11
Section 1.04. Notices, etc., to Trustee and Company.....	12
Section 1.05. Notice to Holders; Waiver.....	12
Section 1.06. Conflict with Trust Indenture Act .....	13
Section 1.07. Effect of Headings and Table of Contents .....	13
Section 1.08. Successors and Assigns.....	13
Section 1.09. Separability Clause.....	13
Section 1.10. Benefits of Indenture.....	13
Section 1.11. Governing Law.....	13
Section 1.12. Legal Holidays .....	14
Section 1.13. No Security Interest Created .....	14
Section 1.14. Liability Solely Corporate.....	14

## ARTICLE II

DEBT SECURITY FORMS.....	15
Section 2.01. Forms Generally .....	15
Section 2.02. Form of Trustee's Certificate of Authentication .....	15
Section 2.03. Securities in Global Form .....	16

## ARTICLE III

THE DEBT SECURITIES .....	16
Section 3.01. Amount Unlimited; Issuable in Series.....	16
Section 3.02. Denominations .....	20
Section 3.03. Execution, Authentication, Delivery and Dating.....	20
Section 3.04. Temporary Debt Securities; Exchange of Temporary Global Notes for Definitive Bearer Securities .....	22
Section 3.05. Registration, Transfer and Exchange .....	26
Section 3.06. Mutilated, Destroyed, Lost and Stolen Debt Securities.....	28
Section 3.07. Payment of Interest; Interest Rights Preserved .....	29
Section 3.08. Cancellation .....	31
Section 3.09. Computation of Interest.....	31
Section 3.10. Currency of Payments in Respect of Debt .....	31
Section 3.11. Judgments.....	34
Section 3.12. Exchange Upon Default.....	35

## ARTICLE IV

SATISFACTION AND DISCHARGE .....	35
Section 4.01. Satisfaction and Discharge of Indenture.....	35
Section 4.02. Application of Trust Money.....	36

## ARTICLE V

REMEDIES .....	37
Section 5.01. Events of Default.....	37
Section 5.02. Acceleration of Maturity; Rescission and Annulment.....	38
Section 5.03. Collection of Indebtedness and Suits for Enforcement by Trustee.....	39
Section 5.04. Trustee May File Proofs of Claim .....	40
Section 5.05. Trustee May Enforce Claims Without Possession of Debt Securities....	40
Section 5.06. Application of Money Collected.....	40
Section 5.07. Limitation on Suits .....	41
Section 5.08. Unconditional Right of Holders to Receive Principal, Premium and Interest .....	42
Section 5.09. Restoration of Rights and Remedies.....	42
Section 5.10. Rights and Remedies Cumulative.....	42
Section 5.11. Delay or Omission Not Waiver .....	42
Section 5.12. Control by Holders .....	42
Section 5.13. Waiver of Past Defaults.....	43
Section 5.14. Undertaking for Costs .....	43
Section 5.15. Waiver of Stay or Extension Laws.....	43

## ARTICLE VI

THE TRUSTEE .....	44
Section 6.01. Certain Duties and Responsibilities .....	44
Section 6.02. Notice of Defaults.....	45
Section 6.03. Certain Rights of Trustee.....	45
Section 6.04. Not Responsible for Recitals or Issuance of Debt Securities.....	46
Section 6.05. May Hold Debt Securities.....	46
Section 6.06. Money Held in Trust.....	47
Section 6.07. Compensation and Reimbursement.....	47
Section 6.08. Disqualification; Conflicting Interests .....	47
Section 6.09. Corporate Trustee Required; Eligibility .....	52
Section 6.10. Resignation and Removal; Appointment of Successor.....	53
Section 6.11. Acceptance of Appointment by Successor .....	54
Section 6.12. Merger, Conversion, Consolidation or Succession to Business .....	55
Section 6.13. Preferential Collection of Claims Against Company.....	55
Section 6.14. Appointment of Authenticating Agent .....	58

## ARTICLE VII

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY.....	59
--	----



Section 7.01.	Company to Furnish Trustee Names and Addresses of Holders.....	59
Section 7.02.	Preservation of Information; Communication to Holders.....	60
Section 7.03.	Reports by Trustee .....	61
Section 7.04.	Reports by Company.....	63

## ARTICLE VIII

CONCERNING THE HOLDERS.....	64	
Section 8.01.	Acts of Holders.....	64
Section 8.02.	Proof of Ownership; Proof of Execution of Instruments by Holder.....	64
Section 8.03.	Persons Deemed Owners.....	65
Section 8.04.	Revocation of Consents; Future Holders Bound.....	65

## ARTICLE IX

HOLDERS' MEETINGS .....	65	
Section 9.01.	Purposes of Meetings .....	65
Section 9.02.	Call of Meetings by Trustee.....	66
Section 9.03.	Call of Meetings by Company or Holders.....	66
Section 9.04.	Qualifications for Voting.....	66
Section 9.05.	Regulations.....	66
Section 9.06.	Voting.....	67
Section 9.07.	No Delay of Rights by Meeting .....	67

## ARTICLE X

CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE.....	68	
Section 10.01.	Company May Consolidate, etc., Only on Certain Terms.....	68
Section 10.02.	Successor Corporation Substituted.....	68

## ARTICLE XI

SUPPLEMENTAL INDENTURES .....	69	
Section 11.01.	Supplemental Indentures Without Consent of Holders .....	69
Section 11.02.	Supplemental Indentures With Consent of Holders.....	70
Section 11.03.	Execution of Supplemental Indentures .....	71
Section 11.04.	Effect of Supplemental Indentures .....	71
Section 11.05.	Conformity with Trust Indenture Act.....	71
Section 11.06.	Reference in Debt Securities to Supplemental Indentures .....	71
Section 11.07.	Notice of Supplemental Indenture .....	72

## ARTICLE XII

COVENANTS .....	72	
Section 12.01.	Payment of Principal, Premium and Interest.....	72
Section 12.02.	Officer's Certificate as to Default.....	72
Section 12.03.	Maintenance of Office or Agency.....	72

Section 12.04.	Money for Debt Securities; Payments To Be Held in Trust.....	73
Section 12.05.	Corporate Existence .....	75
Section 12.06.	Purchase of Debt Securities by Company.....	75
Section 12.07.	Waiver of Certain Covenants.....	75

## ARTICLE XIII

REDEMPTION OF DEBT SECURITIES.....	75	
Section 13.01.	Applicability of Article .....	75
Section 13.02.	Election to Redeem; Notice to Trustee .....	75
Section 13.03.	Selection by Trustee of Debt Securities to Be Redeemed.....	76
Section 13.04.	Notice of Redemption .....	76
Section 13.05.	Deposit of Redemption Price .....	77
Section 13.06.	Debt Securities Payable on Redemption Date.....	77
Section 13.07.	Debt Securities Redeemed in Part .....	78

## ARTICLE XIV

SINKING FUNDS .....	78	
Section 14.01.	Applicability of Article .....	78
Section 14.02.	Satisfaction of Mandatory Sinking Fund Payments with Debt Securities.....	79
Section 14.03.	Redemption of Debt Securities for Sinking Fund .....	79

## ARTICLE XV

DEFEASANCE .....	81	
Section 15.01.	Applicability of Article .....	81
Section 15.02.	Defeasance Upon Deposit of Moneys or U.S. Government Obligations....	81
Section 15.03.	Deposited Moneys and U.S. Government Obligations to Be Held in Trust.....	82
Section 15.04.	Repayment to Company.....	83

## ARTICLE XVI

CONVERSION .....	83	
Section 16.01.	Applicability; Conversion Privilege .....	83
Section 16.02.	Conversion Procedure; Conversion Price; Fractional Shares.....	83
Section 16.03.	Adjustment of Conversion Price for Common Stock.....	84
Section 16.04.	Consolidation or Merger of the Company.....	87
Section 16.05.	Notice of Adjustment.....	87
Section 16.06.	Notice in Certain Events .....	88
Section 16.07.	Company to Reserve Stock; Registration; Listing.....	88
Section 16.08.	Taxes on Conversion.....	89
Section 16.09.	Conversion After Record Date.....	89
Section 16.10.	Company Determination Final.....	89
Section 16.11.	Trustee's Disclaimer .....	90

Reconciliation and tie between Trust Indenture Act of 1939  
and Indenture, dated as of June 10, 1999

## Trust Indenture Act Section

## Indenture Section

Trust Indenture Act Section	Indenture Section
ss. 310 (a)(1) .....	6.09
(a)(2) .....	6.09
(a)(3) .....	Not Applicable
(a)(4) .....	Not Applicable
(a)(5) .....	6.09
(b) .....	6.08, 6.10
(c) .....	Not Applicable
ss. 311 (a) .....	6.13(a)
(b) .....	6.13(b)
(c) .....	Not Applicable
ss. 312 (a) .....	7.01, 7.02(a)
(b) .....	7.02(b)
(c) .....	7.02(c)
ss. 313 (a) .....	7.03(a)
(b) .....	7.03(b)
(c) .....	7.03(a), 7.03(c)
(d) .....	7.03(d)
ss. 314 (a) .....	7.04, 12.02
(b) .....	Not Applicable
(c)(1) .....	1.02
(c)(2) .....	1.02
(c)(3) .....	Not Applicable
(d) .....	Not Applicable
(e) .....	1.02
ss. 315 (a) .....	6.01(a), 6.01(c)
(b) .....	6.02, 7.03(a)(7)
(c) .....	6.01(b)
(d)(1) .....	6.01(a)
(d)(2) .....	6.01(c)(2)
(d)(3) .....	6.01(c)(3)
(e) .....	5.14
ss. 316 (a)(1)(A) .....	5.02, 5.12
(a)(1)(B) .....	5.13
(a)(2) .....	Not Applicable
(b) .....	5.08
(c) .....	Not Applicable

ss. 317	(a)(1) .....	5.03
	(a)(2) .....	5.04
	(b) .....	12.04
ss. 318	.....	1.06

-----  
Note: This reconciliation and tie shall not, for any purpose, be deemed to be a part of the Indenture.

INDENTURE dated as of June 10, 1999, between PRISON REALTY TRUST, INC., a Maryland corporation (hereinafter called the "Company"), having its principal executive office at 10 Burton Hills Boulevard, Suite 100, Nashville, Tennessee, 37215, and STATE STREET BANK AND TRUST COMPANY (hereinafter called the "Trustee"), having its Corporate Trust Office at 225 Franklin Street, Boston, Massachusetts, 02110.

#### RECITALS OF THE COMPANY

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its debentures, notes, bonds or other evidences of indebtedness (herein generally called the "Debt Securities"), to be issued in one or more series, as in this Indenture provided.

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

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of Debt Securities by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of Debt Securities or of Debt Securities of any series, as follows:

#### ARTICLE I

##### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

###### Section 1.01. Definitions.

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

(1) the terms defined in this Article have the meanings assigned to them in this Article, and include the plural as well as the singular;

(2) all other terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;

(3) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles or as provided with respect to any series of Debt Securities, and, except as otherwise herein provided or as provided with respect to any series of Debt Securities, the term "generally accepted accounting principles" or "GAAP" with respect to any computation required or permitted hereunder with respect to any series of Debt Securities, shall mean such as set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession which are in effect as of the issuance date of such series of Debt Securities; and

(4) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

Certain terms, used principally in Article Three or Article Six, are defined in those respective Articles.

"Act" when used with respect to any Holder, has the meaning specified in Section 8.01.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" as used with respect to any Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise, provided that beneficial ownership of 10% or more of the voting securities of a Person shall be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" shall have correlative meanings.

"Authenticating Agent" has the meaning specified in Section 6.14.

"Authorized Newspaper" means a newspaper in an official language of the country of publication customarily published at least once a day, and customarily published for at least five days in each calendar week, and of general circulation in the place in connection with which the term is used or in the financial community of such place. Where successive publications are required to be made in Authorized Newspapers, the successive publications may be made in the same or in different newspapers in the same city meeting the foregoing requirements and in each case on any Business Day in such city.

"Bearer Security" means any Debt Security (with or without Coupons), in the form established pursuant to Section 2.01, which is payable to bearer (including any Global Note payable to bearer) and title to which passes by delivery only, but does not include any Coupons.

"Board of Directors" means either the board of directors of the Company, or any committee of that board duly authorized to act hereunder or any director or directors and/or officer or officers of the Company to whom that board or committee shall have delegated its authority.

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

"Business Day" when used with respect to any Place of Payment or any other particular location referred to in this Indenture or in the Debt Securities means any day which is not a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies in that Place of Payment or other location are authorized or obligated by law to close, except as otherwise specified pursuant to Section 3.01.

"CEDEL" means Cedel S.A.

"Closing Price" of the Common Stock shall mean the last reported sale price of such stock (regular way) as shown on the Composite Tape of the New York Stock Exchange (or, if such stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which such stock is listed or admitted to trading), or, in case no such sale takes place on such day, the average of the closing bid and asked prices on the New York Stock Exchange (or, if such stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which such stock is listed or admitted to trading), or, if it is not listed or admitted to trading on any national securities exchange, the average of the closing bid and asked prices as reported by the National Association of Securities Dealers Automated Quotation System (NASDAQ), or if such stock is not so reported, the average of the closing bid and asked prices as furnished by any member of the National Association of Securities Dealers, Inc., selected from time to time by the Company for that purpose.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commission" means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, as amended, or if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties on such date.

"Common Stock" shall mean the class of Common Stock, par value \$.01 per share, of the Company authorized at the date of this Indenture as originally signed, or any other class of stock resulting from successive changes or reclassifications of such Common Stock, and in any such case including any shares thereof authorized after the date of this Indenture, and any other shares of stock of the Company which do not have any priority in the payment of dividends or upon liquidation over any other class of stock.

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

"Company Request" and "Company Order" mean, respectively, a written request or order signed in the name of the Company by the Chairman, a Vice Chairman, the President, the Chief Financial Officer, the Chief Operating Officer or a Vice President and by the Treasurer, an Assistant Treasurer, the Controller, an Assistant Controller, the Secretary or an Assistant Secretary of the Company, and delivered to the Trustee.

"Component Currency" has the meaning specified in Section 3.10(i).

"Conversion Agent" means any Person authorized by the Company to receive Debt Securities to be converted into Common Stock on behalf of the Company. The Company initially authorizes the Trustee to act as Conversion Agent for the Debt Securities on its behalf. The Company may at any time from time to time authorize one or more Persons to

act as Conversion Agent in addition to or in place of the Trustee with respect to any series of Debt Securities issued under this Indenture.

"Conversion Date" has the meaning specified in Section 3.10(e).

"Conversion Event" means the cessation of (i) a Foreign Currency to be used both by the government of the country which issued such Currency and for the settlement of transactions by public institutions of or within the international banking community, (ii) the ECU to be used both within the European Monetary System and for the settlement of transactions by public institutions of or within the European Communities or (iii) any Currency unit other than the ECU to be used for the purposes for which it was established. Notwithstanding any term herein, or in any supplement hereto, to the contrary, in no instance shall the Trustee be under any duty or obligation to determine or monitor whether a Conversion Event has occurred. Upon receipt by the Trustee of an Officers' Certificate of the Company certifying to the effect that a Conversion Event has occurred, the Trustee shall be entitled to rely exclusively thereon without independent investigation on its part.

"Conversion Price" means, with respect to any series of Debt Securities which are convertible into Common Stock, the price per share of Common Stock at which the Debt Securities of such series are so convertible pursuant to Section 3.01 with respect to such series, as the same may be adjusted from time to time in accordance with Section 16.03.

"Corporate Trust Office" means the principal corporate trust office of the Trustee at which at any particular time its corporate trust business shall be administered, which office at the date of execution of this instrument is located at 225 Franklin Street, Boston, Massachusetts, 02110, Attention: Corporate Trust Department. .

"Corporation" includes corporations, associations, companies and business trusts.

"Coupon" means any interest coupon appertaining to any Debt Security.

"Coupon Security" means any Bearer Security authenticated and delivered with one or more Coupons appertaining thereto.

"Currency" means Dollars or Foreign Currency.

"Currency Determination Agent" means the New York Clearing House bank, if any, from time to time selected by the Company for purposes of Section 3.10; provided that such agent shall accept such appointment in writing and the terms of such appointment shall be acceptable to the Company and shall, in the opinion of the Company and the Trustee at the time of such appointment, require such agent to make the determinations required by this Indenture by a method consistent with the method provided in this Indenture for the making of such decision or determination.

"Current Market Price" on any date shall mean the average of the daily Closing Prices per share of Common Stock for any thirty (30) consecutive Trading Days selected by the Company prior to the date in question, which thirty (30) consecutive Trading Day period shall not commence more than forty-five (45) Trading Days prior to the day in question; provided



that with respect to Section 16.03(3), the "Current Market Price" of the Common Stock shall mean the average of the daily Closing Prices per share of Common Stock for the five (5) consecutive Trading Days ending on the date of the distribution referred to in Section 16.03(3) (or if such date shall not be a Trading Day, on the Trading Day immediately preceding such date).

"Debt Securities" has the meaning stated in the first recital of this Indenture and more particularly means any Debt Securities (including any Global Notes) authenticated and delivered under this Indenture.

"Defaulted Interest" has the meaning specified in Section 3.07.

"Discharged" has the meaning specified in Section 15.02.

"Discount Security" means any Debt Security which is issued with "original issue discount" within the meaning of Section 1273(a) of the Code (or any successor provision) and the regulations thereunder.

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

"Dollar Equivalent of the Currency Unit" has the meaning specified in Section 3.10(h).

"Dollar Equivalent of the Foreign Currency" has the meaning specified in Section 3.10(g).

"ECU" means the European Currency Unit as defined and revised from time to time by the Council of the European Communities.

"Election Date" has the meaning specified in Section 3.10(i).

"Euro-clear Operator" means Morgan Guaranty Trust Company of New York, Brussels office, or its successor as operator of the Euro-clear System.

"European Communities" means the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community.

"European Monetary System" means the European Monetary System established by the Resolution of December 5, 1978 of the Council of the European Communities.

"Event of Default" has the meaning specified in Section 5.01.

"Exchange Rate Officer's Certificate" means a telex or a certificate setting forth (i) the applicable Market Exchange Rate and (ii) the Dollar, Foreign Currency or Currency unit amounts of principal, premium, if any, and any interest respectively (on an aggregate basis and on the basis of a Debt Security having the lowest denomination principal amount

determined in accordance with Section 3.02 in the relevant Currency or Currency unit), payable on the basis of such Market Exchange Rate sent (in the case of a telex) or signed (in the case of a certificate) by the Treasurer or any Assistant Treasurer of the Company.

"Fixed Rate Security" means a Debt Security which provides for the payment of interest at a fixed rate.

"Floating Rate Security" means a Debt Security which provides for the payment of interest at a variable rate determined periodically by reference to an interest rate index or any other index specified pursuant to Section 3.01.

"Foreign Currency" means a currency issued by the government of any country other than the United States or a composite currency or currency unit the value of which is determined by reference to the values of the currencies of any group of countries.

"Global Note" means a Registered or Bearer Security evidencing all or part of a series of Debt Securities, including, without limitation, any temporary or permanent Global Note.

"Holder" means, with respect to a Registered Security, the Registered Holder, and with respect to a Bearer Security or a Coupon, the bearer thereof.

"Indenture" means this instrument as originally executed, or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof and, unless the context otherwise requires, shall include the terms of a particular series of Debt Securities as established pursuant to Section 3.01.

The term "interest," when used with respect to a Discount Security which by its terms bears interest only on a certain date, means interest payable after such date, and, when used with respect to a Bearer Security, includes any additional amounts payable on such Bearer Security, if so provided pursuant to Section 3.01.

"Interest Payment Date" with respect to any Debt Security means the Stated Maturity of an installment of interest on such Debt Security.

"Market Exchange Rate" means (i) for any conversion involving a Currency unit on the one hand and Dollars or any Foreign Currency on the other, the exchange rate between the relevant Currency unit and Dollars or such Foreign Currency calculated by the method specified pursuant to Section 3.01 for the securities of the relevant series, (ii) for any conversion of Dollars into any Foreign Currency, the noon (New York City time) buying rate for such Foreign Currency for cable transfers quoted in New York City as certified for customs purposes by the Federal Reserve Bank of New York and (iii) for any conversion of one Foreign Currency into Dollars or another Foreign Currency, the spot rate at noon local time in the relevant market at which, in accordance with normal banking procedures, the Dollars or Foreign Currency into which conversion is being made could be purchased with the Foreign Currency from which conversion is being made from major banks located in either New York City, London or any other principal market for Dollars or such purchased Foreign Currency. In the event of the unavailability of any of the exchange rates provided for in the

foregoing clauses (i), (ii) and (iii) the Currency Determination Agent, if any, or if there shall not be a Currency Determination Agent, then the Trustee, shall use, in its sole discretion and without liability on its part, such quotation of the Federal Reserve Bank of New York as of the most recent available date, or quotations from one or more major banks in New York City, London or other principal market for such Currency or Currency unit in question, or such other quotations as the Currency Determination Agent or the Trustee, as the case may be, shall deem appropriate. Unless otherwise specified by the Currency Determination Agent, if any, or if there shall not be a Currency Determination Agent, then by the Trustee, if there is more than one market for dealing in any Currency or Currency unit by reason of foreign exchange regulations or otherwise, the market to be used in respect of such Currency or Currency unit shall be that upon which a nonresident issuer of securities designated in such Currency or Currency unit would purchase such Currency or Currency unit in order to make payments in respect of such securities.

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

"Officers' Certificate" means a certificate signed by the Chairman, a Vice Chairman, the President, the Chief Financial Officer or a Vice President, and by the Treasurer, an Assistant Treasurer, the Controller, an Assistant Controller, the Secretary or an Assistant Secretary of the Company, and delivered to the Trustee.

"Opinion of Counsel" means a written opinion of counsel, who may be counsel to the Company (including an employee of the Company) and who shall be satisfactory to the Trustee, which is delivered to the Trustee.

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

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

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

(iii) Debt Securities which have been paid pursuant to Section 3.06 or in exchange for or in lieu of which other Debt Securities have been authenticated and delivered pursuant to this Indenture, other than any such Debt Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Debt Securities are held by a bona fide purchaser in whose hands such Debt Securities are valid obligations of the Company; provided, however, that in determining whether

the Holders of the requisite principal amount of Debt Securities Outstanding have performed any Act hereunder, Debt Securities owned by the Company or any other obligor upon the Debt Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding (provided, that in connection with any offer by the Company or any obligor to purchase Debt Securities, Debt Securities rendered by a Holder shall be Outstanding until the date of purchase), except that, in determining whether the Trustee shall be protected in relying upon any such Act, only Debt Securities which the Trustee knows to be so owned shall be so disregarded. Debt Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to act with respect to such Debt Securities and that the pledgee is not the Company or any other obligor upon the Debt Securities or any Affiliate of the Company or of such other obligor. In determining whether the Holders of the requisite principal amount of Outstanding Debt Securities have performed any Act hereunder, the principal amount of a Discount Security that shall be deemed to be Outstanding for such purpose shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02 and the principal amount of a Debt Security denominated in a Foreign Currency that shall be deemed to be Outstanding for such purpose shall be the amount calculated pursuant to Section 3.10(k).

"Overdue Rate" when used with respect to any series of the Debt Securities, means the rate designated as such in or pursuant to the Board Resolution or the supplemental indenture, as the case may be, relating to such series as contemplated by Section 3.01.

"Paying Agent" means any Person authorized by the Company to pay the principal of (and premium, if any) or interest on any Debt Securities on behalf of the Company.

"permanent Global Note" shall have the meaning given such term in Section 3.04(b).

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

"Place of Payment" when used with respect to the Debt Securities of any series means the place or places where the principal of (and premium, if any) and interest on the Debt Securities of that series are payable as specified pursuant to Section 3.01.

"Predecessor Security" of any particular Debt Security means every previous Debt Security evidencing all or a portion of the same debt as that evidenced by such particular Debt Security; and, for the purposes of this definition, any Debt Security authenticated and delivered under Section 3.06 in lieu of a mutilated, lost, destroyed or stolen Debt Security or a Debt Security to which a mutilated, lost, destroyed or stolen Coupon appertains shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Debt Security or the Debt Security to which the mutilated, lost, destroyed or stolen Coupon appertains, as the case may be.

"Redemption Date" means the date fixed for redemption of any Debt Security pursuant to this Indenture which, in the case of a Floating Rate Security, unless otherwise specified pursuant to Section 3.01, shall be an Interest Payment Date only.

"Redemption Price" means, in the case of a Discount Security, the amount of the principal thereof that would be due and payable as of the Redemption Date upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02, and in the case of any other Debt Security, the principal amount thereof, plus, in each case, premium, if any, and accrued and unpaid interest, if any, to the Redemption Date.

"Registered Holder" means the Person in whose name a Registered Security is registered in the Security Register.

"Registered Security" means any Debt Security in the form established pursuant to Section 2.01 which is registered as to principal and interest in the Security Register.

"Regular Record Date" for the interest payable on the Registered Securities of any series on any Interest Payment Date means the date specified for the purpose pursuant to Section 3.01 for such Interest Payment Date.

"Responsible Officer" when used with respect to the Trustee means any vice president, the secretary, any assistant secretary or any assistant vice president or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Security Register" and "Security Registrar" have the respective meanings specified in Section 3.05(a).

"Senior Indebtedness" means the principal of (and premium, if any) and unpaid interest on (i) Indebtedness of the Company, whether outstanding on the date of this Indenture or thereafter created, incurred, assumed or guaranteed, for money borrowed (other than the Indebtedness evidenced by the Debt Securities of any series), unless in the instrument creating or evidencing the same or pursuant to which the same is outstanding it is provided that such Indebtedness is not senior or prior in right of payment to the Debt Securities, and (ii) renewals, extensions, modifications and refundings of any such Indebtedness.

"Special Record Date" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.07.

"Specified Amount" has the meaning specified in Section 3.10(i).

"Stated Maturity" when used with respect to any Debt Security or any installment of principal thereof or premium thereon or interest thereon means the date specified in such Debt Security or the Coupon, if any, representing such installment of interest, as the date on which the principal of such Debt Security or such installment of principal, premium or interest is due and payable.

"Subsidiary" means, with respect to any specified Person, (i) any corporation, association, or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote

in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof) and (ii) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are such Person or one or more Subsidiaries of such Person (or any combination thereof).

"temporary Global Note" shall have the meaning given such term in Section 3.04(b).

"Trading Day" shall mean, with respect to the Common Stock, so long as the Common Stock is listed or admitted to trading on the New York Stock Exchange, a day on which the New York Stock Exchange is open for the transaction of business, or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, a day on which the principal national securities exchange on which the Common Stock is listed is open for the transaction of business, or, if the Common Stock is not so listed or admitted for trading on any national securities exchange, a day on which NASDAQ is open for the transaction of business.

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

"Trust Indenture Act" means the Trust Indenture Act of 1939 as amended and as in force at the date as of which this instrument was executed, except as provided in Section 11.05.

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

"U.S. Depository" means a clearing agency registered under the Securities Exchange Act of 1934, as amended, or any successor thereto, which shall in either case be designated by the Company pursuant to Section 3.01 until a successor U.S. Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "U.S. Depository" shall mean or include each Person who is then a U.S. Depository hereunder, and if at any time there is more than one such Person, "U.S. Depository" as used with respect to the Debt Securities of any series shall mean the U.S. Depository with respect to the Debt Securities of that series.

"U.S. Government Obligations" has the meaning specified in Section 15.02.

"U.S. Person" means a citizen or resident of the United States, a corporation, partnership or other entity created or organized in or under the laws of the United States, or an estate or trust the income of which is subject to United States Federal income taxation regardless of its source.

"Valuation Date" has the meaning specified in Section 3.10(d).

"Vice President" includes with respect to the Company and the Trustee, any Vice President of the Company or the Trustee, as the case may be, whether or not designated by a number or word or words added before or after the title "Vice President."

#### Section 1.02. Compliance Certificates and Opinions.

Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than certificates provided pursuant to Section 12.02) shall include:

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

#### Section 1.03. Form of Documents Delivered to Trustee.

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

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

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

Section 1.04. Notices, etc., to Trustee and Company.

Any Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust Office, Attention: Corporate Trust Department, or

(2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid or airmail postage prepaid if sent from outside the United States, to the Company addressed to it at the address of its principal office specified in the first paragraph of this instrument, to the attention of its Treasurer, or at any other address previously furnished in writing to the Trustee by the Company.

Any such Act or other document shall be in the English language, except that any published notice may be in an official language of the country of publication.

Section 1.05. Notice to Holders; Waiver.

When this Indenture provides for notice to Holders of any event, (1) such notice shall be sufficiently given to Registered Holders (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to such Registered Holders as their names and addresses appear in the Security Register, within the time prescribed, and (2) such notice shall be sufficiently given to Holders of Bearer Securities or Coupons (unless otherwise herein expressly provided) if published at least twice in an Authorized Newspaper or Newspapers in The City of New York and, if Debt Securities of such series are then listed on The Stock Exchange of the United Kingdom and the Republic of Ireland or the Luxembourg Stock Exchange or any other stock exchange located outside the United States and such stock exchange shall so require, in a daily newspaper in London or Luxembourg or in such other city or cities specified pursuant to Section 3.01 or in any Debt Security on Business Days, the first such publication to be not earlier than the earliest date and not later than two Business Days prior to the latest date prescribed for the giving of such notice; provided, however, that, in any case, any notice to Holders of Floating Rate Securities regarding the determination of a periodic rate of interest, if such notice is required pursuant to Section 3.01, shall be sufficiently given if given in the manner specified pursuant to Section 3.01.

In the event of suspension of regular mail service or by reason of any other cause it shall be impracticable to give notice by mail, such notification as shall be given with the approval of the Trustee shall constitute sufficient notice for every purpose hereunder.

In the event of suspension of publication of any Authorized Newspapers or by reason of any other cause it shall be impracticable to give notice by publication, such notification as shall be given with the approval of the Trustee shall constitute sufficient notice for every purpose hereunder.



Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance on such waiver. In any case where notice to Holders is given by mail, neither the failure to mail such notice nor any defect in any notice so mailed to any particular Holder shall affect the sufficiency of such notice with respect to other Holders, and any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given. In any case where notice to Holders is given by publication, any defect in any notice so published as to any particular Holder shall not affect the sufficiency of such notice with respect to other Holders, and any notice which is published in the manner herein provided shall be conclusively presumed to have been duly given.

Section 1.06. Conflict with Trust Indenture Act.

If any provision hereof limits, qualifies or conflicts with the duties imposed on any person by the provisions of Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

Section 1.07. Effect of Headings and Table of Contents.

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

Section 1.08. Successors and Assigns.

All covenants and agreements in this Indenture by the parties hereto shall bind their respective successors and assigns and inure to the benefit of their permitted successors and assigns, whether so expressed or not.

Section 1.09. Separability Clause.

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

Section 1.10. Benefits of Indenture.

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

Section 1.11. Governing Law.

This Indenture, the Debt Securities and the Coupons shall be governed by and construed in accordance with the internal laws of the State of New York.

Section 1.12. Legal Holidays.

Unless otherwise specified pursuant to Section 3.01 or in any Debt Security, in any case where any Interest Payment Date, Redemption Date or Stated Maturity of any Debt Security of any series shall not be a Business Day at any Place of Payment for the Debt Securities of that series, then (notwithstanding any other provision of this Indenture or of the Debt Securities or Coupons) payment of principal (and premium, if any) or interest need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on the Interest Payment Date, Redemption Date or at the Stated Maturity, and no interest shall accrue on the amount so payable for the period from and after such Interest Payment Date, Redemption Date or Stated Maturity, as the case may be, to such Business Day if such payment is made or duly provided for on such Business Day.

Section 1.13. No Security Interest Created.

Nothing in this Indenture or in the Debt Securities or Coupons, express or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect in any jurisdiction where property of the Company or its Subsidiaries is or may be located.

Section 1.14. Liability Solely Corporate.

No recourse shall be had for the payment of the principal of (or premium, if any) or the interest on any Debt Securities or Coupons, or any part thereof, or of the indebtedness represented thereby, or upon any obligation, covenant or agreement of this Indenture, against any incorporator, or against any stockholder, officer or director, as such, past, present or future, of the Company (or any incorporator, stockholder, officer or director of any predecessor or successor corporation), either directly or through the Company (or any such predecessor or successor corporation), whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that this Indenture and all the Debt Securities and Coupons are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any such incorporator, stockholder, officer or director, past, present or future, of the Company (or any incorporator, stockholder, officer or director of any such predecessor or successor corporation), either directly or indirectly through the Company or any such predecessor or successor corporation, because of the indebtedness hereby authorized or under or by reason of any of the obligations, covenants, promises or agreements contained in this Indenture or in any of the Debt Securities or Coupons or to be implied herefrom or therefrom; and that any such personal liability is hereby expressly waived and released as a condition of, and as part of the consideration for, the execution of this Indenture and the issue of Debt Securities; provided, however, that nothing herein or in the Debt Securities or Coupons contained shall be taken to prevent recourse to and the enforcement of the liability, if any, of any stockholder or subscriber to capital stock upon or in respect of the shares of capital stock not fully paid.

ARTICLE II

DEBT SECURITY FORMS

Section 2.01. Forms Generally.

The Debt Securities and the Coupons, if any, of each series shall be substantially in one of the forms (including global form) established in or pursuant to a Board Resolution or one or more indentures supplemental hereto, and shall have such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements placed thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange on which any series of the Debt Securities may be listed, or to conform to usage, all as determined by the officers executing such Debt Securities and Coupons as conclusively evidenced by their execution of such Debt Securities and Coupons. If the form of a series of Debt Securities or Coupons (or any Global Note) is established in or pursuant to a Board Resolution, a copy of such Board Resolution shall be delivered to the Trustee, together with an Officers' Certificate setting forth the form of such series, at or prior to the delivery of the Company Order contemplated by Section 3.03 for the authentication and delivery of such Debt Securities (or any such Global Note) or Coupons.

Unless otherwise specified as contemplated by Section 3.01, Debt Securities in bearer form (other than in global form) shall have Coupons attached.

The definitive Debt Securities and Coupons, if any, of each series shall be printed, lithographed or engraved or produced by any combination of these methods on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Debt Securities and Coupons, as conclusively evidenced by their execution of such Debt Securities and Coupons.

Section 2.02. Form of Trustee's Certificate of Authentication.

The form of the Trustee's certificate of authentication to be borne by the Debt Securities shall be substantially as follows:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the series of Debt Securities issued under the within mentioned Indenture.

-----  
-----

By -----  
Authorized Signatory

## Section 2.03. Securities in Global Form.

If any Debt Security of a series is issuable in global form (a "Global Note"), such Global Note may provide that it shall represent the aggregate amount of Outstanding Debt Securities from time to time endorsed thereon and may also provide that the aggregate amount of Outstanding Debt Securities represented thereby may from time to time be reduced to reflect exchanges. Any endorsement of a Global Note to reflect the amount, or any increase or decrease in the amount, of Outstanding Debt Securities represented thereby shall be made by the Trustee and in such manner as shall be specified in such Global Note. Any instructions by the Company with respect to a Global Note, after its initial issuance, shall be in writing but need not comply with Section 1.02.

Global Notes may be issued in either registered or bearer form and in either temporary or permanent form. Permanent Global Notes will be issued in definitive form.

## ARTICLE III

## THE DEBT SECURITIES

## Section 3.01. Amount Unlimited; Issuable in Series.

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

The Debt Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution and (subject to Section 3.03) set forth in an Officers' Certificate, or established in one or more indentures supplemental hereto, prior to the issuance of Debt Securities of any series:

(1) the title of the Debt Securities of the series (which shall distinguish the Debt Securities of such series from all other series of Debt Securities);

(2) the aggregate principal amount of such series of Debt Securities and any limit, on the aggregate principal amount of the Debt Securities of the series which may be authenticated and delivered under this Indenture (except for Debt Securities authenticated and delivered upon transfer of, or in exchange for, or in lieu of, other Debt Securities of such series pursuant to Sections 3.04, 3.05, 3.06, 11.06 or 13.07);

(3) the percentage of the principal amount at which the Debt Securities of such series will be issued and, if other than the principal amount thereof, the portion of the principal amount thereof payable upon declaration of acceleration of the maturity or upon redemption thereof or the method by which such portion shall be determined.

(4) the date or dates on which or periods during which the Debt Securities of the series may be issued, and the date or dates or the method by which such date or dates will be determined, on which the principal of (and premium, if any, on) the Debt Securities of such series are or may be payable (which, if so provided in such Board Resolution or supplemental indenture, may be determined by the Company from time to time as set forth in the Debt Securities of the series issued from time to time);

(5) the rate or rates (which may be variable or fixed) at which the Debt Securities of the series shall bear interest, if any, or the method by which such rate or rates shall be determined, the date or dates from which such interest, if any, shall accrue or the method by which such date or dates shall be determined (which, in either case or both, if so provided in such Board Resolution or supplemental indenture, may be determined by the Company from time to time and set forth in the Debt Securities of the series issued from time to time); and the Interest Payment Dates on which such interest shall be payable (or the method of determination thereof), and the Regular Record Dates, if any, for the interest payable on such Interest Payment Dates and the notice, if any, to Holders regarding the determination of interest, the manner of giving such notice, the basis upon which interest shall be calculated if other than that of a 360-day year of twelve 30-day months and any conditions or contingencies as to the payment of interest in cash or otherwise, if any;

(6) the place or places, if any, in addition to or instead of the Corporate Trust Office of the Trustee (in the case of Registered Securities) where the principal of (and premium, if any) and interest on Debt Securities of the series shall be payable; the extent to which, or the manner in which, any interest payable on any Global Note on an Interest Payment Date will be paid, if other than in the manner provided in Section 3.07; the extent, if any, to which the provisions of the last sentence of Section 12.01 shall apply to the Debt Securities of the series; and the manner in which any principal of, or premium, if any, on, any Global Note will be paid, if other than as set forth elsewhere herein and whether any Global Note will require any notation to evidence payment of principal or interest;

(7) the obligation, if any, of the Company to redeem, repay, purchase or offer to purchase Debt Securities of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or upon other conditions or at the option of the Holder thereof and the period or periods within which or the dates on which, the prices at which and the terms and conditions upon which the Debt Securities of the series shall be redeemed, repaid, purchased or offered to be purchased, in whole or in part, pursuant to such obligation;

(8) the right, if any, of the Company to redeem the Debt Securities of such series at its option and the period or periods within which, or the date or dates on which, the price or prices at which, and the terms and conditions upon which such Debt Securities may be redeemed, if any, in whole or in part, at the option of the Company or otherwise;

(9) if the coin or Currency in which the Debt Securities shall be issuable is in Dollars, the denominations of such Debt Securities if other than denominations of \$1,000 and any integral multiple thereof (except as provided in Section 3.04);

(10) whether the Debt Securities of the series are to be issued as Discount Securities and the amount of discount with which such Debt Securities may be issued and, if other than the principal amount thereof, the portion of the principal amount of Debt Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 5.02;

(11) provisions, if any, for the defeasance or discharge of certain of the Company's obligations with respect to Debt Securities of the series;

(12) whether Debt Securities of the series are to be issued as Registered Securities or Bearer Securities or both, and, if Bearer Securities are issued, whether Coupons will be attached thereto, whether such Bearer Securities of the series may be exchanged for Registered Securities of

the series, as provided in Section 3.05(b) or otherwise and the circumstances under which and the place or places at which any such exchanges, if permitted, may be made;

(13) whether provisions for payment of additional amounts or tax redemptions shall apply and, if such provisions shall apply, such provisions; and, if Bearer Securities of the series are to be issued, whether a procedure other than that set forth in Section 3.04(b) shall apply and, if so, such other procedure, and if the procedure set forth in Section 3.04(b) shall apply, the forms of certifications to be delivered under such procedure;

(14) if other than Dollars, the Foreign Currency or Currencies in which Debt Securities of the series shall be denominated or in which payment of the principal of (and premium, if any) and interest on the Debt Securities of the series may be made, and the particular provisions applicable thereto and, if applicable, the amount of Debt Securities of the series which entitles the Holder of a Debt Security of the series or its proxy to one vote for purposes of Section 9.05;

(15) if the principal of (and premium, if any) or interest on Debt Securities of the series are to be payable, at the election of the Company or a Holder thereof, in a Currency other than that in which the Debt Securities are denominated or payable without such election, in addition to or in lieu of the provisions of Section 3.10, the period or periods within which and the terms and conditions upon which, such election may be made and the time and the manner of determining the exchange rate or rates between the Currency or Currencies in which the Debt Securities are denominated or payable without such election and the Currency or Currencies in which the Debt Securities are to be paid if such election is made;

(16) the date as of which any Debt Securities of the series shall be dated, if other than as set forth in Section 3.03;

(17) if the amount of payments of principal of (and premium, if any) or interest on the Debt Securities of the series may be determined with reference to an index, including, but not limited to, an index based on a Currency or Currencies other than that in which the Debt Securities are denominated or payable, or any other type of index, the manner in which such amounts shall be determined;

(18) if the Debt Securities of the series are denominated or payable in a Foreign Currency, any other terms concerning the payment of principal of (and premium, if any) or any interest on such Debt Securities (including the Currency or Currencies of payment thereof);

(19) the designation of the original Currency Determination Agent, if any;

(20) the applicable Overdue Rate, if any;

(21) if the Debt Securities of the series do not bear interest, the applicable dates for purposes of Section 7.01;

(22) any addition to, or modification or deletion of, any Events of Default, covenants or term of the subordination provided for with respect to Debt Securities of the series;

(23) if Bearer Securities of the series are to be issued, (x) whether interest in respect of any portion of a temporary Debt Security in global form (representing all of the Outstanding Bearer

Securities of the series) payable in respect of any Interest Payment Date prior to the exchange of such temporary Debt Security for definitive Debt Securities of the series shall be paid to any clearing organization with respect to the portion of such temporary Debt Security held for its account and, in such event, the terms and conditions (including any certification requirements) upon which any such interest payment received by a clearing organization will be credited to the Persons entitled to interest payable on such Interest Payment Date, (y) the terms upon which interests in such temporary Debt Security in global form may be exchanged for interests in a permanent Global Note or for definitive Debt Securities of the series and the terms upon which interests in a permanent Global Note, if any, may be exchanged for definitive Debt Securities of the series and (z) the cities and the Authorized Newspapers designated for the purposes of giving notices to Holders;

(24) whether the Debt Securities of the series shall be issued in whole or in part in the form of one or more Global Notes and, in such case, the U.S. Depository or any Common Depository for such Global Note or Notes; and if the Debt Securities of the series are issuable only as Registered Securities, the manner in which and the circumstances under which Global Notes representing Debt Securities of the series may be exchanged for Registered Securities in definitive form, if other than, or in addition to, the manner and circumstances specified in Section 3.04(c);

(25) The designation, if any, of any depositaries, trustees (other than the applicable Trustee), Paying Agents, Authenticating Agents, Security Registrars (other than the Trustee) or other agents with respect to the Debt Securities of such series;

(26) If the Debt Securities of such series will be issuable in definitive form only upon receipt of certain certificates or other documents or upon satisfaction of certain conditions, the form and terms of such certificates, documents or conditions;

(27) Whether the Debt Securities of such series will be convertible into shares of Common Stock and, if so, the terms and conditions, which may be in addition to or in lieu of the provisions contained in the Indenture, upon which such Debt Securities will be so convertible, including the conversion price and the conversion period;

(28) The portion of the principal amount of the Debt Securities which will be payable upon declaration of acceleration of the maturity thereof, if other than the principal amount thereof;

(29) The nature, content and date for reports by the Company to the holders of the Offered Debt Securities; and

(30) any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture).

All Debt Securities of any one series shall be substantially identical except as to denomination, rate of interest, Stated Maturity and the date from which interest, if any, shall accrue, which, as set forth above, may be determined by the Company from time to time as to Debt Securities of a series if so provided in or established pursuant to the authority granted in a Board Resolution or in any such indenture supplemental hereto, and except as may otherwise be provided in or pursuant to such Board Resolution and (subject to Section 3.03) set forth in such Officers' Certificate, or in any such indenture supplemental hereto. All Debt Securities of any one series need not be issued at the same time, and unless otherwise provided, a series may be reopened for issuance of additional Debt Securities of such series.

If any of the terms of a series of Debt Securities is established in or pursuant to a Board Resolution, a copy of such Board Resolution shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate setting forth the terms of the series.

Section 3.02. Denominations.

In the absence of any specification pursuant to Section 3.01 with respect to the Debt Securities of any series, the Debt Securities of such series shall be issuable only as Registered Securities in denominations of \$1,000 and any integral multiple thereof and shall be payable only in Dollars.

Section 3.03. Execution, Authentication, Delivery and Dating.

The Debt Securities and the Coupons, if any, of any series shall be executed on behalf of the Company by its Chairman, a Vice Chairman, its President, one of its Vice Presidents or its Treasurer, under its corporate seal reproduced thereon and attested by its Secretary or one of its Assistant Secretaries. The signature of any of these officers may be manual or facsimile.

Debt Securities and Coupons bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Debt Securities and Coupons or did not hold such offices at the date of such Debt Securities and Coupons.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Debt Securities, with appropriate Coupons, if any, of any series, executed by the Company, to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Debt Securities and Coupons and the Trustee in accordance with the Company Order shall authenticate and deliver such Debt Securities and Coupons; provided, however, that, in connection with its sale during the "restricted period" (as defined in Section 1.163-5(c)(2)(i)(D)(7) of the United States Treasury Regulations), no Bearer Security shall be mailed or otherwise delivered to any location in the United States; and provided, further, that a Bearer Security (other than a temporary Global Note in bearer form) may be delivered outside the United States in connection with its original issuance only if the Person entitled to receive such Bearer Security shall have furnished to the Euro-clear operator or to CEDEL a certificate substantially in the form set forth in Exhibit A to this Indenture. If all the Debt Securities of any one series are not to be issued at one time and if a Board Resolution or supplemental indenture relating to such series shall so permit, such Company Order may set forth procedures acceptable to the Trustee for the issuance of such Debt Securities such as interest rate, Stated Maturity, date of issuance and date from which interest, if any, shall accrue. If any Debt Security shall be represented by a permanent Global Note, then, for purposes of this Section and Section 3.04, the notation of a beneficial owner's interest therein upon original issuance of such Debt Security or upon exchange of a portion of a temporary Global Note shall be deemed to be delivery in connection with the original issuance of such beneficial owner's interest in such permanent Global Note. Except as permitted by Section 3.06 or 3.07, the Trustee shall not authenticate and deliver any Bearer Security unless all Coupons for interest then matured have been detached and canceled.

The Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon, prior to the authentication and delivery of the Debt Securities and Coupons of such series, (i)



the supplemental indenture or the Board Resolution by or pursuant to which the form and terms of such Debt Securities and Coupons have been approved and (ii) an Opinion of Counsel substantially to the effect that:

(1) the authentication order furnished by the Company to the Trustee in connection with the authentication and delivery of such Debt Securities and Coupons conforms to the requirements of this Indenture and constitutes sufficient authority hereunder for the Trustee to authenticate and deliver such Debt Securities and Coupons;

(2) the forms and terms of such Debt Securities and Coupons are consistent with the provisions of this Indenture;

(3) in the event that the forms or terms of such Debt Securities and Coupons have been established in a supplemental indenture, the execution and delivery of such supplemental indenture has been duly authorized by all necessary corporate action of the Company, such supplemental indenture has been duly executed and delivered by the Company and, assuming due authorization, execution and delivery by the Trustee, is a valid and binding obligation enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law);

(4) the execution and delivery of such Debt Securities and Coupons have been duly authorized by all necessary corporate action of the Company and such Debt Securities and Coupons have been duly executed by the Company and, assuming due authentication by the Trustee and delivery by the Company, are valid and binding obligations enforceable against the Company in accordance with their terms, entitled to the benefit of the Indenture, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law) and subject to such other exceptions as counsel shall request and as to which the Trustee shall not reasonably object; and

(5) the amount of Debt Securities Outstanding of such series, together with the amount of such Debt Securities, does not exceed any limit established under the terms of this Indenture on the amount of Debt Securities of such series that may be authenticated and delivered.

The Trustee shall not be required to authenticate such Debt Securities and Coupons if the issuance of such Debt Securities and Coupons pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Debt Securities and this Indenture in a manner which is not reasonably acceptable to the Trustee.

Each Registered Security shall be dated the date of its authentication. Each Bearer Security (including any temporary or permanent or other definitive Bearer Security in global form) shall be dated as of the date of original issuance of the first Debt Security of such series to be issued, except as otherwise provided pursuant to Section 3.01 with respect to the Bearer Securities of any series.

No Debt Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Debt Security a certificate of authentication substantially in one of the forms provided for herein duly executed by the Trustee or by an Authenticating Agent, and such certificate upon any Debt Security shall be conclusive evidence, and the only evidence, that such Debt Security

has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture. Notwithstanding the foregoing, if any Debt Security shall have been duly authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Debt Security to the Trustee for cancellation as provided in Section 3.08 together with a written statement (which need not comply with Section 1.02) stating that such Debt Security has never been issued and sold by the Company, for all purposes of this Indenture such Debt Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

Section 3.04. Temporary Debt Securities; Exchange of Temporary Global Notes for Definitive Bearer Securities; Global Notes Representing Registered Securities.

(a) Pending the preparation of definitive Registered Securities of any series, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Registered Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination for Registered Securities of such series, substantially of the tenor of the definitive Registered Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Registered Securities may determine, as conclusively evidenced by their execution of such Registered Securities. Every such temporary Registered Security shall be executed by the Company and shall be authenticated and delivered by the Trustee upon the same conditions and in substantially the same manner, and with the same effect, as the definitive Registered Securities in lieu of which they are issued. In the case of any series issuable as Bearer Securities, such temporary Debt Securities may be in global form, representing such of the Outstanding Debt Securities of such series as shall be specified therein.

Except in the case of temporary Debt Securities in global form (which shall be exchanged in accordance with the provisions of the following paragraphs), if temporary Debt Securities of any series are issued, the Company will cause definitive Debt Securities of such series to be prepared without unreasonable delay. After the preparation of definitive Debt Securities of such series, the temporary Debt Securities of such series shall be exchangeable for definitive Debt Securities of such series, of a like Stated Maturity and with like terms and provisions, upon surrender of the temporary Debt Securities of such series at the office or agency of the Company in a Place of Payment for such series, without charge to the Holder, except as provided in Section 3.05 in connection with a transfer. Upon surrender for cancellation of any one or more temporary Debt Securities of any series (accompanied by any unmatured Coupons), the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Debt Securities of the same series of authorized denominations and of a like Stated Maturity and like terms and provisions; provided, however, that no definitive Bearer Security shall be delivered in exchange for a temporary Registered Security; and provided, further, that a definitive Bearer Security (including a permanent Bearer Security in global form) shall be delivered in exchange for a temporary Bearer Security only in compliance with the conditions set forth in Section 3.03. Until so exchanged, the temporary Registered Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Registered Securities of such series.

(b) Unless otherwise specified pursuant to Section 3.01, all Bearer Securities of a series shall be initially issued in the form of a single temporary Bearer Security in global form (a "temporary Global Note"). The Company shall execute, and upon Company Order the Trustee shall authenticate, any temporary Global Note and any permanent Bearer Security in global form (as described below, a "permanent Global Note") upon the same conditions and in substantially the same manner, and with the same effect, as definitive Bearer Securities, and the temporary or permanent Global Note, as the case may be, shall, unless otherwise specified therein, be delivered by the Trustee to the London office of a depository or common depository (the

"Common Depositary"), for the benefit of the Euro-clear Operator or CEDEL, as the case may be, for credit to the account of the Company (in the case of sales of Bearer Securities by the Company directly to investors) or the managing underwriter (in the case of sales of Bearer Securities by the Company to underwriters) or such other accounts as the Company or the managing underwriter, respectively, may direct.

On or after the date specified in or determined pursuant to the terms of any temporary Global Note which (subject to any applicable laws and regulations) shall be at least 40 days after the issue date of a temporary Global Note (the "Exchange Date"), the Debt Securities represented by such temporary Global Note may be exchanged for definitive Debt Securities (subject to the second succeeding paragraph) or Debt Securities to be represented thereafter by one or more permanent Global Notes in definitive form without interest coupons. On or after the Exchange Date such temporary Global Note shall be surrendered by the Common Depositary to the Trustee, as the Company's agent for such purpose, at such address as the Trustee may specify and following such surrender, the Trustee shall (1) endorse the temporary Global Note to reflect the reduction of its principal amount by an equal aggregate principal amount of such Debt Security, (2) endorse the applicable permanent Global Note, if any, to reflect the initial amount, or an increase in the amount of Debt Securities represented thereby, (3) manually authenticate such definitive Debt Securities (including any permanent Global Note), (4) deliver such definitive Debt Securities to the Holder thereof or, if such definitive Debt Security is a permanent Global Note, deliver such permanent Global Note to the Common Depositary to be held outside the United States for the accounts of the Euro-clear Operator or CEDEL, as the case may be, for credit to the respective accounts at Euro-clear Operator or CEDEL, as the case may be, designated by or on behalf of the beneficial owners of such Debt Securities (or to such other accounts as they may direct) and (5) redeliver such temporary Global Note to the Common Depositary, unless such temporary Global Note shall have been canceled in accordance with Section 3.08 hereof; provided, however, that, unless otherwise specified in such temporary Global Note, upon such presentation by the Common Depositary, such temporary Global Note shall be accompanied by a certificate dated the Exchange Date or a subsequent date and signed by the Euro-clear Operator, as to the portion of such temporary Global Note held for its account then to be exchanged for definitive Debt Securities (including any permanent Global Note), and a certificate dated the Exchange Date or a subsequent date and signed by CEDEL, as to the portion of such temporary Global Note held for its account then to be exchanged for definitive Debt Securities (including any permanent Global Note), each substantially in the form set forth in Exhibit B to this Indenture. Each certificate substantially in the form of Exhibit B hereto of the Euro-clear Operator or CEDEL, as the case may be, shall be based on certificates of the account holders listed in the records of the Euro-clear Operator or CEDEL, as the case may be, as being entitled to all or any portion of the applicable temporary Global Note. An account holder of the Euro-clear Operator or CEDEL, as the case may be, desiring to effect the exchange of an interest in a temporary Global Note for an interest in definitive Debt Securities (including any permanent Global Note) shall instruct the Euro-clear Operator or CEDEL, as the case may be, to request such exchange on its behalf and shall deliver to the Euro-clear Operator or CEDEL, as the case may be, a certificate substantially in the form of Exhibit A hereto and dated no earlier than 10 days prior to the Exchange Date. Until so exchanged, temporary Global Notes shall in all respects be entitled to the same benefits under this Indenture as definitive Debt Securities (including any permanent Global Note) of the same series authenticated and delivered hereunder, except as to payment of interest, if any.

The delivery to the Trustee by the Euro-clear Operator or CEDEL of any certificate substantially in the form of Exhibit B hereto may be relied upon by the Company and the Trustee as conclusive evidence that a corresponding certificate or certificates has or have been delivered to the Euro-clear Operator or CEDEL, as the case may be, pursuant to the terms of this Indenture.

On or prior to the Exchange Date, the Company shall deliver to the Trustee definitive Debt Securities in an aggregate principal amount equal to the principal amount of such temporary Global Note, executed by the Company. At any time, on or after the Exchange Date, upon 30 days' notice to the Trustee by the Euro-clear Operator or CEDEL, as the case may be, acting at the request of or on behalf of the beneficial owner, a Debt Security represented by a temporary Global Note or a permanent Global Note, as the case may be, may be exchanged, in whole or from time to time in part, for definitive Debt Securities without charge and the Trustee shall authenticate and deliver, in exchange for each portion of such temporary Global Note or such permanent Global Note, an equal aggregate principal amount of definitive Debt Securities of the same series of authorized denominations and of a like Stated Maturity and with like terms and conditions, as the portion of such temporary Global Note or such permanent Global Note to be exchanged, which, unless the Debt Securities of the series are not issuable both as Bearer Securities and as Registered Securities, as contemplated by Section 3.01, shall be in the form of Bearer Securities or Registered Securities, or any combination thereof, as shall be specified by the beneficial owner thereof; provided, however, that definitive Bearer Securities shall be delivered in exchange for a portion of the temporary Global Note or the permanent Global Note only in compliance with the requirements of the second preceding paragraph. On or prior to the forty-fifth day following receipt by the Trustee of such notice with respect to a Debt Security, or, if such day is not a Business Day, the next succeeding Business Day, the temporary Global Note or the permanent Global Note, as the case may be, shall be surrendered by the Common Depository to the Trustee, as the Company's agent for such purpose, to be exchanged, in whole or from time to time in part, for definitive Debt Securities without charge following such surrender, upon the request of the Euro-clear Operator or CEDEL, as the case may be, and the Trustee shall (1) endorse the applicable temporary Global Note or the permanent Global Note to reflect the reduction of its principal amount by the aggregate principal amount of such Debt Security, (2) cause the terms of such Debt Security and Coupons, if any, to be entered on a definitive Debt Security, (3) manually authenticate such definitive Debt Security, and (4) if a Bearer Security is to be delivered, deliver such definitive Debt Security to an address outside the United States to the Euro-clear Operator or CEDEL, as the case may be, for or on behalf of the beneficial owner thereof, in exchange for a portion of such temporary Global Note or the permanent Global Note.

Unless otherwise specified in such temporary Global Note or the permanent Global Note, any such exchange shall be made free of charge to the beneficial owners of such temporary Global Note or the permanent Global Note, except that a Person receiving definitive Debt Securities must bear the cost of insurance, postage, transportation and the like in the event that such Person does not take delivery of such definitive Debt Securities in person at the offices of the Euro-clear Operator or CEDEL. Definitive Debt Securities in bearer form to be delivered in exchange for any portion of a temporary Global Note or the permanent Global Note shall be delivered only to an address outside the United States. Notwithstanding the foregoing, in the event of redemption or acceleration of all or any part of a temporary Global Note prior to the Exchange Date, a permanent Global Note or definitive Bearer Securities, as the case may be, will not be issuable in respect of such temporary Global Note or such portion thereof, and payment thereon will instead be made as provided in such temporary Global Note.

Until exchanged in full as hereinabove provided, any temporary Global Note or the permanent Global Note shall in all respects be entitled to the same benefits under this Indenture as definitive Debt Securities of the same series and tenor authenticated and delivered hereunder, except that, unless otherwise specified as contemplated by Section 3.01, interest payable on such temporary Global Note on an Interest Payment Date for Debt Securities of such series occurring prior to the applicable Exchange Date shall be payable to the Euro-clear Operator or CEDEL on such Interest Payment Date upon delivery by the Euro-clear Operator or CEDEL to the Trustee of a certificate or certificates substantially in the form set forth in Exhibit B to this Indenture, for credit without further interest on or after such Interest Payment Date to the respective

accounts of the Persons who are the beneficial owners of such temporary Global Note on such Interest Payment Date and who have each delivered to the Euro-clear Operator or CEDEL, as the case may be, a certificate substantially in the form set forth in Exhibit A to this Indenture.

Any definitive Bearer Security authenticated and delivered by the Trustee in exchange for a portion of a temporary Global Note or the permanent Global Note shall not bear a coupon for any interest which shall theretofore have been duly paid by the Trustee to the Euro-clear Operator or CEDEL, or by the Company to the Trustee in accordance with the provisions of this Section 3.04.

With respect to Exhibits A and B to this Indenture, the Company may, in its discretion and if required or desirable under applicable law or as set forth in any Board Resolution or Supplemental Indenture with respect to any Series of Debt Securities, substitute one or more other forms of such exhibits for such exhibits, eliminate the requirement that any or all certificates be provided, or change the time that any certificate may be required, provided that such substitute form or forms or notice of elimination or change of such certification requirement have theretofore been delivered to the Trustee with a Company Request and such form or forms, elimination or change is reasonably acceptable to the Trustee.

(c) If the Company shall establish pursuant to Section 3.01 that the Registered Securities of a series are to be issued in whole or in part in the form of one or more Global Notes, then the Company shall execute and the Trustee shall, in accordance with Section 3.03 and the Company Order with respect to such series, authenticate and deliver one or more Global Notes in temporary or permanent form that (i) shall represent and shall be denominated in an amount equal to the aggregate principal amount of the Outstanding Debt Securities of such series to be represented by one or more Global Notes, (ii) shall be registered in the name of the U.S. Depository for such Global Note or Notes or the nominee of such depository, and (iii) shall bear a legend substantially to the following effect: "This Debt Security may not be transferred except as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository, unless and until this Debt Security is exchanged in whole or in part for Debt Securities in definitive form."

Notwithstanding any other provision of this Section or Section 3.05, unless and until it is exchanged in whole or in part for Registered Securities in definitive form, a Global Note representing all or a portion of the Registered Securities of a series may not be transferred except as a whole by the U.S. Depository for such series to a nominee of such depository or by a nominee of such depository to such depository or another nominee of such depository or by such depository or any such nominee to a successor U.S. Depository for such series or a nominee of such successor depository.

If at any time the U.S. Depository for the Debt Securities of a series notifies the Company that it is unwilling or unable to continue as U.S. Depository for the Debt Securities of such series or if at any time the U.S. Depository for Debt Securities of a series shall no longer be a clearing agency registered and in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation, the Company shall appoint a successor U.S. Depository with respect to the Debt Securities of such series. If a successor U.S. Depository for the Debt Securities of such series is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such condition, the Company will execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Debt Securities of such series, will authenticate and deliver, Registered Securities of such series in definitive form in an aggregate principal amount equal to the principal amount of the Global Note or Notes representing such series in exchange for such Global Note or Notes.

The Company may at any time and in its sole discretion determine that the Registered Securities of any series issued in the form of one or more Global Notes shall no longer be represented by such Global Note or Notes. In such event, the Company will execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Debt Securities of such series, will authenticate and deliver, Registered Securities of such series in definitive form and in an aggregate principal amount equal to the principal amount of the Global Note or Notes representing such series in exchange for such Global Note or Notes.

If the Registered Securities of any series shall have been issued in the form of one or more Global Notes and if an Event of Default with respect to the Debt Securities of such series shall have occurred and be continuing, the Company will promptly execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Debt Securities of such series, will authenticate and deliver, Registered Securities of such series in definitive form and in an aggregate principal amount equal to the principal amount of the Global Note or Notes representing such series in exchange for such Global Note or Notes.

If specified by the Company pursuant to Section 3.01 with respect to Registered Securities of a series, the U.S. Depositary for such series of Registered Securities may surrender a Global Note for such series of Debt Securities in exchange in whole or in part for Registered Securities of such series in definitive form on such terms as are acceptable to the Company and such depositary. Thereupon, the Company shall execute and the Trustee shall authenticate and deliver, without charge:

(i) to each Person specified by the U.S. Depositary a new Registered Security or Securities of the same series, of any authorized denomination as requested by such Person in an aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Global Note; and

(ii) to the U.S. Depositary a new Global Note in a denomination equal to the difference, if any, between the principal amount of the surrendered Global Note and the aggregate principal amount of Registered Securities delivered to Holders thereof.

Upon the exchange of a Global Note for Registered Securities in definitive form, such Global Note shall be canceled by the Trustee. Debt Securities issued in exchange for a Global Note pursuant to this subsection (c) shall be registered in such names and in such authorized denominations as the U.S. Depositary for such Global Note, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Debt Securities to the Persons in whose names such Debt Securities are so registered.

#### Section 3.05. Registration, Transfer and Exchange.

(a) The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the registers maintained in such office and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Registered Securities and of transfers and exchanges of Registered Securities. The Trustee is hereby appointed "Security Registrar" for the purpose of registering Registered Securities and registering transfers and exchanges of Registered Securities as herein provided; provided, however, that the Company may appoint co-Security Registrars or the terms of any series of Debt Securities may provide otherwise.

Upon surrender for registration of transfer of any Registered Security of any series at the office or agency of the Company maintained for such purpose, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee, one or more new Registered Securities of the same series of like aggregate principal amount of such denominations as are authorized for Registered Securities of such series and of a like Stated Maturity and with like terms and conditions.

Except as otherwise provided in Section 3.04 and this Section 3.05, at the option of the Holder, Registered Securities of any series may be exchanged for other Registered Securities of the same series of like aggregate principal amount and of a like Stated Maturity and with like terms and conditions, upon surrender of the Registered Securities to be exchanged at such office or agency. Whenever any Registered Securities are surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Registered Securities which the Holder making the exchange is entitled to receive.

(b) If and to the extent specified pursuant to Section 3.01, the provisions of this Section 3.05(b) shall be applicable to Debt Securities of any series which are Bearer Securities. At the option of the Holder thereof, to the extent permitted by law, any Bearer Security of any series which by its terms is registrable as to principal and interest may be exchanged for a Registered Security of such series of like aggregate principal amount and of a like Stated Maturity and with like terms and conditions upon surrender of such Bearer Security at the Corporate Trust Office or at any other office or agency of the Company designated pursuant to Section 3.01 for the purpose of making any such exchanges. Any Coupon Security surrendered for exchange shall be surrendered with all unmatured Coupons and any matured Coupons in default attached thereto. If the Holder of a Bearer Security is unable to produce any such unmatured Coupon or Coupons or matured Coupon or Coupons in default, such exchange may be effected if the Bearer Securities are accompanied by payment in funds acceptable to the Company in an amount equal to the face amount of such missing Coupon or Coupons, or the surrender of such missing Coupon or Coupons may be waived by the Company and the Trustee if there is furnished to them such security or indemnity as they may require to save each of them and any Paying Agent harmless. If thereafter the Holder of such Bearer Security shall surrender to any Paying Agent any such missing Coupon in respect of which such a payment shall have been made, such Holder shall be entitled to receive the amount of such payment; provided, however, that except as otherwise provided in Section 12.03, interest represented by Coupons shall be payable only upon presentation and surrender of those Coupons at an office or agency located outside the United States. Notwithstanding the foregoing, in case a Bearer Security of any series is surrendered at any such office or agency in exchange for a Registered Security of the same series and of a like Stated Maturity and with like terms and conditions after the close of business at such office or agency on (i) any Regular Record Date and before the opening of business at such office or agency on the relevant Interest Payment Date, or (ii) any Special Record Date and before the opening of business at such office or agency on the related proposed date for payment of Defaulted Interest, such Bearer Security shall be surrendered without the Coupon relating to such Interest Payment Date or proposed date for payment, as the case may be (or, if such Coupon is so surrendered with such Bearer Security, such Coupon shall be returned to the Person so surrendering the Bearer Security), and interest or Defaulted Interest, as the case may be, will not be payable on such Interest Payment Date or proposed date for payment, as the case may be, in respect of the Registered Security issued in exchange for such Bearer Security, but will be payable only to the Holder of such Coupon when due in accordance with the provisions of this Indenture. The Company shall execute, and the Trustee shall authenticate and deliver, the Registered Security or Securities which the Holder making the exchange is entitled to receive.

Notwithstanding the foregoing, the exchange of Bearer Securities for Registered Securities will be subject to the provisions of United States income tax laws and regulations applicable to Debt Securities in effect at the time of such exchange.

(c) Except as otherwise specified pursuant to Section 3.01, in no event may Registered Securities, including Registered Securities received in exchange for Bearer Securities, be exchanged for Bearer Securities.

(d) All Debt Securities issued upon any transfer or exchange of Debt Securities shall be valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Debt Securities surrendered for such transfer or exchange.

Every Registered Security presented or surrendered for transfer or exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar, duly executed, by the Holder thereof or his attorney duly authorized in writing.

No service charge will be made for any transfer or exchange of Debt Securities except as provided in Section 3.04(b) or 3.06. The Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration, transfer or exchange of Debt Securities, other than those expressly provided in this Indenture to be made at the Company's own expense or without expense or without charge to the Holders.

The Company shall not be required (i) to register, transfer or exchange Debt Securities of any series during a period beginning at the opening of business 15 days before the day of the transmission of a notice of redemption of Debt Securities of such series selected for redemption under Section 13.03 and ending at the close of business on the day of such transmission, or (ii) to register, transfer or exchange any Debt Security so selected for redemption in whole or in part, except the unredeemed portion of any Debt Security being redeemed in part.

Section 3.06. Mutilated, Destroyed, Lost and Stolen Debt Securities.

If (i) any mutilated Debt Security or any mutilated Coupon with the Coupon Security to which it appertains (and all unmatured Coupons attached thereto) is surrendered to the Trustee at its Corporate Trust Office, or (ii) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Debt Security or any Coupon, and there is delivered to the Company and the Trustee such security or indemnity as may be required by them to save each of them and any Paying Agent harmless, and neither the Company nor the Trustee receives notice that such Debt Security or Coupon has been acquired by a bona fide purchaser, then the Company shall execute and upon Company Request the Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Debt Security or in exchange for the Coupon Security to which such mutilated, destroyed, lost or stolen Coupon appertained, a new Debt Security of the same series of like Stated Maturity and with like terms and conditions and like principal amount, bearing a number not contemporaneously Outstanding, and, in the case of a Coupon Security, with such Coupons attached thereto that neither gain nor loss in interest shall result from such exchange or substitution.

In case any such mutilated, destroyed, lost or stolen Debt Security or Coupon has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Debt Security, pay the amount due on such Debt Security or Coupon in accordance with its terms; provided, however, that principal of (and premium, if any) and any interest on Bearer Securities shall, except as otherwise provided in Section 12.03, be payable only at an office or agency located outside the United States and, unless otherwise specified as contemplated by Section 3.01 or except as otherwise provided in this Section 3.06, any interest



on Bearer Securities shall be payable only upon presentation and surrender of the Coupons appertaining thereto.

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

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

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

Section 3.07. Payment of Interest; Interest Rights Preserved.

(a) Interest on any Registered Security which is payable and is punctually paid or duly provided for on any Interest Payment Date shall be paid to the Person in whose name such Registered Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest notwithstanding the cancellation of such Registered Security upon any transfer or exchange subsequent to the Regular Record Date. Unless otherwise specified as contemplated by Section 3.01 with respect to the Debt Securities of any series, payment of interest on Registered Securities shall be made at the place or places specified pursuant to Section 3.01 or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register or, if provided pursuant to Section 3.01, by wire transfer to an account designated by the Registered Holder.

(b) Interest on any Coupon Security which is payable and is punctually paid or duly provided for on any Interest Payment Date shall be paid to the Holder of the Coupon which has matured on such Interest Payment Date upon surrender of such Coupon on such Interest Payment Date at the Corporate Trust Office of the Trustee or at such other Place of Payment outside the United States specified pursuant to Section 3.01.

Interest on any Bearer Security (other than a Coupon Security) which is payable and is punctually paid or duly provided for on any Interest Payment Date shall be paid to the Holder of the Bearer Security upon presentation of such Bearer Security and notation thereon on such Interest Payment Date at the Corporate Trust Office of the Trustee or at such other Place of Payment maintained by the Company outside the United States specified pursuant to Section 3.01.

Unless otherwise specified pursuant to Section 3.01, at the direction of the Holder of any Bearer Security or Coupon payable in Dollars, payment on such Bearer Security or Coupon will be made by check drawn on a bank in The City of Boston or, if agreeable to the Trustee, by wire transfer to a Dollar account maintained by such Holder outside the United States. If such payment at the offices of all Paying Agents outside the United States becomes illegal or is effectively precluded because of the imposition of exchange controls or similar restrictions on the full payment or receipt of such amounts in Dollars, the Company will appoint an office or agent in the United States at which such payment may be made. Unless

otherwise specified pursuant to Section 3.01, at the direction of the Holder of any Bearer Security or Coupon payable in a Foreign Currency, payment on such Bearer Security or Coupon will be made by a check drawn on a bank outside the United States or by wire transfer to an appropriate account maintained by such Holder outside the United States. Except as provided in this paragraph, no payment on any Bearer Security or Coupon will be made by mail to an address in the United States or by wire transfer to an account in the United States.

(c) Any interest on any Debt Security which is payable but is not punctually paid or duly provided for on any Interest Payment Date (herein called "Defaulted Interest") shall, if such Debt Security is a Registered Security, forthwith cease to be payable to the Registered Holder on the relevant Regular Record Date by virtue of his having been such Registered Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names such Registered Securities (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Registered Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money in the Currency or Currency unit in which the Debt Securities of such series are payable (except as otherwise specified pursuant to Sections 3.01 or 3.10) equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which date shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to the Holders of such Registered Securities at their addresses as they appear in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Registered Securities (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

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

(d) Any Defaulted Interest payable in respect of Bearer Securities of any series shall be payable pursuant to such procedures as may be satisfactory to the Trustee in such manner that there is no discrimination between the Holders of Registered Securities (if any) and Bearer Securities of such series, and notice of the payment date therefor shall be given by the Trustee, in the name and at the expense of the Company, in the manner provided in Section 1.05 not more than 25 days and not less than 20 days prior to the date of the proposed payment.

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

#### Section 3.08. Cancellation.

Unless otherwise specified pursuant to Section 3.01 for Debt Securities of any series, all Debt Securities surrendered for payment, redemption, transfer, exchange or credit against any sinking fund and all Coupons surrendered for payment or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee. All Registered Securities and matured Coupons so delivered shall be promptly canceled by the Trustee. All Bearer Securities and unmatured Coupons so delivered shall be held by the Trustee and, upon instruction by the Company Order, shall be canceled or held for reissuance. Bearer Securities and unmatured Coupons held for reissuance may be reissued only in exchange for Bearer Securities of the same series and of like Stated Maturity and with like terms and conditions pursuant to Section 3.05 or in replacement of mutilated, lost, stolen or destroyed Bearer Securities of the same series and of like Stated Maturity and with like terms and conditions or the related Coupons pursuant to Section 3.06. All Bearer Securities and unmatured Coupons held by the Trustee pending such cancellation or reissuance shall be deemed to be delivered for cancellation for all purposes of this Indenture and the Securities. The Company may at any time deliver to the Trustee for cancellation any Debt Securities or Coupons previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Debt Securities previously authenticated hereunder which the Company has not issued, and all Debt Securities or Coupons so delivered shall be promptly canceled by the Trustee. No Debt Securities or Coupons shall be authenticated in lieu of or in exchange for any Debt Securities or Coupons canceled as provided in this Section, except as expressly permitted by this Indenture. All canceled Debt Securities and Coupons held by the Trustee shall be delivered to the Company upon Company Request. The acquisition of any Debt Securities or Coupons by the Company shall not operate as a redemption or satisfaction of the indebtedness represented thereby unless and until such Debt Securities or Coupons are surrendered to the Trustee for cancellation. In the case of any temporary Global Note which shall be destroyed if the entire aggregate principal amount of the Debt Securities represented thereby has been exchanged, the certificate of destruction shall state that all certificates required pursuant to Section 3.04 hereof and substantially in the form of Exhibit B hereto, to be given by the Euro-clear Operator or CEDEL, have been duly presented to the Trustee by the Euro-clear Operator or CEDEL, as the case may be. Permanent Global Notes shall not be destroyed until exchanged in full for definitive Debt Securities or until payment thereon is made in full.

#### Section 3.09. Computation of Interest.

Except as otherwise specified pursuant to Section 3.01 for Debt Securities of any series, interest on the Debt Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

#### Section 3.10. Currency of Payments in Respect of Debt Securities.

(a) Except as otherwise specified pursuant to Section 3.01 for Bearer Securities of any series, payment of the principal of (and premium, if any) and interest on Bearer Securities of such series denominated in any Currency will be made in such Currency.

(b) With respect to Registered Securities of any series not permitting the election provided for in paragraph (c) below or the Holders of which have not made the election provided for in paragraph (c) below, except as provided in paragraph (e) below, payment of the principal of (and premium, if any) and any interest on any Registered Security of such series will be made in the Currency in which such Registered Security is payable.

(c) It may be provided pursuant to Section 3.01 with respect to the Registered Securities of any series that Holders shall have the option, subject to paragraphs (e) and (f) below (and provided that in no instance may such election be made after a defeasance pursuant to Article XV or during the continuance of an Event of Default), to receive payments of principal of (and premium, if any) and any interest on such Registered Securities in any of the Currencies which may be designated for such election in the applicable supplemental indenture by delivering to the Trustee a written election, to be in form and substance satisfactory to the Trustee, not later than the close of business on the Election Date immediately preceding the applicable payment date. If a Holder so elects to receive such payments in any such Currency, such election will remain in effect for such Holder or any transferee of such Holder until changed by such Holder or such transferee by written notice to the Trustee (but any such change must be made not later than the close of business on the Election Date immediately preceding the next payment date to be effective for the payment to be made on such payment date and no such change or election may be made with respect to payments to be made on any Registered Security of such series with respect to which an Event of Default has occurred or notice of redemption has been given by the Company pursuant to Article Thirteen). Any Holder of any such Registered Security who shall not have delivered any such election to the Trustee by the close of business on the applicable Election Date will be paid the amount due on the applicable payment date in the relevant Currency as provided in paragraph (b) of this Section 3.10.

(d) If the election referred to in paragraph (c) above has been provided for pursuant to Section 3.01, then not later than the fourth Business Day after the Election Date for each payment date, the Trustee will deliver to the Company a written notice specifying, in the Currency in which each series of the Registered Securities is payable, the respective aggregate amounts of principal of (and premium, if any) and any interest on the Registered Securities to be paid on such payment date, specifying the amounts so payable in respect of the Registered Securities as to which the Holders of Registered Securities denominated in any Currency shall have elected to be paid in another Currency as provided in paragraph (c) above. If the election referred to in paragraph (c) above has been provided for pursuant to Section 3.01 and if at least one Holder has made such election, then, on the second Business Day preceding each payment date, the Company will deliver to the Trustee an Exchange Rate Officer's Certificate in respect of the Currency payments to be made on such payment date. The Currency amount receivable by Holders of Registered Securities who have elected payment in a Currency as provided in paragraph (c) above shall be determined by the Company on the basis of the applicable Market Exchange Rate in effect on the third Business Day (the "Valuation Date") immediately preceding each payment date.

(e) If a Conversion Event occurs with respect to a Foreign Currency, the ECU or any other Currency unit in which any of the Debt Securities are denominated or payable other than pursuant to an election provided for pursuant to paragraph (c) above, then with respect to each date for the payment of principal of (and premium, if any) and any interest on the applicable Debt Securities denominated or payable in such Foreign Currency, the ECU or such other Currency unit occurring after the last date on which such Foreign Currency, the ECU or such other Currency unit was used (the "Conversion Date"), the Dollar shall be the Currency of payment for use on each such payment date. The Dollar amount to be paid by the Company to the Trustee and by the Trustee or any Paying Agent to the Holders of such Debt Securities with respect to such payment date shall be the Dollar Equivalent of the Foreign Currency or, in the case of a Currency unit,

the Dollar Equivalent of the Currency Unit, in each case as determined by the Currency Determination Agent, if any, or, if there shall not be a Currency Determination Agent, then by the Trustee, in the manner provided in paragraph (g) or (h) below.

(f) If the Holder of a Registered Security denominated in any Currency shall have elected to be paid in another Currency as provided in paragraph (c) above, and a Conversion Event occurs with respect to such elected Currency, such Holder shall receive payment in the Currency in which payment would have been made in the absence of such election. If a Conversion Event occurs with respect to the Currency in which payment would have been made in the absence of such election, such Holder shall receive payment in Dollars as provided in paragraph (e) of this Section 3.10.

(g) The "Dollar Equivalent of the Foreign Currency" shall be determined by the Currency Determination Agent, and shall be obtained for each subsequent payment date by converting the specified Foreign Currency into Dollars at the Market Exchange Rate on the Conversion Date.

(h) The "Dollar Equivalent of the Currency Unit" shall be determined by the Currency Determination Agent, and subject to the provisions of paragraph (i) below, shall be the sum of each amount obtained by converting the Specified Amount of each Component Currency into Dollars at the Market Exchange Rate for such Component Currency on the Valuation Date with respect to each payment.

(i) For purposes of this Section 3.10 the following terms shall have the following meanings:

A "Component Currency" shall mean any Currency which, on the Conversion Date, was a component Currency of the relevant Currency unit, including, but not limited to, the ECU.

A "Specified Amount" of a Component Currency shall mean the number of units of such Component Currency or fractions thereof which were represented in the relevant Currency unit, including, but not limited to, the ECU, on the Conversion Date. If after the Conversion Date the official unit of any Component Currency is altered by way of combination or subdivision, the Specified Amount of such Component Currency shall be divided or multiplied in the same proportion. If after the Conversion Date two or more Component Currencies are consolidated into a single Currency, the respective Specified Amounts of such Component Currencies shall be replaced by an amount in such single Currency equal to the sum of the respective Specified Amounts of such consolidated Component Currencies expressed in such single Currency, and such amount shall thereafter be a Specified Amount and such single Currency shall thereafter be a Component Currency. If after the Conversion Date any Component Currency shall be divided into two or more Currencies, the Specified Amount of such Component Currency shall be replaced by amounts of such two or more Currencies with appropriate Dollar equivalents at the Market Exchange Rate on the date of such replacement equal to the Dollar equivalent of the Specified Amount of such former Component Currency at the Market Exchange Rate on such date, and such amounts shall thereafter be Specified Amounts and such Currencies shall thereafter be Component Currencies. If after the Conversion Date of the relevant Currency unit, including but not limited to, the ECU, a Conversion Event (other than any event referred to above in this definition of "Specified Amount") occurs with respect to any Component Currency of such Currency unit, the Specified Amount of such Component Currency shall, for purposes of calculating the Dollar Equivalent of the Currency Unit, be converted into Dollars at the Market Exchange Rate in effect on the Conversion Date of such Component Currency.

"Election Date" shall mean the earlier of (i) the seventh Business Day immediately preceding any payment date or (ii) the record date with respect to any payment date, and with respect to the Maturity shall mean the record date (if within 16 or fewer days prior to the Maturity) immediately preceding the Maturity, and with respect to any series of Debt Securities whose record date immediately preceding the Maturity is more than 16 days prior to the Maturity or any series of Debt Securities for which no record dates are provided with respect to interest payments, shall mean the date which is 16 days prior to the Maturity.

(j) All decisions and determinations of the Trustee or the Currency Determination Agent, if any, regarding the Dollar Equivalent of the Foreign Currency, the Dollar Equivalent of the Currency Unit and the Market Exchange Rate shall be in its sole discretion and shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Company and all Holders of the Debt Securities denominated or payable in the relevant Currency. In the event of a Conversion Event with respect to a Foreign Currency, the Company, after learning thereof, will immediately give written notice thereof to the Trustee (and the Trustee will promptly thereafter give notice in the manner provided in Section 1.05 to the Holders) specifying the Conversion Date. In the event of a Conversion Event with respect to the ECU or any other Currency unit in which Debt Securities are denominated or payable, the Company, after learning thereof, will immediately give notice thereof to the Trustee (and the Trustee will promptly thereafter give written notice in the manner provided in Section 1.05 to the Holders) specifying the Conversion Date and the Specified Amount of each Component Currency on the Conversion Date. In the event of any subsequent change in any Component Currency as set forth in the definition of Specified Amount above, the Company, after learning thereof, will similarly give written notice to the Trustee. The Trustee shall be fully justified and protected in relying and acting upon information received by it from the Company and the Currency Determination Agent, if any, and shall not otherwise have any duty or obligation to determine such information independently.

(k) For purposes of any provision of the Indenture where the Holders of Outstanding Debt Securities may perform an Act which requires that a specified percentage of the Outstanding Debt Securities of all series perform such Act and for purposes of any decision or determination by the Trustee of amounts due and unpaid for the principal (and premium, if any) and interest on the Debt Securities of all series in respect of which moneys are to be disbursed ratably, the principal of (and premium, if any) and interest on the Outstanding Debt Securities denominated in a Foreign Currency will be the amount in Dollars based upon the Market Exchange Rate for Debt Securities of such series, as of the date for determining whether the Holders entitled to perform such Act have performed it, or as of the date of such decision or determination by the Trustee, as the case may be.

(l) The Company hereby appoints itself as the initial Currency Determination Agent and the Company shall be entitled to remove such agent at any time; provided, however, that such removal shall not be effective and the agent may not resign until a successor has been appointed by the Company and the successor has accepted such appointment. The Trustee is under no duty or obligation to serve in the capacity of Currency Determination Agent.

### Section 3.11. Judgments.

If for the purpose of obtaining a judgment in any court with respect to any obligation of the Company hereunder or under any Debt Security, it shall become necessary to convert into any other Currency any amount in the Currency due hereunder or under such Debt Security, then such conversion shall be made at the Market Exchange Rate as in effect on the date the Company shall make payment to any Person in satisfaction of such judgment. If pursuant to any such judgment, conversion shall be made on a date other than

the date payment is made and there shall occur a change between such Market Exchange Rate and the Market Exchange Rate as in effect on the date of payment, the Company agrees to pay such additional amounts (if any) as may be necessary to ensure that the amount paid is equal to the amount in such other Currency which, when converted at the Market Exchange Rate as in effect on the date of payment or distribution, is the amount then due hereunder or under such Debt Security. Any amount due from the Company under this Section 3.11 shall be due as a separate debt and is not to be affected by or merged into any judgment being obtained for any other sums due hereunder or in respect of any Debt Security. In no event, however, shall the Company be required to pay more in the Currency or Currency unit due hereunder or under such Debt Security at the Market Exchange Rate as in effect when payment is made than the amount of Currency stated to be due hereunder or under such Debt Security so that in any event the Company's obligations hereunder or under such Debt Security will be effectively maintained as obligations in such Currency, and the Company shall be entitled to withhold (or be reimbursed for, as the case may be) any excess of the amount actually realized upon any such conversion over the amount due and payable on the date of payment or distribution.

Section 3.12. Exchange Upon Default.

If default is made in the payments referred to in Section 12.01, the Company hereby undertakes that upon presentation and surrender of a permanent Global Note to the Trustee (or to any other Person or at any other address as the Company may designate in writing), on any Business Day on or after the maturity date thereof the Company will issue and the Trustee will authenticate and deliver to the bearer of such permanent Global Note duly executed and authenticated definitive Debt Securities with the same issue date and maturity date as set out in such permanent Global Note.

ARTICLE IV

SATISFACTION AND DISCHARGE

Section 4.01. Satisfaction and Discharge of Indenture.

This Indenture, with respect to the Debt Securities of any series (if all series issued under this Indenture are not to be affected), shall, upon Company Request, cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of such Debt Securities herein expressly provided for and rights to receive payments of principal (and premium, if any) and interest on such Debt Securities) and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when

(1) either

(A) all Debt Securities and the Coupons, if any, of such series theretofore authenticated and delivered (other than (i) Debt Securities and Coupons of such series which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.06, (ii) Coupons appertaining to Bearer Securities surrendered for exchange for Registered Securities and maturing after such exchange, whose surrender is not required or has been waived under Section 3.05, (iii) Coupons appertaining to Bearer Securities called for redemption and maturing after the relevant Redemption Date, whose surrender has been waived as provided in Section 13.06, and (iv) Debt Securities and Coupons of such series for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or

discharged from such trust, as provided in Section 12.04) have been delivered to the Trustee for cancellation; or

(B) all Debt Securities and the Coupons, if any, of such series not theretofore delivered to the Trustee for cancellation,

(i) have become due and payable by reason of the making of a notice of redemption or otherwise, or

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

and the Company, either complies with any other condition or terms specified pursuant to Section 3.01, or if not so specified in the case of (i), (ii) or (iii) of this subclause (B), has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in United States Dollars, non-callable government securities, or a combination thereof, in such amounts as will be (except as otherwise provided pursuant to Section 3.01 or 3.10) sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on such Debt Securities not delivered to the Trustee for cancellation for principal, premium, if any and accrued interest to the date of such deposit (in the case of Debt Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture with respect to such series have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 6.07, the obligations of the Trustee to any Authenticating Agent under Section 6.14, the obligations of the Company under Section 12.01, and, if money shall have been deposited with the Trustee pursuant to subclause (B) of clause (1) of this Section, the obligations of the Trustee under Section 4.02 and the last paragraph of Section 12.04, shall survive. If, after the deposit referred to in Section 4.01 has been made, (x) the Holder of a Debt Security is entitled to, and does, elect pursuant to Section 3.10(c), to receive payment in a Currency other than that in which the deposit pursuant to Section 4.01 was made, or (y) if a Conversion Event occurs with respect to the Currency in which the deposit was made or elected to be received by the Holder pursuant to Section 3.10(c), then the indebtedness represented by such Debt Security shall be fully discharged to the extent that the deposit made with respect to such Debt Security shall be converted into the Currency in which such payment is made.

#### Section 4.02. Application of Trust Money.

Subject to the provisions of the last paragraph of Section 12.04, all money deposited with the Trustee pursuant to Section 4.01 shall be held in trust and applied by it, in accordance with the provisions of the Debt Securities and Coupons, if any, and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee.



## ARTICLE V

## REMEDIES

## Section 5.01. Events of Default.

"Event of Default" wherever used herein with respect to Debt Securities of any series means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law, pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of any interest upon any Debt Security or any payment with respect to the Coupons, if any, of such series when it becomes due and payable, and continuance of such default for a period of 30 days; or

(2) default in the payment of the principal of (and premium, if any, on) any Debt Security of such series at its Maturity; or

(3) default in the deposit of any sinking fund payment, when and as due by the terms of a Debt Security of such series; or

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

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

(6) the commencement by the Company of a voluntary case under the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal or State bankruptcy, insolvency or other similar law, or the consent by it to the entry of an order for relief in an involuntary case under any such law or to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Company or of any substantial part of its property, or the making by

it of an assignment for the benefit of its creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action; or

(7) any other Event of Default provided with respect to Debt Securities of that series pursuant to Section 3.01.

Section 5.02. Acceleration of Maturity; Rescission and Annulment.

If an Event of Default with respect to Debt Securities of any series at the time Outstanding occurs and is continuing, then in every such case the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Debt Securities of such series may declare the principal amount (or, if any Debt Securities of such series are Discount Securities, such portion of the principal amount of such Discount Securities as may be specified in the terms of such Discount Securities) of all the Debt Securities of such series to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), and upon any such declaration such principal amount (or specified amount) plus accrued and unpaid interest (and premium, if payable) shall become immediately due and payable. Upon payment of such amount in the Currency in which such Debt Securities are denominated (except as otherwise provided pursuant to Sections 3.01 or 3.10), all obligations of the Company in respect of the payment of principal of the Debt Securities of such series shall terminate.

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

(1) the Company has paid or deposited with the Trustee a sum in the Currency in which such Debt Securities are denominated (except as otherwise provided pursuant to Section 3.01 or 3.10) sufficient to pay

- (A) all overdue installments of interest on all Debt Securities or all overdue payments with respect to any Coupons of such series,
- (B) the principal of (and premium, if any, on) any Debt Securities of such series which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in such Debt Securities,
- (C) to the extent that payment of such interest is lawful, interest upon overdue installments of interest on each Debt Security of such series or upon overdue payments on any Coupons of such series at the Overdue Rate, and
- (D) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; provided, however, that all sums payable under this clause (D) shall be paid in Dollars;

and

(2) All Events of Default with respect to Debt Securities of such series, other than the nonpayment of the principal of Debt Securities of such series which has become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13.

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

Section 5.03. Collection of Indebtedness and Suits for Enforcement by Trustee.

The Company covenants that if

(1) default is made in the payment of any installment of interest on any Debt Security or any payment with respect to any Coupons when such interest or payment becomes due and payable and such default continues for a period of 30 days,

(2) default is made in the payment of principal of (or premium, if any, on) any Debt Security at the Maturity thereof, or

(3) default is made in the making or satisfaction of any sinking fund payment or analogous obligation when the same becomes due pursuant to the terms of the Debt Securities of any series,

the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Debt Securities or of such Coupons, the amount then due and payable on such Debt Securities or matured Coupons, for the principal (and premium, if any) and interest, if any, and, to the extent that payment of such interest shall be legally enforceable, interest upon the overdue principal (and premium, if any) and upon overdue installments of interest, at the Overdue Rate; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

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

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

## Section 5.04. Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings, or any voluntary or involuntary case under the Federal bankruptcy laws, as now or hereafter constituted, relative to the Company or any other obligor upon the Debt Securities and Coupons, if any, of a particular series or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of such Debt Securities shall then be due and payable as therein expressed or by declaration of acceleration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(i) to file and prove a claim for the whole amount of principal (or, if the Debt Securities of such series are Discount Securities, such portion of the principal amount as may be due and payable with respect to such series pursuant to a declaration in accordance with Section 5.02) (and premium, if any) and interest owing and unpaid in respect of the Debt Securities and Coupons of such series and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders of such Debt Securities and Coupons allowed in such judicial proceeding, and

(ii) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any receiver, assignee, trustee, custodian, liquidator, sequestrator (or other similar official) in any such proceeding is hereby authorized by each such Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to such Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 6.07.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Debt Securities and any Coupons of such series or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

## Section 5.05. Trustee May Enforce Claims Without Possession of Debt Securities.

All rights of action and claims under this Indenture or the Debt Securities and the Coupons, if any, of any series may be prosecuted and enforced by the Trustee without the possession of any of such Debt Securities or Coupons or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name, as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Debt Securities or Coupons in respect of which such judgment has been recovered.

## Section 5.06. Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (and premium, if any) or interest, upon presentation of the Debt Securities or Coupons of any series in respect of which money has been collected and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 6.07.

SECOND: To the payment of the amounts then due and unpaid for principal of (and premium, if any) and interest on the Debt Securities or Coupons of such series, in respect of which or for the benefit of which such money has been collected ratably, without preference or priority of any kind, according to the amounts due and payable on such Debt Securities or Coupons for principal (and premium, if any) and interest, respectively; and

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

## Section 5.07. Limitation on Suits.

No Holder of any Debt Security or Coupon of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

(1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to such series;

(2) the Holders of not less than 25% in principal amount of the Outstanding Debt Securities of such series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount of the Outstanding Debt Securities of such series;

it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other such Holders or of the Holders of Outstanding Debt Securities or Coupons of any other series, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all of such Holders. For the protection and enforcement of the provisions of this Section 5.07, each and every Holder of Debt

Securities or Coupons of any series and the Trustee for such series shall be entitled to such relief as can be given at law or in equity.

Section 5.08. Unconditional Right of Holders to Receive Principal, Premium and Interest.

Notwithstanding any other provision in this Indenture, the Holder of any Debt Security or of any Coupon shall have the right, which is absolute and unconditional, to receive payment of the principal of (and premium, if any) and (subject to Section 3.07) interest on such Debt Security or Coupon on the respective Stated Maturity or Maturities expressed in such Debt Security or Coupon (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment and interest thereon, and such right shall not be impaired without the consent of such Holder.

Section 5.09. Restoration of Rights and Remedies.

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

Section 5.10. Rights and Remedies Cumulative.

Except as otherwise expressly provided elsewhere in this Indenture, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 5.11. Delay or Omission Not Waiver.

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

Section 5.12. Control by Holders.

The Holders of a majority in principal amount of the Outstanding Debt Securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee with respect to the Debt Securities of such series, provided, that

(1) such direction shall not be in conflict with any rule of law or with this Indenture;

(2) subject to the provisions of Section 6.01, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer or Responsible Officers of the Trustee, determine that the proceeding so directed would be unjustly prejudicial to the Holders of Debt Securities of such series not joining in any such direction; and

(3) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

#### Section 5.13. Waiver of Past Defaults.

The Holders of not less than a majority in aggregate principal amount of the Outstanding Debt Securities of any series may on behalf of the Holders of all the Debt Securities of any such series waive any past default hereunder with respect to such series and its consequences, except a default

(1) in the payment of the principal of (or premium, if any) or interest on any Debt Security of such series, or in the payment of any sinking fund installment or analogous obligation with respect to the Debt Securities of such series, or

(2) in respect of a covenant or provision hereof which pursuant to Article Eleven cannot be modified or amended without the consent of the Holder of each Outstanding Debt Security of such series affected.

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

#### Section 5.14. Undertaking for Costs.

All parties to this Indenture agree, and each Holder of any Debt Security or any Coupon by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit other than the Trustee of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant, but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder or group of Holders holding in the aggregate more than 10% in principal amount of the Outstanding Debt Securities of any series, or to any suit instituted by any Holder of a Debt Security or Coupon for the enforcement of the payment of the principal of (or premium, if any) or interest on such Debt Security or the payment of any Coupon on or after the respective Stated Maturity or Maturities expressed in such Debt Security or Coupon (or, in the case of redemption, on or after the Redemption Date).

#### Section 5.15. Waiver of Stay or Extension Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the

performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

## ARTICLE VI

### THE TRUSTEE

#### Section 6.01. Certain Duties and Responsibilities.

(a) Except during the continuance of an Event of Default with respect to the Debt Securities of any series,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(b) In case an Event of Default with respect to Debt Securities of any series has occurred and is continuing, the Trustee shall, with respect to the Debt Securities of such series, exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this subsection shall not be construed to limit the effect of subsection (a) of this Section;

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

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



(4) the Trustee is under no obligation or duty to pay interest on or invest any funds deposited with it except as specifically provided in this Indenture, and all investment activities undertaken by the Trustee, if any, shall be at and pursuant to the written instruction of the Company; and

(5) the Trustee shall not be required to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

(e) Any opinion required or permitted to be delivered to the Trustee hereunder may be addressed and delivered to the entity serving as Trustee hereunder solely in its individual capacity and not in its capacity as Trustee, fiduciary or as representative of the holders of such Debt Securities and Coupons issued by the Company.

#### Section 6.02. Notice of Defaults.

Within 90 days after the occurrence of any default hereunder with respect to Debt Securities or Coupons, if any, of any series, the Trustee shall give notice to all Holders of Debt Securities and Coupons of such series of such default hereunder known to the Trustee, unless such default shall have been cured or waived; provided, however, that, except in the case of a default in the payment of the principal of (or premium, if any) or interest on any Debt Security or Coupon of such series or in the payment of any sinking fund installment with respect to Debt Securities of such series, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interest of the Holders of Debt Securities and of Coupons of such series; and provided, further, that in the case of any default of the character specified in Section 5.01(4) with respect to Debt Securities of such series no such notice to Holders shall be given until at least 30 days after the occurrence thereof. For the purpose of this Section, the term "default" means any event which is, or after notice or lapse of time or both would become, an Event of Default with respect to Debt Securities of such series.

Notice given pursuant to this Section 6.02 shall be transmitted by mail:

(1) to all Registered Holders, as the names and addresses of the Registered Holders appear in the Security Register;

(2) to such Holders of Bearer Securities of any series as have within two years preceding such transmission, filed their names and addresses with the Trustee for such series for that purpose; and

(3) to each Holder of a Debt Security of any series whose name and address appear in the information preserved at the time by the Trustee in accordance with Section 7.02(a) of this Indenture.

## Section 6.03. Certain Rights of Trustee.

Except as otherwise provided in Section 6.01:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

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

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

(d) the Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders of Debt Securities of any series pursuant to this Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

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

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent (including any agent appointed pursuant to Section 3.10(j)) or attorney appointed with due care by it hereunder.

## Section 6.04. Not Responsible for Recitals or Issuance of Debt Securities.

The recitals contained herein and in the Debt Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Debt Securities or Coupons, if any, of any series. The Trustee shall not be accountable for the use or application by the Company of any Debt Securities or the proceeds thereof.

## Section 6.05. May Hold Debt Securities.

The Trustee, any Paying Agent, the Security Registrar or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Debt Securities or Coupons, and, subject to Sections 6.08 and 6.13, may otherwise deal with the Company with the same rights it would have if it were not Trustee, Paying Agent, Security Registrar or such other agent.

Section 6.06. Money Held in Trust.

Money in any Currency held by the Trustee or any Paying Agent in trust hereunder need not be segregated from other funds except to the extent required by law. Neither the Trustee nor any Paying Agent shall be under any liability for (i) interest on any money received by it hereunder except as otherwise agreed with the Company or (ii) losses resulting from currency fluctuations or any investments made pursuant to 6.01(c)(4).

Section 6.07. Compensation and Reimbursement.

The Company agrees:

(1) to pay to the Trustee from time to time reasonable compensation in Dollars for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the trustee in Dollars upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and

(3) to indemnify in Dollars the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust or performance of its duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

As security for the performance of the obligations of the Company under this Section, the Trustee shall have a claim prior to the Debt Securities and Coupons, if any, upon all property and funds held or collected by the Trustee as such, except funds held in trust for the payment of amounts due on the Debt Securities and Coupons.

The obligations of the Company under this Section 6.07 to compensate and indemnify the Trustee for expenses, disbursements and advances shall constitute additional indebtedness under this Indenture and shall survive the satisfaction and discharge of this Indenture.

Section 6.08. Disqualification; Conflicting Interests.

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section with respect to the Debt Securities of any series, then, within 90 days after ascertaining that it has such conflicting interest, and if the default (as hereinafter defined) to which such conflicting interest relates has not been cured or duly waived or otherwise eliminated before the end of such 90-day period, the Trustee shall either

eliminate such conflicting interest or, except as otherwise provided below, resign with respect to the Debt Securities of such series, and the Company shall take prompt steps to have a successor appointed, in the manner and with the effect hereinafter specified in this Article.

(b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this Section with respect to the Debt Securities of any series, the Trustee shall, within 10 days after the expiration of such 90-day period, transmit to all Holders of Debt Securities of such series notice of such failure.

Notice given pursuant to this Section 6.08(b) shall be transmitted by mail:

(1) to all Registered Holders, as the names and addresses of the Registered Holders appear in the Security Register;

(2) to such Holders of Bearer Securities of any series as have, within two years preceding such transmission, filed their names and addresses with the Trustee for such series for that purpose; and

(3) to each Holder of a Debt Security of any series whose name and address appear in the information preserved at the time by the Trustee in accordance with Section 7.02(a) of this Indenture.

(c) For the purposes of this Section, the Trustee shall be deemed to have a conflicting interest with respect to the Debt Securities of any series, if there shall exist an Event of Default (as such term is defined herein, but exclusive of any period of grace or requirement of notice) with respect to such Debt Securities and

(1) the Trustee is trustee under this Indenture with respect to the Outstanding Debt Securities of any series other than that series or is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debt Securities issued under this Indenture, provided that there shall be excluded from the operation of this paragraph this Indenture with respect to the Debt Securities of any series other than that series and any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding, if

(i) this Indenture and such other indenture or indentures (and all series of securities issuable thereunder) are wholly unsecured and rank equally and such other indenture or indentures are hereafter qualified under the Trust Indenture Act, unless the Commission shall have found and declared by order pursuant to Section 305(b) or Section 307(c) of the Trust Indenture Act that differences exist between the provisions of this Indenture with respect to the Debt Securities of such series and one or more other series or the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary, in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture with respect to the Debt Securities of such series and such other series or under such other indenture or indentures, or

(ii) the Company shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under this Indenture

with respect to the Debt Securities of such series and such other series or such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture with respect to the Debt Securities of such series and such other series or under such other indenture or indentures;

(2) the Trustee or any of its directors or executive officers is an underwriter for the Company;

(3) the Trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with an underwriter for the Company;

(4) the Trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee or representative of the Company, or of an underwriter (other than the Trustee itself) for the Company who is currently engaged in the business of underwriting, except that (i) one individual may be a director or an executive officer, or both, of the Trustee and a director or an executive officer, or both, of the Company but may not be at the same time an executive officer of both the Trustee and the Company; (ii) if and so long as the number of directors of the Trustee in office is more than nine, one additional individual may be a director or an executive officer, or both, of the Trustee and a director of the Company; and (iii) the Trustee may be designated by the Company or by any underwriter for the Company to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depository or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection, to act as trustee, whether under an indenture or otherwise;

(5) 10% or more of the voting securities of the Trustee is beneficially owned either by the Company or by any director, partner or executive officer thereof, or 20% or more of such voting securities is beneficially owned, collectively, by any two or more of such persons; or 10% or more of the voting securities of the Trustee is beneficially owned either by an underwriter for the Company or by any director, partner or executive officer thereof or is beneficially owned, collectively, by any two or more such persons;

(6) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default (as hereinafter in this subsection defined), (i) 5% or more of the voting securities, or 10% or more of any other class of security, of the Company not including the Debt Securities issued under this Indenture and securities issued under any other indenture under which the Trustee is also trustee, or (ii) 10% or more of any class of security of an underwriter for the Company;

(7) the Trustee is the beneficial owner of or holds as collateral security for an obligation which is in default, 5% or more of the voting securities of any person who, to the knowledge of the Trustee, owns 10% or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, the Company;

(8) the Trustee is the beneficial owner of or holds as collateral security for an obligation which is in default, 10% or more of any class of security of any person who, to the knowledge of the Trustee, owns 50% or more of the voting securities of the Company;

(9) the Trustee owns, on the date of such Event of Default or any anniversary of such Event of Default while such Event of Default remains outstanding, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25% or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraph (6), (7) or (8) of this subsection. As to any such securities of which the Trustee acquired ownership through becoming executor, administrator or testamentary trustee of an estate which included them, the provisions of the preceding sentence shall not apply, for a period of not more than two years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25% of such voting securities or 25% of any such class of security. Promptly after the dates of any such Event of Default and annually in each succeeding year that such Event of Default continues, the Trustee shall make a check of its holdings of such securities in any of the above-mentioned capacities as of such dates. If the Company fails to make payment in full of the principal of (or premium, if any) or interest on any of the Debt Securities when and as the same becomes due and payable, and such failure continues for 30 days thereafter, the Trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by the Trustee, with sole or joint control over such securities vested in it, shall be considered as though beneficially owned by the Trustee for the purposes of paragraphs (6), (7) and (8) of this subsection; or

(10) except under the circumstances described in paragraphs (1), (3), (4), (5) or (6) of Section 6.13(b) of this Indenture, the Trustee shall be or shall become a creditor of the Company.

For the purposes of paragraph (1) of this subsection, the term "series of securities" or "series" means a series, class or group of securities issuable under an indenture pursuant to whose terms holders of one such series may vote to direct the Trustee, or otherwise take action pursuant to a vote of such holders, separately from holders of another series; provided, that "series of securities" or "series" shall not include any series of securities issuable under an indenture if all such series rank equally and are wholly unsecured.

The specification of percentages in paragraphs (5) to (9), inclusive, of this subsection shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of paragraph (3) or (7) of this subsection.

For the purposes of paragraphs (6), (7), (8) and (9) of this subsection only, (i) the terms "security" and "securities" shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness; (ii) an obligation shall be deemed to be "in default" when a default in payment of principal shall have continued for 30 days or more and shall not have been cured; and (iii) the Trustee shall not be deemed to be the owner or holder of (A) any security which it holds as collateral security, as trustee or otherwise, for an obligation which is not in default as defined in clause (ii) above, or (B) any security which it holds as collateral security under this Indenture, irrespective of any default hereunder, or (C) any security which it holds as agent for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

(d) For the purposes of this Section:

(1) The term "underwriter" when used with reference to the Company means every person who, within one year prior to the time as of which the determination is made, has purchased from the Company with a view to, or has offered or sold for the Company in connection with, the distribution of any security of the Company outstanding at such time, or has participated or has had a direct or indirect participation in any such undertaking, or has participated or has had a participation in the direct or indirect underwriting of any such undertaking, but such term shall not include a person whose interest was limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission.

(2) The term "director" means any director of a corporation, or any individual performing similar functions with respect to any organization whether incorporated or unincorporated.

(3) The term "person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an estate, an unincorporated organization, or a government or political subdivision thereof. As used in this paragraph, the term "trust" shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

(4) The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a person, or any security issued under or pursuant to any trust, agreement or arrangements whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a person.

(5) The term "Company" means any obligor upon the Debt Securities of any series.

(6) The term "executive officer" means the president, every vice president, every trust officer, the cashier, the secretary, and the treasurer of a corporation, and any individual customarily performing similar functions with respect to any organization, whether incorporated or unincorporated, but shall not include the chairman of the board of directors.

(e) The percentages of voting securities and other securities specified in this Section shall be calculated in accordance with the following provisions:

(1) A specified percentage of the voting securities of the Trustee, the Company or any other person referred to in this Section (each of whom is referred to as a "person" in this paragraph) means such amount of the outstanding voting securities of such person as entitles the holder or holders thereof to cast such specified percentage of the aggregate votes which the holders of all the outstanding voting securities of such person are entitled to cast in the direction or management of the affairs of such person.

(2) A specified percentage of a class of securities of a person means such percentage of the aggregate amount of securities of the class outstanding.

(3) The term "amount", when used with regard to securities means the principal amount if relating to evidences of indebtedness, the number of shares if relating to capital shares, and the number of units if relating to any other kind of security.

(4) The term "outstanding" means issued and not held by or for the account of the issuer. The following securities shall not be deemed outstanding within the meaning of this definition:

(i) securities of an issuer held in a sinking fund relating to securities of the issuer of the same class;

(ii) securities of an issuer held in a sinking fund relating to another class of securities of the issuer, if the obligation evidenced by such other class of securities is not in default as to principal or interest or otherwise;

(iii) securities pledged by the issuer thereof as security for an obligation of the issuer not in default as to principal or interest or otherwise; and

(iv) securities held in escrow if placed in escrow by the issuer thereof;

provided, however, that any voting securities of an issuer shall be deemed outstanding if any person other than the issuer is entitled to exercise the voting rights thereof.

(5) A security shall be deemed to be of the same class as another security if both securities confer upon the holder or holders thereof substantially the same rights and privileges; provided, however, that, in the case of secured evidences of indebtedness, all of which are issued under a single indenture, differences in the interest rates or maturity dates of various series thereof shall not be deemed sufficient to constitute such series different classes; and provided, further, that, in the case of unsecured evidences of indebtedness, differences in the interest rates or maturity dates thereof shall not be deemed sufficient to constitute them securities of different classes, whether or not they are issued under a single indenture.

(f) Except in the case of a default in the payment of the principal of or interest on any Debt Security of any series, or in the payment of any sinking or purchase fund installment, the Trustee shall not be required to resign as provided by this Section if the Trustee shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that:

(1) the Event of Default may be cured or waived during a reasonable period and under the procedures described in such application; and

(2) a stay of the Trustee's duty to resign will not be inconsistent with the interests of Holders of the Debt Securities.

The filing of such an application shall automatically stay the performance of the duty to resign until the Commission orders otherwise.

#### Section 6.09. Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$75,000,000, subject to supervision or examination by Federal, State or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of



the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. Neither the Company nor any person directly or indirectly controlling, controlled by, or under common control with the Company shall serve as Trustee upon any Debt Securities.

Section 6.10. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 6.11.

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

(c) The Trustee may be removed at any time with respect to the Debt Securities of any series and a successor Trustee appointed by Act of the Holders of a majority in principal amount of the Outstanding Debt Securities of such series, delivered to the Trustee and to the Company.

(d) If at any time:

(1) the Trustee shall fail to comply with Section 6.08(a) with respect to the Debt Securities of any series after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Debt Security of such series for at least six months, or

(2) the Trustee shall cease to be eligible under Section 6.09 with respect to the Debt Securities of any series and shall fail to resign after written request therefor by the Company or by any such Holder, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by a Board Resolution may remove the Trustee with respect to all Debt Securities, or (ii) subject to Section 5.14, any Holder who has been a bona fide Holder of a Debt Security of any series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee for the Debt Securities of such series.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, with respect to the Debt Securities of one or more series, the Company, by a Board Resolution, shall promptly appoint a successor Trustee or Trustees with respect to the Debt Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Debt Securities of one or more or all of such series and that at any time there shall be only

one Trustee with respect to the Debt Securities of any particular series) and shall comply with the applicable requirements of Section 6.11. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Debt Securities of any series shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Debt Securities of such series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee with respect to the Debt Securities of such series and to that extent supersede the successor Trustee appointed by the Company. If no successor Trustee with respect to the Debt Securities of any series shall have been so appointed by the Company or the Holders of such series and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Debt Security of such series for at least six months may, subject to Section 5.14, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Debt Securities of such series.

(f) The Company shall give notice of each resignation and each removal of the Trustee with respect to the Debt Securities of any series and each appointment of a successor Trustee with respect to the Debt Securities of any series in the manner and to the extent provided in Section 1.05 to the Holders of Debt Securities of such series. Each notice shall include the name of the successor Trustee with respect to the Debt Securities of such series and the address of its Corporate Trust Office.

#### Section 6.11. Acceptance of Appointment by Successor.

(a) In the case of an appointment hereunder of a successor Trustee with respect to all Debt Securities, each such successor Trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee, but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder, subject nevertheless to its claim, if any, provided for in Section 6.07.

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

vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debt Securities of that or those series to which the appointment of such successor Trustee relates, but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Debt Securities of that or those series to which the appointment of such successor Trustee relates.

(c) Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in paragraph (a) or (b) of this Section, as the case may be.

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

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

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided that such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Debt Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Debt Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Debt Securities. In case any Debt Securities shall not have been authenticated by such predecessor Trustee, any such successor Trustee may authenticate and deliver such Debt Securities, in either its own name or that of its predecessor Trustee, with the full force and effect which this Indenture provides for the certificate of authentication of the Trustee.

#### Section 6.13. Preferential Collection of Claims Against Company.

(a) Subject to subsection (b) of this Section, if the Trustee shall be or shall become a creditor, directly or indirectly, secured or unsecured, of the Company within three months prior to a default, as defined in subsection (c) of this Section, or subsequent to such default, then, unless and until such default shall be cured, the Trustee shall set apart and hold in a special account for the benefit of the Trustee individually, the Holders of the Debt Securities and of the Coupons, if any, and the holders of other indenture securities (as defined in subsection (c) of this Section):

(1) an amount equal to any and all reductions in the amount due and owing upon any claim as such creditor in respect of principal or interest, effected after the beginning of such three-month period and valid as against the Company and its other creditors, except any such reduction resulting from the receipt or disposition of any property described in paragraph (2) of this subsection, or from the exercise of any right of set-off which the Trustee could have exercised if a voluntary or involuntary case had been commenced in respect of the Company under the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal or State bankruptcy, insolvency or other similar law upon the date of such default; and

(2) all property received by the Trustee in respect of any claim as such creditor, either as security therefor, or in satisfaction or composition thereof, or otherwise, after the beginning of such

three-month period, or an amount equal to the proceeds of any such property, if disposed of, subject, however, to the rights, if any, of the Company and its other creditors in such property or such proceeds.

Nothing herein contained, however, shall affect the right of the Trustee:

(A) to retain for its own account (i) payments made on account of any such claim by any Person (other than the Company) who is liable thereon, and (ii) the proceeds of the bona fide sale of any such claim by the Trustee to a third Person, and (iii) distributions made in cash, securities or other property in respect of claims filed against the Company in bankruptcy or receivership or in proceedings or reorganization pursuant to the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal or State bankruptcy, insolvency or other similar law;

(B) to realize, for its own account, upon any property held by it as security for any such claim, if such property was so held prior to the beginning of such three-month period;

(C) to realize, for its own account, but only to the extent of the claim hereinafter mentioned, upon any property held by it as security for any such claim, if such claim was created after the beginning of such three-month period and such property was received as security therefor simultaneously with the creation thereof, and if the Trustee shall sustain the burden of proving that at the time such property was so received the Trustee had no reasonable cause to believe that a default, as defined in subsection (c) of this Section, would occur within three months, or

(D) to receive payment on any claim referred to in paragraph (B) or (C) against the release of any property held as security for such claim as provided in paragraph (B) or (C), as the case may be, to the extent of the fair value of such property.

For the purposes of paragraphs (B), (C) and (D), property substituted after the beginning of such three-month period for property held as security at the time of such substitution shall, to the extent of the fair value of the property released, have the same status as the property released, and, to the extent that any claim referred to in any of such paragraphs is created in renewal of or in substitution for or for the purpose of repaying or refunding any pre-existing claim of the Trustee as such creditor, such claim shall have the same status as such pre-existing claim.

If the Trustee shall be required to account, the funds and property held in such special account and the proceeds thereof shall be apportioned among the Trustee, the Holders and the holders of other indenture securities in such manner that the Trustee, the Holders and the holders of other indenture securities realize, as a result of payments from such special account and payments of dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the Federal bankruptcy laws, as now or hereafter constituted or any other applicable Federal or State bankruptcy, insolvency or other similar law, the same percentage of their respective claims, figured before crediting to the claim of the Trustee anything on account of the receipt by it from the Company of the funds and property in such special account and before crediting to the respective claims of the Trustee and the Holders and the holders of other indenture securities dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal or State bankruptcy, insolvency or other similar law, but after crediting thereon receipts on account of the indebtedness represented by their respective claims from all sources other than from such dividends and from the funds and property so held in such special account. As used in this paragraph, with respect to any

claim, the term "dividends" shall include any distribution with respect to such claim, in bankruptcy or receivership or proceedings for reorganization pursuant to the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal or State bankruptcy, insolvency or other similar law, whether such distribution is made in cash, securities, or other property, but shall not include any such distribution with respect to the secured portion, if any, of such claim. The court in which such bankruptcy, receivership or proceedings for reorganization is pending shall have jurisdiction (i) to apportion among the Trustee and the Holders and the holders of other indenture securities, in accordance with the provisions of this paragraph, the funds and property held in such special account and proceeds thereof, or (ii) in lieu of such apportionment, in whole or in part, to give to the provisions of this paragraph due consideration in determining the fairness of the distributions to be made to the Trustee and the Holders and the holders of other indenture securities with respect to their respective claims, in which event it shall not be necessary to liquidate or to appraise the value of any securities or other property held in such special account or as security for any such claim, or to make a specific allocation of such distributions as between the secured and unsecured portions of such claim, or otherwise to apply the provisions of this paragraph as a mathematical formula.

Any Trustee which has resigned or been removed after the beginning of such three-month period shall be subject to the provisions of this subsection as though such resignation or removal had not occurred. If any Trustee has resigned or been removed prior to the beginning of such three-month period, it shall be subject to the provisions of this subsection if and only if the following conditions exist:

(i) the receipt of property or reduction of claim, which would have given rise to the obligation to account, if such Trustee had continued as Trustee, occurred after the beginning of such three-month period; and

(ii) such receipt of property or reduction of claim occurred within three months after such resignation or removal.

(b) There shall be excluded from the operation of subsection (a) of this Section a creditor relationship arising from:

(1) the ownership or acquisition of securities issued under any indenture, or any security or securities having a maturity of one year or more at the time of acquisition by the Trustee;

(2) advances authorized by a receivership or bankruptcy court of competent jurisdiction or by this Indenture, for the purpose of preserving any property which shall at any time be subject to the Lien of this Indenture or of discharging tax liens or other prior liens or encumbrances thereon, if notice of such advances and of the circumstances surrounding the making thereof is given to the Holders at the time and in the manner provided in this Indenture;

(3) disbursements made in the ordinary course of business in the capacity of trustee under an indenture, transfer agent, registrar, custodian, paying agent, fiscal agent or depositary, or other similar capacity;

(4) an indebtedness created as a result of services rendered or premises rented, or an indebtedness created as a result of goods or securities sold in a cash transaction as defined in subsection (c) of this Section;

(5) the ownership of stock or of other securities of a corporation organized under the provisions of Section 25(a) of the Federal Reserve Act, as amended, which is directly or indirectly a creditor of the Company; and

(6) The acquisition, ownership, acceptance or negotiation of any drafts, bills of exchange, acceptances or obligations which fall within the classification of self-liquidating paper as defined in subsection (c) of this Section.

(c) for the purposes of this Section only:

(1) The term "default" means any failure to make payment in full of the principal of or interest on any of the Debt Securities or upon the other indenture securities when and as such principal or interest becomes due and payable.

(2) The term "other indenture securities" means securities upon which the Company is an obligor outstanding under any other indenture (i) under which the Trustee is also trustee, (ii) which contains provisions substantially similar to the provisions of this Section, and (iii) under which a default exists at the time of the apportionment of the funds and property held in such special account.

(3) The term "cash transaction" means any transaction in which full payment for goods or securities sold is made within seven days after delivery of the goods or securities in currency or in checks or other orders drawn upon banks and payable upon demand.

(4) The term "self-liquidating paper" means any draft, bill of exchange, acceptance or obligation which is made, drawn, negotiated or incurred by the Company for the purpose of financing the purchase, processing, manufacturing, shipment, storage or sale of goods, wares or merchandise and which is secured by documents evidencing title to, possession of, or a lien upon, the goods, wares or merchandise or the receivables or proceeds arising from the sale of the goods, wares or merchandise previously constituting the security, provided the security is received by the Trustee simultaneously with the creation of the creditor relationship with the Company arising from the making, drawing, negotiating or incurring of the draft, bill of exchange, acceptance or obligation.

(5) The term "Company" means any obligor upon the Debt Securities.

Section 6.14. Appointment of Authenticating Agent.

As long as any Debt Securities of a series remain Outstanding, upon a Company Request, there shall be an authenticating agent (the "Authenticating Agent") appointed, for such period as the Company shall elect, by the Trustee for such series of Debt Securities to act as its agent on its behalf and subject to its direction in connection with the authentication and delivery of each series of Debt Securities for which it is serving as Trustee. Debt Securities of each such series authenticated by such Authenticating Agent shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by such Trustee. Wherever reference is made in this Indenture to the authentication and delivery of Debt Securities of any series by the Trustee for such series or to the Trustee's Certificate of Authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee for such series by an Authenticating Agent for such series and a Certificate of Authentication executed on behalf of such Trustee by such Authenticating Agent, except that only the Trustee may authenticate Debt Securities upon original issuance and pursuant to Section 3.06 hereof. Such Authenticating Agent shall at all times be a corporation

organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$10,000,000 and subject to supervision or examination by Federal or State authority. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which any Authenticating Agent may be merged or converted, or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency business of any Authenticating Agent, shall continue to be the Authenticating Agent with respect to all series of Debt Securities for which it served as Authenticating Agent without the execution or filing of any paper or any further act on the part of the Trustee for such series or such Authenticating Agent. Any Authenticating Agent may at any time, and if it shall cease to be eligible shall, resign by giving written notice of resignation to the applicable Trustee and to the Company.

Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.14 with respect to one or more or all series of Debt Securities, the Trustee for such series shall upon Company Request appoint a successor Authenticating Agent, and the Company shall provide notice of such appointment to all Holders of Debt Securities of such series in the manner and to the extent provided in Section 1.05. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all rights, powers, duties and responsibilities of its predecessor hereunder, with like effect as if originally named as Authenticating Agent herein. The Trustee for the Debt Securities of such series agrees to pay to the Authenticating Agent for such series from time to time reasonable compensation for its services, and the Trustee shall be entitled to be reimbursed for such payment, subject to the provisions of Section 6.07. The Authenticating Agent for the Debt Securities of any series shall have no responsibility or liability for any action taken by it as such at the direction of the Trustee for such series.

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

This is one of the series of Debt Securities issued under the within mentioned Indenture.

-----  
-----  
As Trustee  
By: -----  
As Authenticating Agent  
By: -----  
Authorized Signatory

ARTICLE VII

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

Section 7.01. Company to Furnish Trustee Names and Addresses of Holders.

The Company will furnish or cause to be furnished to the Trustee with respect to Registered Securities of each series for which it acts as Trustee:

(a) semi-annually on a date not more than 15 days after each Regular Record Date with respect to an Interest Payment Date, if any, for the Registered Securities of such series (or on semi-annual dates in each year to be determined pursuant to Section 3.01 if the Registered Securities of such series do not bear interest), a list, in such form as the Trustee may reasonably require, of the names and addresses of the Registered Holders as of the date 15 days next preceding each such Regular Record Date (or such semi-annual dates, as the case may be); and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished;

provided, however, that if and so long as the Trustee shall be the Security Registrar for such series, no such list need be furnished.

The Company shall also be required to furnish to the Trustee at all such times set forth above all information in the possession or control of the Company or any of its Paying Agents other than the Trustee as to the names and addresses of the Holders of Bearer Securities of all series; provided, however, that the Company shall have no obligation to investigate any matter relating to any Holders of Bearer Securities of any series.



Section 7.02. Preservation of Information; Communication to Holders.

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.01 received by it in the capacity of Paying Agent (if so acting) hereunder, and filed with it within the two preceding years pursuant to Section 7.03(c)(2).

The Trustee may destroy any list furnished to it as provided in Section 7.01 upon receipt of a new list so furnished, destroy any information received by it as Paying Agent (if so acting) hereunder upon delivering to itself as Trustee, not earlier than 45 days after an Interest Payment Date, a list containing the names and addresses of the Holders obtained from such information since the delivery of the next previous list, if any, destroy any list delivered to itself as Trustee which was compiled from information received by it as Paying Agent (if so acting) hereunder upon the receipt of a new list so delivered, and destroy not earlier than two years after filing, any information filed with it pursuant to Section 7.03(c)(2).

(b) If three or more Holders (hereinafter referred to as "applicants") apply in writing to the Trustee, and furnish to the Trustee reasonable proof that each such applicant has owned a Debt Security for a period of at least six months preceding the date of such application, and such application states that the applicants desire to communicate with other Holders of Debt Securities of a particular series (in which case the applicants must hold Debt Securities of such series) or with all Holders of Debt Securities with respect to their rights under this Indenture or under the Debt Securities and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall, within five Business Days after the receipt of such application, at its election, either

(i) afford such applicants access to the information preserved at the time by the Trustee in accordance with Section 7.02(a), or

(ii) inform such applicants as to the approximate number of Holders of Debt Securities of such series or of all Debt Securities, as the case may be, whose names and addresses appear in the information preserved at the time by the Trustee in accordance with Section 7.02(a), and as to the approximate cost of mailing to such Holders the form of proxy or other communication, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon written request of such applicants, mail to the Holders of Debt Securities of such series or all Holders, as the case may be, whose names and addresses appear in the information preserved at the time by the Trustee in accordance with Section 7.02(a), a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless within five days after such tender, the Trustee shall mail to such applicants and file with the Commission, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the Holders of Debt Securities of such series or all Holders, as the case may be, or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If the Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all such Holders with reasonable promptness after the entry of such order and the

renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

(c) Every Holder of Debt Securities, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders in accordance with Section 7.02(b), regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing of any material pursuant to a request made under Section 7.02(b).

Section 7.03. Reports by Trustee.

(a) Within 60 days after January 15 of each year, commencing January 15, 2000, the Trustee shall, to the extent required by the Trust Indenture Act, transmit to all Holders of Debt Securities of any series with respect to which it acts as Trustee, in the manner hereinafter provided in this Section 7.03, a brief report dated such date with respect to any of the following events which may have occurred within the previous 12 months (but if no such event has occurred within such period no report need be transmitted):

(1) any change to its eligibility under Section 6.09 and its qualifications under Section 6.08;

(2) the creation of or any material change to a relationship specified in paragraph (1) through (10) of Section 6.08(c) of this Indenture;

(3) the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee (as such) which remain unpaid on the date of such report, and for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Debt Securities of such series, on any property or funds held or collected by it as Trustee, except that the Trustee shall not be required (but may elect) to report such advances if such advances so remaining unpaid aggregate not more than 1/2 of 1% of the principal amount of the Outstanding Debt Securities of such series on the date of such report;

(4) any change to the amount, interest rate and maturity date of all other indebtedness owing by the Company (or any other obligor on the Debt Securities of such series) to the Trustee in its individual capacity, on the date of such report, with a brief description of any property held as collateral security therefor, except an indebtedness based upon a creditor relationship arising in any manner described in Section 6.13(b)(2), (3), (4) or (6);

(5) any change to the property and funds, if any, physically in the possession of the Trustee as such on the date of such report;

(6) any additional issue of Debt Securities which the Trustee has not previously reported; and

(7) any action taken by the Trustee in the performance of its duties hereunder which it has not previously reported and which in its opinion materially affects the Debt Securities of such series, except action in respect of a default, notice of which has been or is to be withheld by the Trustee in accordance with Section 6.02.

(b) The Trustee shall transmit by mail to all Holders of Debt Securities of any series (whose names and addresses appear in the information preserved at the time by the Trustee in accordance with Section

7.02 (a)) for which it acts as the Trustee, as hereinafter provided, a brief report with respect to the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee (as such) since the date of the last report transmitted pursuant to subsection (a) of this Section (or if no such report has yet been so transmitted, since the date of execution of this instrument) for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Debt Securities of such series, on property or funds held or collected by it as Trustee, and which it has not previously reported pursuant to this subsection, except that the Trustee for each series shall not be required (but may elect) to report such advances if such advances remaining unpaid at any time aggregate 10% or less of the principal amount of the Debt Securities of such series Outstanding at such time, such report to be transmitted within 90 days after such time.

(c) Reports pursuant to this Section 7.03 shall be transmitted by mail:

(1) to all Holders of Registered Securities, as the names and addresses of such Holders of Registered Securities appear in the Security Register;

(2) to such Holders of Bearer Securities of any series as have, within two years preceding such transmission, filed their names and addresses with the Trustee for such series for that purpose; and

(3) except in the cases of reports pursuant to subsection (b) of this Section 7.03, to each Holder of a Debt Security of any series whose name and address appear in the information preserved at the time by the Trustee in accordance with Section 7.02(a).

(d) A copy of each such report shall, at the time of such transmission to Holders, be filed with the Company and the Company shall file such report with each stock exchange upon which any Debt Securities of such series are listed, with the Commission and also with the Company. The Company will notify the Trustee when any series of Debt Securities are listed on any stock exchange.

#### Section 7.04. Reports by Company.

Unless otherwise specified with respect to a particular series of Debt Securities pursuant to Section 3.01, the Company will:

(1) file with the Trustee, within 15 days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended. Notwithstanding that the Company may not be required to remain subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, or otherwise report on an annual and quarterly basis on forms provided for such annual and quarterly reporting pursuant to rules and regulations promulgated by the Commission, the Company shall continue to file with the Commission and provide the Trustee and the Holders of each series of Debt Securities with, without cost to each Holder, (a) within 90 days after the end of each fiscal year, annual reports on Form 10-K (or any successor or comparable form) containing the information required to be contained therein (or required in such successor or comparable form); (b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, reports on Form 10-Q (or any successor or comparable form); and (c)

promptly from time to time after the occurrence of an event required to be therein reported, such other reports on Form 8-K (or any successor or comparable form) containing the information required to be contained therein (or required in any successor or comparable form); provided, however, that the Company shall not be obligated to file such reports with the Commission if the Commission does not permit such filings. The Company will in all cases, without cost to each recipient, provide copies of such information to the Holders of the Debt Securities of each series and, if they are not permitted to file such reports with the Commission, shall make available information to prospective purchasers and to securities analysts and broker-dealers upon their request;

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

(3) transmit to all Holders of Debt Securities, in the manner and to the extent provided in Section 7.03, within 30 days after the filing thereof with the Trustee, such summaries of any information, documents and reports required to be filed by the Company pursuant to paragraphs (1) and (2) of this Section as may be required by rules and regulations prescribed from time to time by the Commission.

## ARTICLE VIII

### CONCERNING THE HOLDERS

#### Section 8.01. Acts of Holders.

Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent or proxy duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Whenever in this Indenture it is provided that the Holders of a specified percentage in aggregate principal amount of the Outstanding Debt Securities of any series may take any Act, the fact that the Holders of such specified percentage have joined therein may be evidenced (a) by the instrument or instruments executed by Holders in person or by agent or proxy appointed in writing, or (b) by the record of Holders voting in favor thereof at any meeting of such Holders duly called and held in accordance with the provisions of Article Nine, or (c) by a combination of such instrument or instruments and any such record of such a meeting of Holders.

#### Section 8.02. Proof of Ownership; Proof of Execution of Instruments by Holder.

The ownership of Registered Securities of any series shall be proved by the Security Register for such series or by a certificate of the Security Registrar for such series.

The ownership of Bearer Securities shall be proved by production of such Bearer Securities or by a certificate executed by any bank or trust company, which certificate shall be dated and shall state that

on the date thereof a Bearer Security bearing a specified identifying number or other mark was deposited with or exhibited to the person executing such certificate by the person named in such certificate, or by any other proof of possession reasonably satisfactory to the Trustee. The holding by the person named in any such certificate of any Bearer Security specified therein shall be presumed to continue for a period of one year unless at the time of determination of such holding (1) another certificate bearing a later date issued in respect of the same Bearer Security shall be produced, (2) such Bearer Security shall be produced by some other person, (3) such Bearer Security shall have been registered on the Security Register, if, pursuant to Section 3.01, such Bearer Security can be so registered, or (4) such Bearer Security shall have been canceled or paid.

Subject to the provisions of Sections 6.01, 6.03 and 9.05, proof of the execution of a writing appointing an agent or proxy and of the execution of any instrument by a Holder or his agent or proxy shall be sufficient and conclusive in favor of the Trustee and the Company if made in the following manner:

The fact and date of the execution by any such person of any instrument may be proved by the certificate of any notary public or other officer authorized to take acknowledgements of deeds, that the person executing such instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, as the case may be, or by any other person acting in a representative capacity, such certificate or affidavit shall also constitute sufficient proof of his authority.

The record of any Holders' meeting shall be proved in the manner provided in Section 9.06.

The Trustee may in any instance require further proof with respect to any of the matters referred to in this Section so long as the request is a reasonable one.

#### Section 8.03. Persons Deemed Owners.

The Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name any Registered Security is registered as the owner of such Registered Security for the purpose of receiving payment of the principal of (and premium, if any) and (subject to Section 3.07) interest, if any, on such Registered Security and for all other purposes whatsoever, whether or not such Registered Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary. The Company, the Trustee, and any agent of the Company or the Trustee may treat the Holder of any Bearer Security or of any Coupon as the absolute owner of such Bearer Security or Coupon for the purposes of receiving payment thereof or on account thereof and for all other purposes whatsoever, whether or not such Bearer Security or Coupon be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary. All payments made to any Holder, or upon his order, shall be valid, and, to the extent of the sum or sums paid, effectual to satisfy and discharge the liability for moneys payable upon such Debt Security or Coupon.

#### Section 8.04. Revocation of Consents; Future Holders Bound.

At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any Act by the Holders of the percentage in aggregate principal amount of the Outstanding Debt Securities specified in this Indenture in connection with such Act, any Holder of a Debt Security the number, letter or other distinguishing symbol of which is shown by the evidence to be included in the Debt Securities the Holders of which have consented to such Act may, by filing written notice with the Trustee at

the Corporate Trust Office and upon proof of ownership as provided in Section 8.02, revoke such Act so far as it concerns such Debt Security. Except as aforesaid, any such Act taken by the Holder of any Debt Security shall be conclusive and binding upon such Holder and, subject to the provisions of Section 5.08, upon all future Holders of such Debt Security and all past, present and future Holders of Coupons, if any, appertaining thereto and of any Debt Securities and Coupons issued on transfer or in lieu thereof or in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Debt Security or Coupons or such other Debt Securities or Coupons.

## ARTICLE IX

### HOLDERS' MEETINGS

#### Section 9.01. Purposes of Meetings.

A meeting of Holders of any or all series may be called at any time and from time to time pursuant to the provisions of this Article Nine for any of the following purposes:

(1) to give any notice to the Company or to the Trustee for such series, or to give any directions to the Trustee for such series, or to consent to the waiving of any default hereunder and its consequences, or to take any other action authorized to be taken by Holders pursuant to any of the provisions of Article Five;

(2) to remove the Trustee for such series and appoint a successor Trustee pursuant to the provisions of Article Six;

(3) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 11.02; or

(4) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Outstanding Debt Securities of any one or more or all series, as the case may be, under any other provision of this Indenture or under applicable law.

#### Section 9.02. Call of Meetings by Trustee.

The Trustee for any series may at any time call a meeting of Holders of such series to take any action specified in Section 9.01, to be held at such time or times and at such place or places as the Trustee for such series shall determine. Notice of every meeting of the Holders of any series, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given to Holders of such series in the manner and to the extent provided in Section 1.05. Such notice shall be given not less than 10 days nor more than 90 days prior to the date fixed for the meeting.

#### Section 9.03. Call of Meetings by Company or Holders.

In case at any time the Company, pursuant to a Board Resolution, or the Holders of at least 10% in aggregate principal amount of the Outstanding Debt Securities of a series or of all series, as the case may be, shall have requested the Trustee for such series to call a meeting of Holders of any or all such series by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the

Trustee shall not have given the notice of such meeting within 10 days after the receipt of such request, then the Company or such Holders may determine the time or times and the place or places for such meetings and may call such meetings to take any action authorized in Section 9.01, by giving notice thereof as provided in Section 9.02.

Section 9.04. Qualifications for Voting.

To be entitled to vote at any meeting of Holders a Person shall be (a) a Holder of a Debt Security of the series with respect to which such meeting is being held or (b) a Person appointed by an instrument in writing as agent or proxy by such Holder. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel and any representatives of the Trustee for the series with respect to which such meeting is being held and its counsel and any representatives of the Company and its counsel.

Section 9.05. Regulations.

Notwithstanding any other provisions of this Indenture, the Trustee for any series may make such reasonable regulations as it may deem advisable for any meeting of Holders of such series, in regard to proof of the holding of Debt Securities of such series and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders of such series as provided in Section 9.03, in which case the Company or the Holders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by a majority vote of the meeting.

Subject to the provisos in the definition of "Outstanding," at any meeting each Holder of a Debt Security of the series with respect to which such meeting is being held or proxy therefor shall be entitled to one vote for each \$1,000 principal amount (or such other amount as shall be specified as contemplated by Section 3.01) of Debt Securities of such series held or represented by him; provided, however, that no vote shall be cast or counted at any meeting in respect of any Debt Security challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Outstanding Debt Securities of such series held by him or instruments in writing duly designating him as the person to vote on behalf of Holders of Debt Securities of such series. Any meeting of Holders with respect to which a meeting was duly called pursuant to the provisions of Section 9.02 or 9.03 may be adjourned from time to time by a majority of such Holders present and the meeting may be held as so adjourned without further notice.

Section 9.06. Voting.

The vote upon any resolution submitted to any meeting of Holders with respect to which such meeting is being held shall be by written ballots on which shall be subscribed the signatures of such Holders or of their representatives by proxy and the serial number or numbers of the Debt Securities held or represented

by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Holders shall be taken and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was transmitted as provided in Section 9.02. The record shall show the serial numbers of the Debt Securities voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

#### Section 9.07. No Delay of Rights by Meeting.

Nothing contained in this Article Nine shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Holders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to any Holder under any of the provisions of this Indenture or of the Debt Securities of any series.

### ARTICLE X

#### CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

##### Section 10.01. Company May Consolidate, etc., Only on Certain Terms.

The Company shall not consolidate with or merge with or into or wind up into (whether or not the Company is the surviving corporation) or sell, assign, convey, transfer or lease its properties and assets substantially as an entirety to any Person, unless:

(1) the corporation formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance or transfer, or which leases, the properties and assets of the Company substantially as an entirety (the "successor corporation") shall be a corporation organized and existing under the laws of the United States or any State or territory thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of (and premium, if any) and interest on all the Debt Securities and coupons, if any, and the performance of every covenant of this Indenture on the part of the Company to be performed or observed;

(2) immediately after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time, or both, would become an Event of Default, shall have happened and be continuing;



(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel each stating that such consolidation, merger, conveyance, transfer or lease and such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with; and

(4) such other conditions as may be specified under Section 3.01 with respect to any series of Debt Securities.

Section 10.02. Successor Corporation Substituted.

Upon any consolidation with or merger into any other corporation, or any conveyance, transfer or lease of the properties and assets of the Company substantially as an entirety in accordance with Section 10.01, the successor corporation formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor corporation had been named as the Company herein.

## ARTICLE XI

## SUPPLEMENTAL INDENTURES

## Section 11.01. Supplemental Indentures Without Consent of

Holder.

Without the consent of any Holders, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(1) to evidence the succession of another corporation to the rights of the Company and the assumption by such successor of the covenants of the Company contained herein and in the Debt Securities and Coupons, if any; or

(2) to add to the covenants of the Company, for the benefit of the Holders of all or any series of Debt Securities and the Coupons, if any, appertaining thereto (and if such covenants are to be for the benefit of less than all series, stating that such covenants are expressly being included solely for the benefit of such series), or to surrender any right or power herein conferred upon the Company; or

(3) to add any additional Events of Default (and if such Events of Default are to be applicable to less than all series, stating that such Events of Default are expressly being included solely to be applicable to such series); or

(4) to add or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Debt Securities of any series in bearer form, registrable or not registrable, and with or without Coupons, to permit Bearer Securities to be issued in exchange for Registered Securities, to permit Bearer Securities to be issued in exchange for Bearer Securities of other authorized denominations or to permit the issuance of Debt Securities of any series in uncertificated form, provided that any such action shall not adversely affect the interests of the Holders of Debt Securities of any series or any related Coupons in any material respect; or

(5) to change or eliminate any of the provisions of this Indenture, provided that any such change or elimination shall become effective only when there is no Outstanding Debt Security or Coupon of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision and as to which such supplemental indenture would apply; or

(6) to secure the Debt Securities or to provide that any of the Company's obligations under any series of the Debt Securities shall be guaranteed and the terms and conditions for the release or substitution of such security or guarantee; or

(7) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any series of Securities pursuant to Article Four or Fifteen, provided that any such action shall not adversely affect the interests of the Holders of Debt Securities of such series or any other series of Debt Securities or any related Coupons in any material respect; or

(8) to establish the form or terms of Debt Securities and Coupons, if any, of any series as permitted by Sections 2.01 and 3.01; or

(9) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to one or more series of Debt Securities and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.11; or

(10) to cure any ambiguity, to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, to eliminate any conflict between the terms hereof and the Trust Indenture Act or to make any other provisions with respect to matters or questions arising under this Indenture which shall not be inconsistent with any provision of this Indenture; provided such other provisions shall not adversely affect the interests of the Holders of Outstanding Debt Securities or Coupons, if any, of any series created prior to the execution of such supplemental indenture in any material respect.

Section 11.02. Supplemental Indentures With Consent of

Holders.

With the written consent of the Holders of not less than a majority in principal amount of the Outstanding Debt Securities of each series affected by such supplemental indenture voting separately, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders under this Indenture of such Debt Securities and Coupons, if any; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Debt Security of each such series affected thereby,

(1) conflict with the required provisions of the Trust Indenture Act;

(2) except as specifically provided with respect to any series of Debt Securities pursuant to Section 3.01, (a) change the Stated Maturity of the principal of, or installment of interest, if any, on, any Debt Security, or reduce the principal amount thereof or the interest thereon or any premium payable upon redemption thereof (provided that a requirement to offer to repurchase Debt Securities shall not be deemed a redemption for this purpose), or change the Stated Maturity of or reduce the amount of any payment to be made with respect to any Coupon, or change the Currency or Currencies in which the principal of (and premium, if any) or interest on such Debt Security is denominated or payable, or reduce the amount of the principal of a Discount Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02, or reduce the amount of, or postpone the date fixed for, any payment under any sinking fund or analogous provisions for any Debt Security, or impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or limit the obligation of the Company to maintain a paying agency outside the United States for payment on Bearer Securities as provided in Section 12.03, or adversely affect the right to convert any Debt Security into shares of Common Stock of the Company as may be provided pursuant to Section 3.01; or

(3) reduce the percentage in principal amount of the Outstanding Debt Securities of any series, the consent of whose Holders is required for any supplemental indenture, or the consent of

whose Holders is required for any waiver of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences provided for in this Indenture; or

(4) modify any of the provisions of this Section, Section 5.13 or Section 12.09, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Debt Security of each series affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to "the Trustee" and concomitant changes in this Section and Section 12.09, or the deletion of this proviso, in accordance with the requirements of Sections 6.11 and 11.01(7).

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

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture with respect to one or more particular series of Debt Securities and Coupons, if any, or which modifies the rights of the Holders of Debt Securities and Coupons of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Debt securities and Coupons, if any, of any other series.

#### Section 11.03. Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture and that the supplemental indenture conforms to the requirements of the Trust Indenture Act as then in effect. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise in a material way.

#### Section 11.04. Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Debt Securities and Coupons theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

#### Section 11.05. Conformity with Trust Indenture Act.

Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the Trust Indenture Act as then in effect.

#### Section 11.06. Reference in Debt Securities to Supplemental Indentures.

Debt Securities and Coupons, if any, of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If

the Company shall so determine, new Debt Securities and Coupons of any series so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Debt Securities and Coupons of such series.

Section 11.07. Notice of Supplemental Indenture.

Promptly after the execution by the Company and the appropriate Trustee of any supplemental indenture pursuant to Section 11.02, the Company shall transmit, in the manner and to the extent provided in Section 1.05, to all Holders of any series of the Debt Securities affected thereby, a notice setting forth in general terms the substance of such supplemental indenture.

ARTICLE XII

COVENANTS

Section 12.01. Payment of Principal, Premium and Interest.

The Company covenants and agrees for the benefit of each series of Debt Securities and Coupons, if any, that it will duly and punctually pay the principal of (and premium, if any) and interest on the Debt Securities in accordance with the terms of the Debt Securities, the Coupons and this Indenture. Unless otherwise specified as contemplated by Section 3.01 with respect to any series of Debt Securities or except as otherwise provided in Section 3.06, any interest due on Bearer Securities on or before Maturity shall be payable only upon presentation and surrender of the several Coupons for such interest installments as are evidenced thereby as they severally mature. If so provided in the terms of any series of Debt Securities established as provided in Section 3.01, the interest, if any, due in respect of any temporary Global Note or permanent Global Note, together with any additional amounts payable in respect thereof, as provided in the terms and conditions of such Debt Security, shall be payable only upon presentation of such Debt Security to the Trustee for notation thereon of the payment of such interest.

Section 12.02. Officer's Certificate as to Default.

Unless otherwise specifically provided for with respect to any series of Debt Securities under Section 3.01, the Company will deliver to the Trustee, on or before a date not more than four months after the end of each fiscal year of the Company (which on the date hereof is the calendar year) ending after the date hereof, a certificate of the principal executive officer, principal financial officer or principal accounting officer of the Company stating whether or not to the best knowledge of the signer thereof the Company is in compliance with all covenants and conditions under this Indenture, and, if the Company shall be in default, specifying all such defaults and the nature thereof of which such signer may have knowledge. For purposes of this Section, such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture.

Section 12.03. Maintenance of Office or Agency.

If Debt Securities of a series are issuable only as Registered Securities, the Company will maintain in each Place of Payment for such series an office or agency where Debt Securities of that series may be presented or surrendered for payment, where Debt Securities of that series may be surrendered for

registration of transfer or exchange, where Debt Securities of that series that are convertible may be surrendered for conversion, if applicable, and where notices and demands to or upon the Company in respect of the Debt Securities of that series and this Indenture may be served. If Debt Securities of a series are issuable as Bearer Securities, the Company will maintain (A) in the Borough of Manhattan, The City and State of New York, an office or agency where any Registered Securities of that series may be presented or surrendered for payment, where any Registered Securities of that series may be surrendered for registration of transfer, where Debt Securities of that series may be surrendered for exchange or redemption, where notices and demands to or upon the Company in respect of the Debt Securities of that series and this Indenture may be served and where Bearer Securities of that series and related Coupons may be presented or surrendered for payment in the circumstances described in the following paragraph (and not otherwise), (B) subject to any laws or regulations applicable thereto, in a Place of Payment for that series which is located outside the United States, an office or agency where Debt Securities of that series and related Coupons may be presented and surrendered for payment (including payment of any additional amounts payable on Debt Securities of that series, if so provided pursuant to Section 3.01); provided, however, that if the Debt Securities of that series are listed on The Stock Exchange of the United Kingdom and the Republic of Ireland, the Luxembourg Stock Exchange or any other stock exchange located outside the United States and such stock exchange shall so require, the Company will maintain a Paying Agent for the Debt Securities of that series in London, Luxembourg or any other required city located outside the United States, as the case may be, so long as the Debt Securities of that series are listed on such exchange, and (C) subject to any laws or regulations applicable thereto, in a Place of Payment for that series located outside the United States an office or agency where any Registered Securities of that series may be surrendered for registration of transfer, where Debt Securities of that series may be surrendered for exchange or redemption and where notices and demands to or upon the Company in respect of the Debt Securities of that series and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency.

No payment of principal, premium or interest on Bearer Securities shall be made at any office or agency of the Company in the United States or by check mailed to any address in the United States or by transfer to an account maintained with a bank located in the United States; provided, however, that, if the Debt Securities of a series are denominated and payable in Dollars, payment of principal of and any premium and interest on any Bearer Security (including any additional amounts payable on Securities of such series, if so provided pursuant to Section 3.01) shall be made at the office of the Company's Paying Agent in the Borough of Manhattan, The City and State of New York, if (but only if) payment in Dollars of the full amount of such principal, premium, interest or additional amounts, as the case may be, at all offices or agencies outside the United States maintained for the purpose by the Company in accordance with this Indenture is illegal or effectively precluded by exchange controls or other similar restrictions.

The Company may also from time to time designate different or additional offices or agencies to be maintained for such purposes (in or outside of such Place of Payment), and may from time to time rescind any such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligations described in the preceding paragraph. The Company will give prompt written notice to the Trustee of any such additional designation or rescission of designation and any change in the location of any such different or additional office or agency.

Section 12.04. Money for Debt Securities; Payments To Be Held in Trust.

If the Company shall at any time act as its own Paying Agent with respect to any series of Debt Securities and Coupons, if any, it will, on or before each due date of the principal of (and premium, if any) or interest on any of the Debt Securities of such series, segregate and hold in trust for the benefit of the

Persons entitled thereto a sum sufficient to pay the principal (and premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided, and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents with respect to any series of Debt Securities and Coupons, it will, by 10:00 a.m. (New York City time) or on each due date of the principal (and premium, if any) or interest on any Debt Securities of such series, deposit with any such Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Persons entitled thereto, and (unless any such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

Notwithstanding any term herein to the contrary, in no instance shall the Trustee be under any duty or obligation (i) to maintain any office or to act in any capacity as an agent for any purpose under this Indenture (or any supplement hereto) outside the United States, or (ii) to act as a Paying Agent in respect of any currency other than Dollars.

The Company will cause each Paying Agent with respect to any series of Debt Securities other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:

- (1) hold all sums held by it for the payment of the principal of (and premium, if any) or interest on Debt Securities of such series in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;
- (2) give the Trustee notice of any default by the Company (or any other obligor upon the Debt Securities of such series) in the making of any payment of principal (and premium, if any) or interest on the Debt Securities of such series; and
- (3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

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

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of (and premium, if any) or interest on any Debt Security of any series and remaining unclaimed for two years after such principal (and premium, if any) or interest has become due and payable shall be paid to the Company upon Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Debt Security or Coupon shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be transmitted in the manner and to the extent provided by Section 1.05, notice that such money remains unclaimed and that, after a date specified therein,

which shall not be less than 30 days from the date of such notification, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 12.05. Corporate Existence.

Subject to Article Ten, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises; provided, however, that the Company shall not be required to preserve any such right or franchise if the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company.

Section 12.06. Purchase of Debt Securities by Company.

If the Debt Securities of a series are listed on The Stock Exchange of the United Kingdom and the Republic of Ireland and such stock exchange shall so require, the Company will not purchase any Debt Securities of that series by private treaty at a price (exclusive of expenses and accrued interest) which exceeds 120% of the mean of the nominal quotations of the Debt Securities of that series as shown in The Stock Exchange Daily Official List for the last trading day preceding the date of purchase.

Section 12.07. Waiver of Certain Covenants.

The Company may omit in any particular instance to comply with any term, provision or condition set forth in Sections 12.05, 12.07 and 12.08 (and, if so specified pursuant to Section 3.01, any other covenant not set forth herein and specified pursuant to Section 3.01 to be applicable to the Securities of any series, except as otherwise provided pursuant to Section 3.01) with respect to the Debt Securities of any series if before the time for such compliance the Holders of at least a majority in principal amount of the Outstanding Debt Securities of such series shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent expressly so waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect.

ARTICLE XIII

REDEMPTION OF DEBT SECURITIES

Section 13.01. Applicability of Article.

Debt Securities of any series which are redeemable before their Maturity shall be redeemable in accordance with their terms and (except as otherwise specified pursuant to Section 3.01 for Debt Securities of any series) in accordance with this Article.

Section 13.02. Election to Redeem; Notice to Trustee.

The election of the Company to redeem (or, in the case of Discount Securities, to permit the Holders to elect to surrender for redemption) any Debt Securities shall be evidenced by a Board Resolution. In case of any redemption at the election of the Company of less than all of the Debt Securities of any series



pursuant to Section 13.03, the Company shall, at least 30 days before the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date and of the principal amount of Debt Securities of such series to be redeemed. In the case of any redemption of Debt Securities prior to the expiration of any restriction on such redemption provided in the terms of such Debt Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with such restrictions.

Section 13.03. Selection by Trustee of Debt Securities to Be Redeemed.

Except in the case of a redemption in whole of the Bearer Securities or the Registered Securities of such series, if less than all the Debt Securities of any series are to be redeemed at the election of the Company, the particular Debt Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the Outstanding Debt Securities of such series not previously called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Debt Securities of such series or any integral multiple thereof) of the principal amount of Debt Securities of such series in a denomination larger than the minimum authorized denomination for Debt Securities of such series pursuant to Section 3.02 in the Currency in which the Debt Securities of such series are denominated. The portions of the principal amount of Debt Securities so selected for partial redemption shall be equal to the minimum authorized denominations for Debt Securities of such series pursuant to Section 3.02 in the Currency in which the Debt Securities of such series are denominated or any integral multiple thereof, except as otherwise set forth in the applicable form of Debt Securities. In any case when more than one Registered Security of such series is registered in the same name, the Trustee in its discretion may treat the aggregate principal amount so registered as if it were represented by one Registered Security of such series.

The Trustee shall promptly notify the Company in writing of the Debt Securities selected for redemption and, in the case of any Debt Securities selected for partial redemption, the principal amount thereof to be redeemed.

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

Section 13.04. Notice of Redemption.

Notice of redemption shall be given by the Company, or at the Company's request, by the Trustee in the name and at the expense of the Company, not less than 30 days and not more than 60 days prior to the Redemption Date to the Holders of Debt Securities of any series to be redeemed in whole or in part pursuant to this Article Thirteen, in the manner provided in Section 1.05. Any notice so given shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. Failure to give such notice, or any defect in such notice to the Holder of any Debt Security of a series designated for redemption, in whole or in part, shall not affect the sufficiency of any notice of redemption with respect to the Holder of any other Debt Security of such series.

All notices of redemption shall state:

- (1) the Redemption Date,

(2) the Redemption Price,

(3) that Debt Securities of such series are being redeemed by the Company pursuant to provisions contained in this Indenture or the terms of the Debt Securities of such series or a supplemental indenture establishing such series, if such be the case, together with a brief statement of the facts permitting such redemption,

(4) if less than all Outstanding Debt Securities of any series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the particular Debt Securities to be redeemed,

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

(6) that, unless otherwise specified in such notice, Coupon Securities of any series, if any, surrendered for redemption must be accompanied by all Coupons maturing subsequent to the date fixed for redemption, failing which the amount of any such missing Coupon or Coupons will be deducted from the Redemption Price,

(7) the Place or Places of Payment where such Debt Securities are to be surrendered for payment of the Redemption Price,

(8) if Bearer Securities of any series are to be redeemed and any Registered Securities of such series are not to be redeemed, and if such Bearer Securities may be exchanged for Registered Securities not subject to redemption on this Redemption Date pursuant to Section 3.05(b) or otherwise, the last date on which such exchanges may be made, and

(9) that the redemption is for a sinking fund, if such is the case.

#### Section 13.05. Deposit of Redemption Price.

On or prior to 10:00 a.m. (New York City time) on the Redemption Date for any Debt Securities, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 12.04) an amount of money in the Currency or Currencies in which such Debt Securities are denominated (except as provided pursuant to Section 3.01) sufficient to pay the Redemption Price of such Debt Securities or any portions thereof which are to be redeemed on that date.

#### Section 13.06. Debt Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, any Debt Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price in the Currency in which the Debt Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 or 3.10), and from and after such date (unless the Company shall default in the payment of the Redemption Price) such Debt Securities shall cease to bear interest. Upon surrender of any such Debt Security for redemption in accordance with said notice, such Debt Security shall be paid by the Company at the Redemption Price; provided, however, that installments of interest on Bearer Securities whose Stated Maturity is on or prior to the Redemption Date

shall be payable only at an office or agency located outside the United States (except as otherwise provided in Section 12.03) and, unless otherwise specified as contemplated by Section 3.01, only upon presentation and surrender of Coupons for such interest; and provided, further, that, unless otherwise specified as contemplated by Section 3.01, installments of interest on Registered Securities which have a Stated Maturity on or prior to the Redemption Date for such Debt Securities shall be payable according to the terms of such Debt Securities and the provisions of Section 3.07.

If any Debt Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Debt Security.

If any Coupon Security surrendered for redemption shall not be accompanied by all Coupons appertaining thereto maturing on or after the Redemption Date, the Redemption Price for such Coupon Security may be reduced by an amount equal to the face amount of all such missing Coupons. If thereafter the Holder of such Coupon shall surrender to any Paying Agent outside the United States any such missing Coupon in respect of which a deduction shall have been made from the Redemption Price, such Holder shall be entitled to receive the amount so deducted. The surrender of such missing Coupon or Coupons may be waived by the Company and the Trustee, if there be furnished to them such security or indemnity as they may require to save each of them and any Paying Agent harmless.

#### Section 13.07. Debt Securities Redeemed in Part.

Any Debt Security which is to be redeemed only in part shall be surrendered at the Corporate Trust Office or such other office or agency of the Company as is specified pursuant to Section 3.01 (in the case of Registered Securities) and at an office of the Trustee, or at such other office or agency of the Company outside the United States as is specified pursuant to Section 3.01 (in the case of Bearer Securities) with, if the Company, the Security Registrar or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company, the Security Registrar and the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing, and the Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Debt Security without service charge, a new Debt Security or Debt Securities of the same series, of like tenor and form, of any authorized denomination as requested by such Holder in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Debt Security so surrendered, and, in the case of a Coupon Security, with appropriate Coupons attached. In the case of a Debt Security providing appropriate space for such notation, at the option of the Holder thereof, the Trustee, in lieu of delivering a new Debt Security or Debt Securities as aforesaid, may make a notation on such Debt Security of the payment of the redeemed portion thereof.

## ARTICLE XIV

## SINKING FUNDS

## Section 14.01. Applicability of Article.

The provisions of this Article shall be applicable to any sinking fund for the retirement of Debt Securities of a series except as otherwise specified pursuant to Section 3.01 for Debt Securities of such series.

The minimum amount of any sinking fund payment provided for by the terms of Debt Securities of any series is herein referred to as a "mandatory sinking fund payment," and any payment in excess of such minimum amount provided for by the terms of Debt Securities of any series is herein referred to as an "optional sinking fund payment." If provided for by the terms of Debt Securities of any series, the amount of any cash sinking fund payment may be subject to reduction as provided in Section 14.02. Each sinking fund payment shall be applied to the redemption of Debt Securities of any series as provided for by the terms of Debt Securities of such series.

## Section 14.02. Satisfaction of Mandatory Sinking Fund Payments with Debt Securities.

In lieu of making all or any part of a mandatory sinking fund payment with respect to any Debt Securities of a series in cash, the Company may at its option, at any time no more than sixteen months and no less than 45 days prior to the date on which such sinking fund payment is due, deliver to the Trustee Debt Securities of such series (together with the unmatured Coupons, if any, appertaining thereto) theretofore purchased or otherwise acquired by the Company, except Debt Securities of such series which have been redeemed through the application of mandatory sinking fund payments pursuant to the terms of the Debt Securities of such series, accompanied by a Company Order instructing the Trustee to credit such obligations and stating that the Debt Securities of such series were originally issued by the Company by way of bona fide sale or other negotiation for value, provided that such Debt Securities shall not have been previously so credited. Such Debt Securities shall be received and credited for such purpose by the Trustee at the Redemption Price specified in such Debt Securities for redemption through operation of the sinking fund and the amount of such mandatory sinking fund payment shall be reduced accordingly.

## Section 14.03. Redemption of Debt Securities for Sinking Fund.

Not less than 60 days prior to each sinking fund payment date for any series of Debt Securities (unless a shorter period shall be satisfactory to the Trustee), the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash in the Currency or Currencies in which the Debt Securities of such series are denominated (except as provided pursuant to Section 3.01) and the portion thereof, if any, which is to be satisfied by delivering and crediting Debt Securities of such series pursuant to Section 14.02 and whether the Company intends to exercise its rights to make a permitted optional sinking fund payment with respect to such series. Such certificate shall be irrevocable and upon its delivery the Company shall be obligated to make the cash payment or payments therein referred to, if any, on or before the next succeeding sinking fund payment date. In the case of the failure of the Company to deliver such certificate, the sinking fund payment due on the next succeeding sinking fund payment date for such series shall be paid entirely in cash and shall be sufficient to redeem the principal amount of the Debt Securities of such series subject to a mandatory sinking fund payment without the right to deliver or credit

Debt Securities as provided in Section 14.02 and without the right to make any optional sinking fund payment with respect to such series at such time.

Any sinking fund payment or payments (mandatory or optional) made in cash plus any unused balance of any preceding sinking fund payments made with respect to the Debt Securities of any particular series shall be applied by the Trustee (to the extent it is acting as a Paying Agent with respect to Dollars) or other Paying Agent appointed by the Company (or by the Company if the Company is acting as its own Paying Agent) on the sinking fund payment date on which such payment is made (or, if such payment is made before a sinking fund payment date, on the sinking fund payment date immediately following the date of such payment) to the redemption of Debt Securities of such series at the Redemption Price specified in such Debt Securities with respect to the sinking fund. Any sinking fund moneys not so applied or allocated by the Trustee (to the extent it is acting as a Paying Agent with respect to Dollars) or other Paying Agent appointed by the Company (or by the Company if the Company is acting as its own Paying Agent) to the redemption of Debt Securities shall be added to the next sinking fund payment received by the Trustee (to the extent it is acting as a Paying Agent with respect to Dollars) or other Paying Agent appointed by the Company (or if the Company is acting as its own Paying Agent, segregated and held in trust as provided in Section 12.04) for such series and, together with such payment (or such amount so segregated) shall be applied in accordance with the provisions of this Section. Any and all sinking fund moneys with respect to the Debt Securities of any particular series held by the Trustee (to the extent it is acting as a Paying Agent with respect to Dollars) or other Paying Agent appointed by the Company (or if the Company is acting as its own Paying Agent, segregated and held in trust as provided in Section 12.04) on the last sinking fund payment date with respect to Debt Securities of such series and not held for the payment or redemption of particular Debt Securities of such series shall be applied by the Trustee (to the extent it is acting as a Paying Agent with respect to Dollars) or other Paying Agent appointed by the Company (or by the Company if the Company is acting as its own Paying Agent), together with other moneys, if necessary, to be deposited (or segregated) sufficient for the purpose, to the payment of the principal of the Debt Securities of such series at Maturity.

The Trustee shall select or cause to be selected the Debt Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 13.03 and the Company shall cause notice of the redemption thereof to be given in the manner provided in Section 13.04. Such notice having been duly given, the redemption of such Debt Securities shall be made upon the terms and in the manner stated in Section 13.06.

On or before 10:00 a.m. (New York City time) on each sinking fund payment date, the Company shall pay to the Trustee (to the extent it is acting as a Paying Agent with respect to Dollars) or other Paying Agent appointed by the Company (or, if the Company is acting as its own Paying Agent, the Company shall segregate and hold in trust as provided in Section 12.04) in cash a sum, in the Currency or Currencies in which Debt Securities of such series are denominated (except as provided pursuant to Sections 3.01 or 3.10), equal to the principal and any interest accrued to the Redemption Date for Debt Securities or portions thereof to be redeemed on such sinking fund payment date pursuant to this Section.

Neither the Trustee, any Paying Agent nor the Company shall redeem any Debt Securities of a series with sinking fund moneys or mail any notice of redemption of Debt Securities of such series by operation of the sinking fund for such series during the continuance of a default in payment of interest, if any, on any Debt Securities of such series or of any Event of Default (other than an Event of Default occurring as a consequence of this paragraph) with respect to the Debt Securities of such series, except that if the notice of redemption shall have been provided in accordance with the provisions hereof, the Trustee or applicable Paying Agent (or the Company, if the Company is then acting as its own Paying Agent) shall redeem such Debt Securities if cash sufficient for that purpose shall be deposited with the Trustee or such other Paying Agent as

provided above (or segregated by the Company) for that purpose in accordance with the terms of this Article. Except as aforesaid, any moneys in the sinking fund for such series at the time when any such default or Event of Default shall occur and any moneys thereafter paid into such sinking fund shall, during the continuance of such default or Event of Default, be held as security for the payment of the Debt Securities and Coupons, if any, of such series; provided, however, that in case such default or Event of Default shall have been cured or waived as provided herein, such moneys shall thereafter be applied on or prior to the next sinking fund payment date for the Debt Securities of such series on which such moneys may be applied pursuant to the provisions of this Section.

#### ARTICLE XV

#### DEFEASANCE

##### Section 15.01. Applicability of Article.

If, pursuant to Section 3.01, provision is made for the defeasance of Debt Securities of a series, and if the Debt Securities of such series are Registered Securities and denominated and payable only in Dollars (except as provided pursuant to Section 3.01 and subject to the proviso in the last sentence of this paragraph) then the provisions of this Article shall be applicable except as otherwise specified pursuant to Section 3.01 for Debt Securities of such series. Defeasance provisions, if any, for Debt Securities denominated and/or payable in a Foreign Currency or Currencies or for Bearer Securities may be specified pursuant to Section 3.01; provided, however, that nothing herein or therein shall obligate the Trustee (without its consent, at its sole option) to hold or maintain any account, or act as Paying Agent with respect to, any Foreign Currency or Currencies.

##### Section 15.02. Defeasance Upon Deposit of Moneys or U.S. Government Obligations.

At the Company's option, either (a) the Company shall be deemed to have been Discharged (as defined below) from its obligations with respect to Debt Securities of any series ("legal defeasance option") or (b) the Company shall cease to be under any obligation to comply with any term, provision or condition set forth in Section 10.01 with respect to Debt Securities of any series (and, if so specified pursuant to Section 3.01, any other obligation of the Company or restrictive covenant added for the benefit of such series pursuant to Section 3.01) ("covenant defeasance option") at any time after the applicable conditions set forth below have been satisfied:

(1) the Company shall have deposited or caused to be deposited irrevocably with the Trustee as trust funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Debt Securities of such series (i) money in an amount, or (ii) U.S. Government Obligations (as defined below) which through the payment of interest and principal in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, money in an amount, or (iii) a combination of (i) and (ii), sufficient, in the opinion (with respect to (i) and (ii)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge each installment of principal (including any mandatory sinking fund payments) of and premium, if any, and interest on, the Outstanding Debt Securities of such series on the dates such installments of interest or principal and premium are due;

(2) such deposit shall not cause the Trustee with respect to the Debt Securities of that series to have a conflicting interest as defined in Section 6.08 and for purposes of the Trust Indenture Act with respect to the Debt Securities of any series;

(3) such deposit will not result in a breach or violation of, or constitute a default under, this Indenture or any other agreement or instrument to which the Company is a party or by which it is bound;

(4) if the Debt Securities of such series are then listed on any national securities exchange, the Company shall have delivered to the Trustee an Opinion of Counsel or a letter or other document from such exchange to the effect that the Company's exercise of its option under this Section would not cause such Debt Securities to be delisted;

(5) no Event of Default or event (including such deposit) which, with notice or lapse of time or both, would become an Event of Default with respect to the Debt Securities of such series shall have occurred and be continuing on the date of such deposit and, with respect to the legal defeasance option only, no Event of Default under Section 5.01(7) or Section 5.01(8) or event which with the giving of notice or lapse of time, or both, would become an Event of Default under Section 5.01(7) or Section 5.01(8) shall have occurred and be continuing on the 91st day after such date; and

(6) the Company shall have delivered to the Trustee an Opinion of Counsel or a ruling from the Internal Revenue Service to the effect that the Holders of the Debt Securities of such series will not recognize income, gain or loss for Federal income tax purposes as a result of such deposit, defeasance or Discharge.

Notwithstanding the foregoing, if the Company exercises its covenant defeasance option and an Event of Default under Section 5.01(7) or Section 5.01(8) or event which with the giving of notice or lapse of time, or both, would become an Event of Default under Section 5.01(7) or Section 5.01(8) shall have occurred and be continuing on the 91st day after the date of such deposit, the obligations of the Company referred to under the definition of covenant defeasance option with respect to such Debt Securities shall be reinstated.

"Discharged" means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by, and obligations under, the Debt Securities of such series and to have satisfied all the obligations under this Indenture relating to the Debt Securities of such series (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), except (A) the rights of Holders of Debt Securities of such series to receive, from the trust fund described in clause (1) above, payment of the principal of (and premium, if any) and interest on such Debt Securities when such payments are due, (B) the Company's obligations with respect to the Debt Securities of such series under Sections 3.04, 3.05, 3.06, 12.03 and 15.03 and (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder.

"U.S. Government Obligations" means securities that are (i) direct obligations of the United States for the payment of which its full faith and credit is pledged, or (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States, which, in either case under clauses (i) or (ii), are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such U.S. Government Obligation or a specific payment of interest on or principal of any such U.S. Government Obligation held by such custodian for the account of the holder of a depository receipt; provided that (except as required by law)

such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of interest on or principal of the U.S. Government Obligation evidenced by such depository receipt.

Section 15.03. Deposited Moneys and U.S. Government Obligations to Be Held in Trust.

All moneys and U.S. Government Obligations deposited with the Trustee pursuant to Section 15.02 in respect of Debt Securities of a series shall be held in trust and applied by it, in accordance with the provisions of such Debt Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Holders of such Debt Securities, of all sums due and to become due thereon for principal (and premium, if any) and interest, if any, but such money need not be segregated from other funds except to the extent required by law.

Section 15.04. Repayment to Company.

The Trustee and any Paying Agent shall promptly pay or return to the Company upon Company Request any moneys or U.S. Government Obligations held by them at any time that are not required for the payment of the principal of (and premium, if any) and interest on the Debt Securities of any series for which money or U.S. Government Obligations have been deposited pursuant to Section 15.02.

The provisions of the last paragraph of Section 12.04 shall apply to any money held by the Trustee or any Paying Agent under this Article that remains unclaimed for two years after the Maturity of any series of Debt Securities for which money or U.S. Government Obligations have been deposited pursuant to Section 15.02.

ARTICLE XVI

CONVERSION

Section 16.01. Applicability; Conversion Privilege.

Except as otherwise specified pursuant to Section 3.01 for Debt Securities of any series, the provisions of this Article Sixteen shall be applicable to any Debt Securities that are convertible into Common Stock. If so provided pursuant to Section 3.01 with respect to the Debt Securities of any series, the Holder of a Debt Security of such series shall have the right, at such Holder's option, to convert, in accordance with the terms of such series of Debt Securities and this Article Sixteen, all or any part (in a denomination of, unless otherwise specified pursuant to Section 3.01 with respect to Securities of such series, \$1,000 in principal amount or any integral multiple thereof) of such Debt Security into shares of Common Stock or, as to any Debt Securities called for redemption, at any time prior to the time and date fixed for such redemption (unless the Company shall default in the payment of the Redemption Price, in which case such right shall not terminate at such time and date).

Section 16.02. Conversion Procedure; Conversion Price; Fractional Shares.

(a) Each Debt Security to which this Article is applicable shall be convertible at the office of the Conversion Agent, and at such other place or places, if any, specified in pursuant to Section 3.01 with



respect to the Debt Securities of such series, into fully paid and nonassessable shares (calculated to the nearest 1/100th of a share) of Common Stock. The Debt Securities will be converted into shares of Common Stock at the Conversion Price therefor. No payment or adjustment shall be made in respect of dividends on the Common Stock or accrued interest on a converted Debt Security except as described in Section 16.09. The Company may, but shall not be required, in connection with any conversion of Debt Securities, to issue a fraction of a share of Common Stock and, if the Company shall determine not to issue any such fraction, the Company shall, subject to Section 16.03(4), make a cash payment (calculated to the nearest cent) equal to such fraction multiplied by the Closing Price of the Common Stock on the last Trading Day prior to the date of conversion.

(b) Before any Holder of a Debt Security shall be entitled to convert the same into Common Stock, such Holder shall surrender such Debt Security duly endorsed to the Company or in blank, or, in the case of Bearer Securities, together with all unmatured Coupons and any matured Coupons in default attached thereto, at the office of the Conversion Agent or at such other place or places, if any, specified pursuant to Section 3.01 (in the case of Registered Securities) and at an office of the Conversion Agent or at such other place or places, if any, outside of the United States as is specified pursuant to Section 3.01 (in the case of Bearer Securities), and shall give written notice to the Company at said office or place that he elects to convert the same and shall state in writing therein the principal amount of Debt Securities to be converted and the name or names (with addresses) in which he wishes the certificate or certificates for Common Stock to be issued; provided, however, that no Debt Security or portion thereof shall be accepted for conversion unless the principal amount of such Debt Security or such portion, when added to the principal amount of all other Debt Securities or portions thereof then being surrendered by the Holder thereof for conversion, exceeds the then effective Conversion Price with respect thereto. If the Holder of a Bearer Security is unable to produce any such unmatured Coupon or Coupons or matured Coupon or Coupons in default, such conversion may be effected if the Bearer Securities to be surrendered for conversion are accompanied by payment in funds acceptable to the Company in an amount equal to the face amount of such missing Coupon or Coupons, or the surrender of such missing Coupon or Coupons may be waived by the Company and the Trustee if there is furnished to them such security or indemnity as they may require to save each of them and any Paying Agent harmless. If thereafter the Holder of such Bearer Security shall surrender to any Paying Agent any such missing Coupon in respect of which such a payment shall have been made, such Holder shall be entitled to receive the amount of such payment; provided, however that except as otherwise provided in Section 12.03, interest represented by Coupons shall be payable only upon presentation and surrender of those Coupons at an office or agency located outside the United States. If more than one Debt Security shall be surrendered for conversion at one time by the same Holder, the number of full shares of Common Stock which shall be deliverable upon conversion shall be computed on the basis of the aggregate principal amount of the Debt Securities (or specified portions thereof to the extent permitted thereby) so surrendered. Subject to the next succeeding sentence, the Company will, as soon as practicable thereafter, issue and deliver at said office or place to such Holder of a Debt Security, or to his nominee or nominees, certificates for the number of full shares of Common Stock to which he shall be entitled as aforesaid, together, subject to the last sentence of paragraph (a) above, with cash in lieu of any fraction of a share to which he would otherwise be entitled. The Company shall not be required to deliver certificates for shares of Common Stock while the stock transfer books for such stock or the Security Register are duly closed for any purpose, but certificates for shares of Common Stock shall be issued and delivered as soon as practicable after the opening of such books or Security Register. A Debt Security shall be deemed to have been converted as of the close of business on the date of the surrender of such Debt Security for conversion as provided above, and the Person or Persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record Holder or Holders of such Common Stock as of the close of business on such date. In case any Debt Security shall be surrendered for partial conversion, the Company shall execute and the Trustee shall authenticate and deliver

to or upon the written order of the Holder of the Debt Securities so surrendered, without charge to such Holder (subject to the provisions of Section 16.08), a new Debt Security or Securities in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Debt Security.

Section 16.03. Adjustment of Conversion Price for Common Stock.

The Conversion Price with respect to any Debt Security which is convertible into Common Stock shall be adjusted from time to time as follows:

(1) In case the Company shall, at any time or from time to time while any of such Debt Securities are outstanding, (i) pay a dividend in shares of its Common Stock to holders of Common Stock, (ii) combine its outstanding shares of Common Stock into a smaller number of shares of Common Stock, (iii) subdivide its outstanding shares of Common Stock into a greater number of shares of Common Stock or (iv) make a distribution in shares of Common Stock to holders of Common Stock, then the Conversion Price in effect immediately before such action shall be adjusted so that the Holders of such Debt Securities, upon conversion thereof into Common Stock immediately following such event, shall be entitled to receive the kind and amount of shares of capital stock of the Company which they would have owned or been entitled to receive upon or by reason of such event if such Debt Securities had been converted immediately before the record date (or, if no record date, the effective date) for such event. An adjustment made pursuant to this Section 16.03(1) shall become effective retroactively immediately after the record date in the case of a dividend or distribution and shall become effective retroactively immediately after the effective date in the case of a subdivision or combination. For the purposes of this Section 16.03(1), each Holder of Debt Securities shall be deemed to have failed to exercise any right to elect the kind or amount of securities receivable upon the payment of any such dividend, subdivision, combination or distribution (provided that if the kind or amount of securities receivable upon such dividend, subdivision, combination or distribution is not the same for each nonelecting share, then the kind and amount of securities or other property receivable upon such dividend, subdivision, combination or distribution for each nonelecting share shall be deemed to be the kind and amount so receivable per share by a plurality of the nonelecting shares).

(2) In case the Company shall, at any time or from time to time while any of such Debt Securities are outstanding, issue rights or warrants to all holders of shares of its Common Stock entitling them (for a period expiring within 45 days after the record date for such issuance) to subscribe for or purchase shares of Common Stock (or securities convertible into shares of Common Stock) at a price per share less than the Current Market Price of the Common Stock at such record date (treating the price per share of the securities convertible into Common Stock as equal to (x) the sum of (i) the price for a unit of the security convertible into Common Stock and (ii) any additional consideration initially payable upon the conversion of such security into Common Stock divided by (y) the number of shares of Common Stock initially underlying such convertible security), the Conversion Price with respect to such Debt Securities shall be adjusted so that it shall equal the price determined by dividing the Conversion Price in effect immediately prior to the date of issuance of such rights or warrants by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding on the date of issuance of such rights or warrants plus the number of additional shares of Common Stock offered for subscription or purchase (or into which the convertible securities so offered are initially convertible), and the denominator of which shall be the number of shares of Common Stock outstanding on the date of issuance of securities which the aggregate offering price of the total number of shares of securities so offered for subscription or purchase (or the aggregate purchase price of the convertible securities so offered plus the aggregate amount of any additional

consideration initially payable upon conversion of such securities into Common Stock) would purchase at such Current Market Price of the Common Stock. Such adjustment shall become effective retroactively immediately after the record date for the determination of stockholders entitled to receive such rights or warrants.

(3) In the case the Company shall, at any time or from time to time while any of such Debt Securities are outstanding, distribute to all holders of shares of its Common Stock (including any such distribution made in connection with a consolidation or merger in which the Company is the continuing corporation and the Common Stock is not changed or exchanged) cash, evidences of its indebtedness, securities or assets (excluding (i) regular periodic cash dividends in amounts, if any, determined from time to time by the Board of Directors, (ii) dividends payable in shares of Common Stock for which adjustment is made under Section 16.03(1) or (iii) rights or warrants to subscribe for or purchase securities of the Company (excluding those referred to in Section 16.03(2))), then in each such case the Conversion Price with respect to such Debt Securities determined by dividing the Conversion Price in effect immediately prior to the date of such distribution by a fraction, the numerator of which shall be the Current Market Price of the Common Stock on the record date referred to below, and the denominator of which shall be such Current Market Price of the Common Stock less the then fair market value (as determined by the Board of Directors of the Company, whose determination shall be conclusive) of the portion of the cash or assets or evidences of indebtedness or securities so distributed or of such subscription rights or warrants applicable to one share of Common Stock (provided that such denominator shall never be less than 1.0); provided however, that no adjustment shall be made with respect to any distribution of rights to purchase securities of the Company if a Holder of Debt Securities would otherwise be entitled to receive such rights upon conversion at any time of such Debt Securities into Common Stock unless such rights are subsequently redeemed by the Company, in which case such redemption shall be treated for purposes of this section as a dividend on the Common Stock. Such adjustment shall become effective retroactively immediately after the record date for the determination of stockholders entitled to receive such distribution; and in the event that such distribution is not so made, the Conversion Price shall again be adjusted to the Conversion Price which would then be in effect if such record date had not been fixed.

(4) The Company shall be entitled to make such additional adjustments in the Conversion Price, in addition to those required by subsections 16.03(1), 16.03(2), and 16.03(03), as shall be necessary in order that any dividend or distribution of Common Stock, any subdivision, reclassification or combination of shares of Common Stock or any issuance of rights or warrants referred to above shall not be taxable to the holders of Common Stock for United States Federal income tax purposes.

(5) In any case in which this Section 16.03 shall require that any adjustment be made effective as of or retroactively immediately following a record date, the Company may elect to defer (but only for five (5) Trading Days following the filing of the statement referred to in Section 16.05) issuing to the Holder of any Debt Securities converted after such record date the shares of Common Stock and other capital stock of the Company issuable upon such conversion over and above the shares of Common Stock and other capital stock of the Company issuable upon such conversion on the basis of the Conversion Price prior to adjustment; provided, however, that the Company shall deliver to such Holder a due bill or other appropriate instrument evidencing such Holder's right to receive such additional shares upon the occurrence of the event requiring such adjustment.

(6) All calculations under this Section 16.03 shall be made to the nearest cent or one-hundredth of a share of security, with one-half cent and 0.005 of a share, respectively, being rounded

upward. Notwithstanding any other provision of this Section 16.03, the Company shall not be required to make any adjustment of the Conversion Price unless such adjustment would require an increase or decrease of at least 1% of such price. Any lesser adjustment shall be carried forward and shall be made at the time of and together with the next subsequent adjustment which, together with any adjustment or adjustments so carried forward, shall amount to an increase or decrease of at least 1% in such price. Any adjustments under this Section 16.03 shall be made successively whenever an event requiring such an adjustment occurs.

(7) In the event that at any time, as a result of an adjustment made pursuant to this Section 16.03, the Holder of any Debt Security thereafter surrendered for conversion shall become entitled to receive any shares of stock of the Company other than shares of Common Stock into which the Debt Securities originally were convertible, the Conversion Price of such other shares so receivable upon conversion of any such Debt Security shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to Common Stock contained in subparagraphs (1) through (6) of this Section 16.03, and the provisions of Sections 16.01, 16.02 and 16.04 through 16.09 with respect to the Common Stock shall apply on like or similar terms to any such other shares and the determination of the Board of Directors as to any such adjustment shall be conclusive.

(8) No adjustment shall be made pursuant to this Section: (i) if the effect thereof would be to reduce the Conversion Price below the par value (if any) of the Common Stock or (ii) subject to 16.03(5) hereof, with respect to any Debt Security that is converted prior to the time such adjustment otherwise would be made.

#### Section 16.04 Consolidation or Merger of the Company.

In case of either (a) any consolidation or merger to which the Company is a party, other than a merger or consolidation in which the company is the surviving or continuing corporation and which does not result in a reclassification of, or change (other than a change in par value or from par value to no par value or from no par value to par value, as a result of a subdivision or combination) in, outstanding shares of Common Stock or (b) any sale or conveyance of all or substantially all of the property and assets of the Company to another Person, then each Debt Security then outstanding shall be convertible from and after such merger, consolidation, sale or conveyance of property and assets into the kind and amount of shares of stock or other securities and property (including cash) receivable upon such consolidation, merger, sale or conveyance by a holder of the number of shares of Common Stock into which such Debt Securities would have been converted immediately prior to such consolidation, merger, sale or conveyance, subject to adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article Sixteen (and assuming such holder of Common Stock failed to exercise his rights of election, if any, as to the kind or amount of securities, cash or other property (including cash) receivable upon such consolidation, merger, sale or conveyance (provided that, if the kind or amount of securities, cash or other property (including cash) receivable upon such consolidation, merger, sale or conveyance is not the same for each nonelecting share, then the kind and amount of securities, cash or other property (including cash) receivable upon such consolidation, merger, sale or conveyance for each nonelecting share shall be deemed to be the kind and amount so receivable per share by a plurality of the nonelecting shares or securities)). The Company shall not enter into any of the transactions referred to in clause (a) or (b) of the preceding sentence unless effective provision shall be made so as to give effect to the provisions set forth in this Section 16.04. The provisions of this Section 16.04 shall apply similarly to successive consolidations, mergers, sales or conveyances.

## Section 16.05. Notice of Adjustment.

Whenever an adjustment in the Conversion Price with respect to a series of Debt Securities is required:

(1) the Company shall forthwith place on file with the Trustee and any Conversion Agent for such Securities a certificate of the Treasurer of the Company, stating the adjusted Conversion Price determined as provided herein and setting forth in reasonable detail such facts as shall be necessary to show the reason for and the manner of computing such adjustment, such certificate to be conclusive evidence that the adjustment is correct; and

(2) a notice stating that the Conversion Price has been adjusted and setting forth the adjusted Conversion Price shall forthwith be given by the Company, or at the Company's request, by the Trustee in the name and at the expense of the Company, in the manner provided in Section 1.05. Any notice so given shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice.

## Section 16.06. Notice in Certain Events.

In case:

(1) of a consolidation or merger to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or conveyance to another Person or entity or group of Persons or entities acting in concert as a partnership, limited partnership, syndicate or other group (within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as amended) of all or substantially all of the property and assets of the Company; or

(2) of the voluntary or involuntary dissolution, liquidation or winding up of the Company; or

(3) of any action triggering an adjustment of the Conversion Price pursuant to this Article Sixteen;

then, in each case, the Company shall cause to be filed with the Trustee and the Conversion Agent for the applicable Debt Securities, and shall cause to be given, to the Holders of record of applicable Debt Securities in the manner provided in Section 1.05, at least fifteen (15) days prior to the applicable date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of any distribution or grant of rights or warrants triggering an adjustment to the Conversion Price pursuant to this Article Sixteen, or, if a record is not to be taken, the date as of which the holders of record or Common Stock entitled to such distribution, rights or warrants are to be determined, or (y) the date on which any reclassification, consolidation, merger, sale, conveyance, dissolution, liquidation or winding up triggering an adjustment to the Conversion Price pursuant to this Article Sixteen is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, conveyance, dissolution, liquidation or winding up.

Failure to give such notice or any defect therein shall not affect the legality or validity of the proceedings described in clause (1), (2), or (3) of this Section.

Section 16.07. Company to Reserve Stock; Registration; Listing.

(a) The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued shares of Common Stock, for the purpose of effecting the conversion of the Debt Securities, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all applicable outstanding Debt Securities into such Common Stock at any time (assuming that, at the time of the computation of such number of shares or securities, all such Debt Securities would be held by a single holder); provided, however, that nothing contained herein shall preclude the Company from satisfying its obligations in respect of the conversion of the Debt Securities by delivery of purchased shares of Common Stock which are held in the treasury of the Company. The Company shall from time to time, in accordance with the laws of the State of Delaware, use its best efforts to cause the authorized amount of the Common Stock to be increased if the aggregate of the authorized amount of the Common Stock remaining unissued and the issued shares of such Common Stock in its treasury (other than any such shares reserved for issuance in any other connection) shall not be sufficient to permit the conversion of all Debt Securities.

(b) If any shares of Common Stock which would be issuable upon conversion of Debt Securities hereunder require registration with or approval of any governmental authority before such shares or securities may be issued upon such conversion, the Company will in good faith and as expeditiously as possible endeavor to cause such shares or securities to be duly registered or approved, as the case may be. The Company will endeavor to list the shares of Common Stock required to be delivered upon conversion of the Debt Securities prior to such delivery upon the principal national securities exchange upon which the outstanding Common Stock is listed at the time of such delivery.

Section 16.08. Taxes on Conversion.

The Company shall pay any and all documentary, stamp or similar issue or transfer taxes that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of Debt Securities pursuant hereto. The Company shall not, however, be required to pay any such tax which may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock or the portion, if any, of the Debt Securities which are not so converted in a name other than that in which the Debt Securities so converted were registered (in case of Registered Securities), and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Company the amount of such tax or has established to the satisfaction of the Company that such tax has been paid.

Section 16.09 Conversion After Record Date.

If any Debt Securities are surrendered for conversion subsequent to the record date preceding an Interest Payment Date but on or prior to such Interest Payment Date (except Debt Securities called for redemption on a Redemption Date between such record date and Interest Payment Date), the Holder of such Debt Securities at the close of business on such record date shall be entitled to receive the interest payable on such Debt Securities on such Interest Payment Date notwithstanding the conversion thereof. Debt Securities surrendered for conversion during the period from the close of business on any record date next preceding any Interest Payment Date to the opening of business on such Interest Payment Date to the opening of business on such Interest Payment Date shall (except in the case of Debt Securities which have been called for redemption on a Redemption Date within such period) be accompanied by payment in New York Clearing House funds or other funds and in the Currency acceptable to the Company of an amount equal to the interest payable on such Interest Payment Date on the Debt Securities being surrendered for conversion. Except as provided in

this Section 16.09, no adjustments in respect of payments of interest on Debt Securities surrendered for conversion or any dividends or distributions of interest on the Common Stock issued upon conversion shall be made upon the conversion of any Debt Securities.

Section 16.10. Company Determination Final.

Any determination that the Company or the Board of Directors must make pursuant to this Article is conclusive.

Section 16.11 Trustee's Disclaimer.

The Trustee has no duty to determine when an adjustment under this Article should be made, how it should be made or what it should be. The Trustee makes no representation as to the validity or value of any securities or assets issued upon conversion of Debt Securities. The Trustee shall not be responsible for the Company's failure to comply with this Article. Each Conversion Agent other than the Company shall have the same protection under this Section as the Trustee.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

PRISON REALTY TRUST, INC.

By: /s/ Michael W. Devlin  
-----  
Title: Chief Operating Officer  
-----

Attest:

/s/ Jonathan T. Youse  
-----  
Title: Notary Public

Seal

STATE STREET BANK AND TRUST COMPANY  
as Trustee

By: /s/ Robert J. Dunn  
-----  
Title: Vice President  
-----

Attest:

/s/ James M. Coolidge  
-----  
Title: Notary Public

Seal



## [FORMS OF CERTIFICATION]

[FORM OF CERTIFICATE TO BE GIVEN BY  
PERSON ENTITLED TO RECEIVE BEARER SECURITY  
OR INTEREST PRIOR TO AN EXCHANGE DATE]

## CERTIFICATE

-----

[Insert title or sufficient description  
of Securities to be delivered]

This is to certify that as of the date hereof and except as set forth below principal amount of the above captioned Debt Securities held by you for our account (i) is owned by person(s) that are not United States person(s) (as defined below), (ii) is owned by United States person(s) that are (a) foreign branches of United States financial institutions (as defined in Section 1.165-12(c)(1)(v) of the United States Treasury regulations) ("financial institutions") purchasing for their own account or for resale, or (b) United States person(s) who acquired the Debt Securities through foreign branches of United States financial institutions and who hold the Debt Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution hereby agrees, on its own behalf or through its agent, that you may advise the Company or the Company's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the United States Internal Revenue Code of 1986, as amended, and the Treasury regulations thereunder), or (iii) is owned by United States or foreign financial institution(s) for the purpose of resale during the restricted period (as defined in Section 1.163-5(c)(2)(i)(D)(7) of the United States Treasury regulations), and in addition if the owner of the Debt Securities is a United States or foreign financial institution described in clause (iii) above (whether or not also described in clause (i) or (ii)) this is to further certify that such financial institution has not acquired the Debt Securities for the purpose of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

We undertake to advise you promptly by tested telex on or prior to the date on which you intend to submit your certification relating to the beneficial interest in the temporary global Security held by you for our account in accordance with your operating procedures if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

This certificate excepts and does not relate to \_\_\_\_\_ principal amount of Debt Securities held by you for our account as to which we are not able to provide a certificate in this form. We understand that exchange of such portion of the temporary global Note for definitive Bearer Securities or interests in a permanent global Note cannot be made until we are able to provide a certificate in this form.

We understand that this certificate is required in connection with certain tax laws and regulations of the United States. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings.

"United States person" means any citizen or resident of the United States, any corporation, partnership or other entity created or organized in or under the laws of the United States and any estate or trust

the income of which is subject to United States federal income taxation regardless of its source. "United States" means the United States of America (including the States and the District of Columbia) and its "possessions" which include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

Dated: \_\_\_\_\_, 19\_\_

[To be dated no earlier than the 10th day before the Exchange Date]

By: -----  
As, or as agent for, the  
beneficial owner(s) of  
the portion of the  
temporary global Note  
to which this  
certificate relates.

[FORM OF CERTIFICATE TO BE GIVEN BY EURO-CLEAR AND  
CEDEL, S.A. IN CONNECTION WITH THE EXCHANGE OF  
A PORTION OF A TEMPORARY GLOBAL NOTE]

CERTIFICATE

-----  
[Insert title or sufficient description  
of Securities to be delivered]

The undersigned certifies that, based solely on certifications we have received in writing, by tested telex or by electronic transmission from member organizations appearing in our records as persons being entitled to a portion of the principal amount set forth below (our "Member Organizations") substantially to the effect set forth in the Indenture as of the date hereof, \_\_\_\_\_ principal amount of the above-captioned Debt Securities (i) is owned by person(s) that are not United States person(s) (as defined below), (ii) is owned by United States person(s) that are (a) foreign branches of United States financial institutions (as defined in Section 1.165-12(c)(1)(v) of the United States Treasury regulations) ("financial institutions") purchasing for their own account or for resale, or (b) United States person(s) who acquired the Debt Securities through foreign branches of United States financial institutions and who hold the Debt Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution has agreed, on its own behalf or through its agent, that we may advise the Company or the Company's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the Treasury regulations thereunder), or (iii) is owned by United States or foreign financial institution(s) for the purpose of resale during the restricted period (as defined in Section 1.163-5(c)(2)(i)(D)(7) of the United States Treasury regulations), and in addition United States or foreign financial institutions described in clause (iii) above (whether or not also described in clause (i) or (ii)) have certified that they have not acquired the Debt Securities for the purpose of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

We further certify (i) that we are not making available for exchange or collection of any interest any portion of the temporary Global Note excepted in such certifications and (ii) that as of the date hereof we have not received any notification from any of our Member Organizations to the effect that the statements made by such Member Organizations with respect to any portion of the part submitted herewith for exchange or collection of any interest are no longer true and cannot be relied upon as of the date hereof.

We understand that this certificate is required in connection with certain tax laws and regulations of the United States. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings.

"United States person" means any citizen or resident of the United States, any corporation, partnership or other entity created or organized in or under the laws of the United States and any estate or trust the income of which is subject to United States federal income taxation regardless of its source. "United States" means the United States of America (including the States and the District of Columbia) and its "possessions" which include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

Dated: \_\_\_\_\_, 19\_\_

[To be dated no earlier than the  
Exchange Date]

By:

-----  
[MORGAN GUARANTY TRUST  
COMPANY OF NEW YORK,  
BRUSSELS OFFICE, as  
Operator of the Euro-Clear  
System] [CEDEL, S.A.]

PRISON REALTY TRUST, INC.

12% SENIOR NOTES DUE 2006

-----  
FIRST SUPPLEMENTAL INDENTURE  
Dated as of June 11, 1999  
-----

STATE STREET BANK AND TRUST COMPANY

Trustee

=====

## TABLE OF CONTENTS

Page

ARTICLE 1  
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01.	Definitions.....	1
Section 1.02.	Other Definitions.....	16
Section 1.03.	Incorporation by Reference of Trust Indenture Act.....	16
Section 1.04.	Rules of Construction.....	17

ARTICLE 2  
REDEMPTION

Section 2.01.	Selection of Securities to Be Redeemed.....	17
Section 2.02.	Optional Redemption.....	18
Section 2.03.	Offer to Purchase by Application of Excess Proceeds.....	18

ARTICLE 3  
COVENANTS

Section 3.01.	Reports.....	21
Section 3.02.	Taxes.....	21
Section 3.03.	Stay, Extension and Usury Laws.....	21
Section 3.04.	Restricted Payments.....	22
Section 3.05.	Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.....	25
Section 3.06.	Incurrence of Indebtedness and Issuance of Disqualified Stock or Subsidiary Preferred Stock....	26
Section 3.07.	Asset Sales.....	29
Section 3.08.	Transactions with Affiliates.....	30
Section 3.09.	Liens.....	31
Section 3.10.	Offer to Repurchase Upon Change of Control.....	31
Section 3.11.	Business Activities.....	32
Section 3.12.	Subsidiary Guarantees.....	32
Section 3.13.	Designation of Restricted and Unrestricted Subsidiaries.....	32
Section 3.14.	Transactions with CCA Entities.....	33
Section 3.15.	Changes in Covenants when Securities Rated Investment Grade.....	34

ARTICLE 4  
SUCCESSORS

Section 4.01.	Merger, Consolidation, or Sale of Assets.....	34
---------------	---	----

ARTICLE 5  
DEFAULTS AND REMEDIES

Section 5.01.	Events of Default.....	35
Section 5.02.	Acceleration.....	36
Section 5.03.	Compliance Certificate; Notices of Default.....	37

ARTICLE 6  
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 6.01.	Option to Effect Legal Defeasance or Covenant Defeasance.....	37
Section 6.02.	Legal Defeasance and Discharge.....	37

Section 6.03.	Covenant Defeasance.....	38
Section 6.04.	Conditions to Legal or Covenant Defeasance.....	38

ARTICLE 7  
SATISFACTION AND DISCHARGE

Section 7.01.	Satisfaction and Discharge of Indenture.....	39
---------------	--	----

ARTICLE 8  
AMENDMENT, SUPPLEMENT AND WAIVER

Section 8.01.	Without Consent of Holders of Securities.....	40
Section 8.02.	With Consent of Holders of Securities.....	40
Section 8.03.	Revocation and Effect of Consents.....	42
Section 8.04.	Notation on or Exchange of Securities.....	42
Section 8.05.	Payments for Consent.....	42

ARTICLE 9  
SUBSIDIARY GUARANTEES

Section 9.01.	Subsidiary Guarantee.....	42
Section 9.02.	Limitation on Guarantor Liability.....	43
Section 9.03.	Execution and Delivery of Subsidiary Guarantee.....	44
Section 9.04.	Guarantors May Consolidate, etc., on Certain Terms.....	44
Section 9.05.	Releases Following Sale of Assets.....	45

ARTICLE 10  
MISCELLANEOUS

Section 10.01.	No Personal Liability of Directors, Officers, Employees and Stockholders.....	45
Section 10.02.	Priority of Supplemental Indenture.....	45
Section 10.03.	Governing Law.....	46
Section 10.04.	Appointment of Paying Agent, Etc.....	46
Section 10.05.	Execution of the Notes.....	46

EXHIBITS

Exhibit A	FORM OF NOTE
Exhibit B	FORM OF SUBSIDIARY GUARANTEE
Exhibit C	FORM OF SUPPLEMENTAL INDENTURE

FIRST SUPPLEMENTAL INDENTURE (the "Supplemental Indenture"), dated as of June 11, 1999 between Prison Realty Trust, Inc., a Maryland corporation (the "Company"), and State Street Bank and Trust Company, as trustee (the "Trustee"), to the INDENTURE (the "Original Indenture"), dated as of June 10, 1999, between the Company and the Trustee. Pursuant to Section 3.01 of the Original Indenture, the Company desires to set forth the terms of a new series of securities. Therefore, the Company and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of 12% Senior Notes due 2006 (the "Securities").

ARTICLE 1  
DEFINITIONS AND OTHER PROVISIONS  
OF GENERAL APPLICATION

Section 1.01. Definitions.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Original Indenture.

"Acquired Debt" means, with respect to any specified Person, (i) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Restricted Subsidiary of such specified Person and (ii) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Additional Securities" means up to \$50.0 million in aggregate principal amount of Securities (other than the Initial Securities) issued under this Supplemental Indenture in accordance with Section 3.03 of the Original Indenture and Section 3.06 hereof.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; provided that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by," and "under common control with" shall have correlative meanings.

"API" means Agecroft Properties, Inc.

"APM" means Agecroft Prison Management Limited.

"Asset Sale" means (i) the sale, lease, conveyance or other disposition of any assets or rights, other than sales of inventory consisting of personal property in the ordinary course of business; provided that the sale, conveyance or other disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole will be governed by Section 3.10 and/or Article 4 hereof and not by Sections 2.03 and 3.07 hereof and (ii) the issuance of Equity Interests by any of the Company's Restricted Subsidiaries or the sale of Equity Interests in any of its Restricted Subsidiaries by the Company or any such Restricted Subsidiaries.



Notwithstanding the preceding, the following items shall not be deemed to be Asset Sales: (i) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than \$5.0 million; (ii) a transfer of assets between or among the Company and its Restricted Subsidiaries; (iii) an issuance of Equity Interests by a Restricted Subsidiary to the Company or to another Restricted Subsidiary; (iv) the sale or lease of equipment, inventory, accounts receivable or other assets in the ordinary course of business; (v) the sale or other disposition of cash or Cash Equivalents; (vi) the sale of any of the Designated Assets pursuant to the terms of the related lease; (vii) the sale of Cash Equivalents in the ordinary course of business; (viii) the issuance of Equity Interests by the Company; (ix) dispositions of any assets to a lender in connection with a foreclosure or in lieu of a foreclosure so long as such lender has a Permitted Lien on any such assets and, to the extent such Permitted Lien constituted Indebtedness, it was permitted to be incurred by Section 3.06 hereof; and (x) a Restricted Payment or Permitted Investment that is permitted by Section 3.04 hereof.

"Bank Credit Facility" means that certain Credit Agreement, dated as of January 1, 1999, by and among the Company, Lehman Commercial Paper Inc., as Documentation Agent, NationsBank, N.A., as Administrative Agent, The Bank of Nova Scotia, as Syndication Agent, and the other parties thereto, including any related notes, guarantees, collateral documents, instruments and agreements executed in connection therewith, and in each case as amended, restated, amended and restated, modified, renewed, refunded, replaced or refinanced from time to time (including, without limitation, any amendment, restatement, amendment and restatement, modification, renewal, refunding, replacement or refinancing that increases the maximum principal amount of loans made or to be made thereunder).

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

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

"Board of Directors" means (i) with respect to a corporation, the board of directors of the corporation, (ii) with respect to a partnership, the board of directors of the general partner of the partnership and (iii) with respect to any other Person, the board or committee of such Person serving a similar function.

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

"Capital Stock" means (i) in the case of a corporation, corporate stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock, (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited) and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Equivalents" means (i) United States dollars, (ii) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition, (iii) certificates of deposit, time deposits and eurodollar time deposits with maturities of twelve months or less from the date of acquisition, bankers' acceptances with maturities not exceeding twelve months and overnight bank deposits, in each case, with any lender party to the Bank Credit Facility or with any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thompson Bank Watch Rating of "B" or better, (iv) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (ii) and (iii) above entered into with any financial institution meeting the qualifications specified in clause (iii) above, (v) commercial paper having the highest rating obtainable from Moody's Investors Service, Inc. or Standard & Poor's Rating Services and in each case maturing within six months after the date of acquisition and (vi) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (i) through (v) of this definition.

"CCA Entities" means each of Corrections Corporation of America, Prison Management Services, Inc. and Juvenile and Jail Facility Management Services, Inc., any successor to each of the foregoing and any of their respective Subsidiaries.

"Change of Control" means the occurrence of any of the following:

(i) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole or of the Operating Company to any "person" (as that term is used in Section 13(d)(3) of the Exchange Act) other than the Principals and their Related Parties;

(ii) greater than 50% of the Company's aggregate amount of facilities, measured by aggregate number of beds, are managed by any one person or group of Persons other than the Operating Company or any successor to the Operating Company (and where no Change of Control otherwise occurs) or any affiliate of the Operating Company or any company managed by substantially the same people as the Operating Company or any governmental entity in the jurisdiction where such facility is located;

(iii) the adoption of a plan relating to the liquidation or dissolution of the Company or of the Operating Company;

(iv) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), other than the Principals and their Related Parties, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company or of the Operating Company, measured by voting power rather than number of shares; or

(v) during any period of two consecutive years, individuals who at the beginning of such period constituted the Board of Directors of the Company or of the Operating Company (together with any new directors whose election by either such Board of Directors or whose nomination for election by the stockholders of the Company or the shareholders of Operating Company, as applicable, was approved by a vote of at least a majority of the directors of the Company or the Operating Company, as applicable, then still in office who were either

directors at the beginning of such period or whose election or nomination for election was previously so approved or is a designee of the Principals and their Related Parties or was nominated or elected by such Principals and their Related Parties or any of their designees) cease for any reason to constitute a majority of the Board of Directors of the Company or the Operating Company, as applicable, then in office.

"Commission" means the Securities and Exchange Commission.

"Consolidated Adjusted Total Assets" means, with respect to the Company as of any date, the sum of (i) Consolidated Undepreciated Real Estate Assets on such date, (ii) the book value, determined under GAAP, of all other tangible assets on such date of the Company and its Restricted Subsidiaries on a consolidated basis and (iii) 50% of the book value, determined under GAAP, of all intangible assets on such date of the Company and its Restricted Subsidiaries on a consolidated basis; it being understood that for purposes of this definition "intangible" and "tangible" will be defined by a responsible officer of the Company in good faith.

"Consolidated Cash Flow" means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period plus (i) an amount equal to any extraordinary loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale, to the extent such losses were deducted in computing such Consolidated Net Income, plus (ii) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income regardless of whether such taxes or payments are required to be remitted to any governmental authority; plus (iii) Fixed Charges to the extent Fixed Charges were deducted in calculating Consolidated Net Income, plus (iv) Consolidated Depreciation and Amortization Expense to the extent deducted in computing Consolidated Net Income, minus (v) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business, in each case, on a consolidated basis and determined in accordance with GAAP.

"Consolidated Debt" means, with respect to the Company at any date, the aggregate principal amount of Indebtedness plus the aggregate liquidation preference of Disqualified Stock and Subsidiary Preferred Stock outstanding on such date of the Company and its Restricted Subsidiaries on a consolidated basis determined in accordance with GAAP.

"Consolidated Depreciation and Amortization Expense" means, with respect to any specified Person for any period, depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash charges (including any write-off of deferred tax assets, but excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income.

"Consolidated Net Income" means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided that (i) the Net Income of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the specified Person or a Restricted Subsidiary thereof, (ii) the Net Income of any Restricted Subsidiary shall be

excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its shareholders, (iii) the Net Income of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition shall be excluded, and (iv) the cumulative effect of a change in accounting principles shall be excluded.

"Consolidated Undepreciated Real Estate Assets" means, as of any date, the cost (being the original cost to the Company or any of its Restricted Subsidiaries, plus capital improvements) of real estate assets of the Company and its Restricted Subsidiaries on such date, before depreciation and amortization of such real estate assets, determined on a consolidated basis in conformity with GAAP.

"Covenant Amendment Date" means the first date on which the covenants in the Bank Credit Facility are amended so that the prohibition on Liens contained in the first paragraph of Section 3.09 hereof does not result in an Event of Default under the Bank Credit Facility.

"Custodian" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

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

"Designated Assets" means (i) Coffee Correctional Facility, Nicholls, Georgia, (ii) Wheeler Correctional Facility, Alamo, Georgia, (iii) D.C. Correctional Treatment Facility, Washington, D.C., (iv) Huerfano County Correctional Center, Walsenburg, Colorado, (v) New Mexico Women's Correctional Facility, Grants, New Mexico, (vi) Maurice H. Sigler Detention Center, Frostproof, Florida, (vii) Shelby Training Center, Memphis, Tennessee, (viii) Cimmaron Correctional Facility, Cushing, Oklahoma and (ix) Davis Correctional Facility, Holdenville, Oklahoma.

"Disqualified Stock" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is 91 days after the date on which the notes mature; provided that only the portion of Capital Stock which is so convertible or exchangeable or is so redeemable at the option of the holder thereof or which so matures or is mandatorily redeemable prior to such date will be deemed to be Disqualified Stock. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale shall not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions prior to the Company's compliance with Section 3.04 hereof.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"Equity Offering" means any (i) underwritten public offering of common stock (other than Disqualified Stock) of the Company, pursuant to an effective registration statement filed with the Commission in accordance with the Securities Act or (ii) private placement of at least \$25.0 million of common stock (other than Disqualified Stock) of the Company.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Existing Agreements" means (i) Development Agreement, dated July 6, 1998, between API and APM, (ii) Construction Contract, dated July 6, 1998, between API and Tilbury Douglas Construction Limited, (iii) Construction Direct Agreement, dated July 6, 1998, among API, APM, Tilbury Douglas Construction Limited and Tilbury Douglas PLC, (iv) Refinancing Agreement, dated July 6, 1998, among API, APM, Old CCA and CCA Prison Realty Trust, (v) Sublease, to be executed following completion of construction of Agecroft Prison, between API and APM, (vi) Access Agreement, to be executed following completion of construction of Agecroft Prison, between API and APM, (vii) Direct Agreement, dated July 6, 1998, among API, APM, Old CCA, CCA Prison Realty Trust and H M Principal Secretary of State for the Home Department and (viii) Step-In and Collateral Agreement, dated July 6, 1998, between Old CCA, APM, H M Principal Secretary of State for the Home Department and UK Detention Services.

"Existing CCA Entity Agreements" means agreements of the CCA Entities in existence on the Issue Date and in the form in effect on the Issue Date.

"Existing Indebtedness" means Indebtedness of the Company and its Subsidiaries (other than Indebtedness under the Bank Credit Facility) in existence on the Issue Date, until such amounts are repaid.

"Fair Market Value" means the fair market value as determined by an officer of the Company for any Acquired Debt, Investment or Asset Sale of less than \$5.0 million and as determined by the Board of Directors of the Company for any Acquired Debt, Investment or Asset Sale equal to or in excess of \$5.0 million.

"Fixed Charge Coverage Ratio" means with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases or redeems any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Calculation Date"), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom as if the same had occurred at the beginning of the applicable reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

(i) acquisitions of assets and Investments in Restricted Subsidiaries of the Company that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations and including any related financing transactions, during the reference period or subsequent to such reference period and on or prior to the

Calculation Date shall be given pro forma effect as if they had occurred on the first day of the reference period and Consolidated Cash Flow for such reference period shall be calculated on a pro forma basis, but without giving effect to clause (iii) of the proviso set forth in the definition of Consolidated Net Income;

(ii) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, shall be excluded;

(iii) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, shall be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date; and

(iv) if since the beginning of such period any Person (that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period) will have made any Asset Sale or any Investment or acquisition of assets that would have required an adjustment pursuant to clause (i) above if made by the Company or a Restricted Subsidiary during such period, Consolidated Cash Flow and Fixed Charges for such period will be calculated after giving pro forma effect thereto as if such Asset Sale or Investment or acquisition of assets occurred on the first day of such period.

For purposes of this definition, whenever pro forma effect is to be given to an Investment or an acquisition of assets, the amount of income or earnings relating thereto and the amount of Fixed Charges associated with any Indebtedness Incurred in connection therewith, or any other calculation under this definition, the pro forma calculations will be determined in good faith by a responsible financial or accounting officer of the Company. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest expense on such Indebtedness will be calculated as if the rate in effect of the date of determination had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months).

"Fixed Charges" means, with respect to any specified Person for any period, the sum, without duplication, of:

(i) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations; plus

(ii) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period; plus

(iii) any interest expense on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person

or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; plus

(iv) the product of (A) all dividends, whether paid or accrued and whether or not in cash, on any series of Disqualified Stock of such Person, on any series of preferred stock of such Person or any of its Restricted Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of the Company (other than Disqualified Stock) or to the Company or a Restricted Subsidiary of the Company, times (B) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

"Funds From Operations After Preferred Stock Dividends" means, with respect to the Company for any period, Consolidated Net Income for such period plus (i) an amount equal to any extraordinary loss plus any net loss realized in connection with an Asset Sale (to the extent such losses were deducted in computing Consolidated Net Income), plus (ii) Consolidated Depreciation and Amortization Expense for such period to the extent such expenses were deducted in computing Consolidated Net Income, plus (iii) amortization of debt issuance costs and deferred financing fees of the Company and its Restricted Subsidiaries on a consolidated basis to the extent deducted in computing Consolidated Net Income, minus (iv) non-cash items increasing such Consolidated Net Income for such period, in each case, on a combined basis for the Company and its Restricted Subsidiaries and determined in accordance with GAAP, minus (v) the amount of any preferred stock dividends paid by the Company or any of its Restricted Subsidiaries in respect of such period other than preferred stock dividends paid in the form of Equity Interests that do not constitute Disqualified Stock, only to the extent that such preferred stock dividends were not deducted in computing Consolidated Net Income and plus (vi) the allocable portion, based upon the ownership percentage, of funds from operations of unconsolidated investments to the extent not otherwise included in Consolidated Net Income.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect on the Issue Date.

"Government Securities" means securities that are (i) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged or (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such Government Security or a specific payment of principal of or interest on any such Government Security held by such custodian for the account of the holder of such depository receipt; provided, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Security or the specific payment of principal of or interest on the Government Security evidenced by such depository receipt.

"Guarantee" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without

limitation, through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"Guarantors" means each subsidiary of the Company that executes and delivers a Subsidiary Guarantee in accordance with the provisions of the Indenture and its respective successors and assigns.

"Hedging Obligations" means, with respect to any specified Person, the obligations of such Person under (i) interest rate swap agreements, interest rate cap agreements, interest rate collar agreements and foreign exchange hedging agreements and (ii) other agreements or arrangements entered into in the ordinary course of business designed to protect such Person against fluctuations in interest rates and foreign exchange rates.

"Holder" means a registered holder of the Securities.

"Indebtedness" means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent, in respect of (i) borrowed money, (ii) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof except to the extent that such reimbursement obligation relates to a trade payable and such obligation is satisfied within 30 days of Incurrence), (iii) banker's acceptances, (iv) representing Capital Lease Obligations, (v) the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable or (vi) net Obligations under Hedging Obligations (the amount of any such Hedging Obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such Hedging Obligation that would be payable by such Person at such time), if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any indebtedness of any other Person; provided, however, that the amount of such Indebtedness will be the lesser of (A) the fair market value of such asset at such date of determination and (B) the amount of such Indebtedness of such other Person. Indebtedness shall not include the principal of, premium, if any, or interest on any bonds, notes or other instruments to the extent that any such obligations have been irrevocably and properly defeased by depositary cash, Cash Equivalents or U.S. Government Securities into a trust for the benefit of the holders of such obligations in accordance with Article 6 hereof (or any substantially similar provision contained in the instruments governing such obligations).

The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof, in the case of any Indebtedness issued with original issue discount and (ii) the principal amount thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

"Indenture" means the Original Indenture, as amended or supplemented by this Supplemental Indenture and as it may from time to time be supplemented or amended hereafter.

"Initial Securities" means \$100.0 million in aggregate principal amount of Securities issued under this Supplemental Indenture on the date hereof.

"Investments" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), direct or



indirect advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP; provided that (i) Hedging Obligations entered into in the ordinary course of business and in compliance with the Indenture, (ii) endorsements of negotiable instruments and documents in the ordinary course of business; and (iii) an acquisition of assets, Equity Interests or other securities by the Company for consideration consisting exclusively of common equity securities of the Company, shall in each case not be deemed to be an Investment.

If the Company or any Restricted Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company shall be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of the Equity Interests of such Restricted Subsidiary not sold or disposed of in an amount determined as provided in Section 3.04(c) hereof.

"Issue Date" means June 11, 1999.

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

"Net Income" means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however (i) any gain or loss, together with any related provision or benefit for taxes on such gain or loss, realized in connection with (A) any Asset Sale or (B) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries, (ii) any extraordinary gain or loss, together with any related provision or benefit for taxes on such extraordinary gain or loss and (iii) special charges and write-offs incurred in connection with the issuance of the Securities or the Bank Credit Facility.

"Net Proceeds" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale) or in respect of the disposition of any Designated Assets, net of the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, or amounts required to be distributed by the Company in order to maintain its status as a REIT under the Code that result from the gain from such Asset Sale and amounts required to be applied to the repayment of Indebtedness, other than Indebtedness under the Bank Credit Facility, secured by a Lien on the asset or assets that were the subject of such Asset Sale and any reserve for adjustment in respect of the sale price of such asset or assets established by the Company in good faith (provided that after all post-closing adjustments have been made the amount by which such reserve exceeds such adjustments shall be Net Proceeds).

"Non-Recourse Debt" means Indebtedness (i) as to which neither the Company nor any of its Restricted Subsidiaries (A) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (B) is directly or indirectly liable as a guarantor or otherwise or (C) constitutes the lender, (ii) no default with respect to which (including any rights that the holders thereof may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both, any holder of any other Indebtedness of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity and (iii) the explicit terms of which provide, or as to which the lenders have been notified in writing that, they will not have any recourse to the stock or assets of the Company or any of its Restricted Subsidiaries.

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Offering" means the sale by the Company of its 12% Senior Notes due 2006.

"Officers' Certificate" means a certificate signed on behalf of the Company or a Guarantor, as the case may be, by two officers of the Company or a Guarantor, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company or a Guarantor, that meets the requirements set forth herein.

"Old CCA" means Corrections Corporation of America, as such entity existed on and before December 31, 1998.

"Operating Company" means Corrections Corporation of America (formerly Correctional Management Services Corporation).

"Permitted Business" means the business conducted by the Company and its Restricted Subsidiaries on the Issue Date and businesses reasonably related thereto or ancillary or incidental thereto or a reasonable extension thereof, including the privatization of governmental services.

"Permitted Investments" means:

(i) any Investment in the Company or in a Restricted Subsidiary of the Company;

(ii) any Investment in cash or Cash Equivalents;

(iii) any Investment by the Company or any Restricted Subsidiary of the Company in a Person, if as a result of such Investment:

(A) such Person becomes a Restricted Subsidiary of the Company; or

(B) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;

(iv) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Sections 2.03 and 3.07 hereof;

(v) any acquisition of assets solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;

(vi) Hedging Obligations;

(vii) other Investments in any Person having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (vii) that are at the time outstanding, not to exceed \$25.0 million;

(viii) receivables owing to the Company or any Restricted Subsidiary of the Company created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; provided, however, that such trade terms may include such concessionary trade terms as the Company or any such Restricted Subsidiary deems reasonable under the circumstances;

(ix) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

(x) loans or advances to employees made in the ordinary course of business of the Company or any Restricted Subsidiary of the Company not to exceed \$3.0 million outstanding at any one time for all loans or advances under this clause (x);

(xi) stock, obligations or securities received in settlement of debts created in the ordinary course of business and owing to the Company or any Restricted Subsidiary of the Company or in satisfaction of judgments or pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of a debtor;

(xii) Investments in existence on the Issue Date; and

(xiii) Guarantees issued in accordance with Section 3.06 hereof.

"Permitted Liens" means:

(i) Liens on assets of the Company and any Guarantor securing Indebtedness and other Obligations under the Bank Credit Facility to the extent that such Indebtedness or other Obligations were not prohibited by the terms of the Indenture to be incurred;

(ii) Liens in favor of the Company or any of its Restricted Subsidiaries;

(iii) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Restricted Subsidiary of the Company; provided that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or the Restricted Subsidiary;

(iv) Liens on property existing at the time of acquisition thereof by the Company or any Restricted Subsidiary of the Company, provided that such Liens were in existence prior to the contemplation of such acquisition;

(v) Liens to secure the performance of statutory obligations, surety or appeal bonds, performance, proposal or completion bonds or other obligations of a like nature incurred in the ordinary course of business;

(vi) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (iv) of Section 3.06(b) hereof covering only the assets acquired with such Indebtedness;

(vii) Liens existing on the Issue Date;

(viii) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded, provided that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;

(ix) Liens of the Company or any Subsidiary of the Company with respect to obligations that do not exceed \$10.0 million at any one time outstanding;

(x) Liens to secure Indebtedness permitted to be incurred under the Indenture and permitted to be secured by clause (iii) of Section 3.06(a) hereof;

(xi) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits or cash or United States government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import or customs duties or for the payment of rent, in each case incurred in the ordinary course of business;

(xii) Liens imposed by law, including carriers', warehousemen's and mechanics' Liens, in each case for sums not yet due or being contested in good faith by appropriate proceedings if a reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made in respect thereof;

(xiii) encumbrances, easements or reservations of, or rights of others for, licenses, rights of way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real properties or liens incidental to the conduct of the business of such Person or to the ownership of its properties which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(xiv) Liens securing Hedging Obligations so long as the related Indebtedness is, and is permitted to be under the Indenture, secured by a Lien on the same property securing such Hedging Obligations;

(xv) leases and subleases of real property which do not materially interfere with the ordinary conduct of the business of the Company or any of its Restricted Subsidiaries;

(xvi) Liens in connection with attachments or judgments (including judgment or appeal bonds) provided that the judgment secured shall, within 30 days after the entry thereof,

have been discharged or execution thereof stayed pending appeal, or shall have been discharged within 30 days after the expiration of such stay; and

(xvii) normal customary rights of setoff upon deposits of cash in favor of banks or other depository institutions.

"Permitted Refinancing Indebtedness" means (a) any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness) and (b) any Disqualified Stock of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund other Disqualified Stock of the Company or any of its Restricted Subsidiaries; provided that:

(i) the principal amount (or liquidation preference or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest or dividends thereon and the amount of all expenses and premiums incurred in connection therewith);

(ii) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;

(iii) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Securities, such Permitted Refinancing Indebtedness is subordinated in right of payment to, the Securities on terms at least as favorable to the holders of Securities as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and

(iv) such Indebtedness is incurred either (A) by the Company or (B) by the Restricted Subsidiary who is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded.

"Permitted REIT Distributions" means a declaration or payment of any dividend or the making of any distribution to the Company that is necessary to maintain the Company's status as a REIT under the Code or to satisfy the distributions required to be made by reason of the Company's making of the election provided for in Notice 88-19 (or Treasury regulations issued pursuant thereto).

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

"Principals" means Doctor R. Crants.

"Qualified Capital Stock" means any Capital Stock of the Company that is not Disqualified Stock and, when used in the definition of "Disqualified Stock," also includes any Capital Stock of a Restricted Subsidiary of the Company that is not Disqualified Stock.

"Related Party" with respect to any Principal means (i) any controlling stockholder, 60% (or more) owned Subsidiary, or spouse or immediate family member (in the case of an individual) of such Principal or (ii) any trust, corporation, partnership or other entity, the beneficiaries, stockholders, partners, owners or Persons beneficially holding a 60% or more controlling interest of which consist of such Principal and/or such other Persons referred to in the immediately preceding clause (i).

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Subsidiary" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

"Secured Indebtedness" means any Indebtedness secured by a Lien upon the property or assets of the Company or any of its Restricted Subsidiaries.

"Securities" means the 12% Senior Notes due 2006 of the Company, substantially in the form of Exhibit A hereto.

"Securities Act" means the Securities Act of 1933, as amended.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date hereof.

"Special REIT Dividends" means the special dividends of up to an aggregate amount of \$225.0 million to be paid to holders of common stock of the Company during 1999, which represent the accumulated tax earnings and profits of Old CCA.

"Stated Maturity" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which such payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"Subsidiary" means, with respect to any specified Person, (i) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof) and (ii) any partnership (A) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (B) the only general partners of which are such Person or one or more Subsidiaries of such Person (or any combination thereof).

"Subsidiary Guarantee" means the Guarantee by any Guarantor with respect to the Company's obligations under the Indenture and the notes pursuant to a supplemental indenture substantially in the form of Exhibit C hereto.

"Subsidiary Preferred Stock" means any preferred stock issued by a Restricted Subsidiary of the Company.

"TIA" means the Trust Indenture Act of 1939, as amended.

"Total Unencumbered Assets" as of any date means the sum of (i) those Consolidated Undepreciated Real Estate Assets not securing any portion of Indebtedness that is subject to any Lien and (ii) all other assets (but excluding intangibles and accounts receivable) of the Company and its Restricted Subsidiaries not securing any portion of the Indebtedness that is subject to any Lien, determined on a combined, consolidated basis in accordance with GAAP.

"Unrestricted Subsidiary" means any Subsidiary of the Company that is designated by the Board of Directors as an Unrestricted Subsidiary pursuant to a Board Resolution, but only to the extent that such Subsidiary has no Indebtedness other than Non-Recourse Debt.

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

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing (i) the sum of the products obtained by multiplying (A) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (B) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment, by (ii) the then outstanding principal amount of such Indebtedness.

#### Section 1.02. Other Definitions.

Term -----	Defined in Section -----
"Affiliate Transaction".....	3.08
"Asset Sale Offer".....	2.03
"CCA Entity Transaction".....	3.14
"Change of Control Offer".....	3.10
"Change of Control Payment".....	3.10
"Change of Control Payment Date".....	3.10
"Covenant Defeasance".....	6.03
"Event of Default".....	5.01
"Excess Proceeds".....	3.07
"incur".....	3.06
"Legal Defeasance".....	6.02
"Offer Amount".....	2.03
"Offer Period".....	2.03
"Payment Default".....	5.01
"Permitted Debt".....	3.06
"Purchase Date".....	2.03
"Rating Event Date".....	3.15
"Restricted Payments".....	3.04

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

Whenever this Supplemental Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of the Indenture. The defined terms in the Original Indenture are incorporated herein by reference but notwithstanding the foregoing, in the event of a conflict between the defined terms set forth herein and the defined terms set forth in the Original Indenture, the defined terms set forth herein shall control.

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

"indenture securities" means the Securities;

"indenture security Holder" means a Holder of a Security;

"indenture to be qualified" means this Indenture;

"indenture trustee" or "institutional trustee" means the Trustee; and

"obligor" on the Securities means the Company and any successor obligor upon the Securities.

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

#### Section 1.04. Rules of Construction.

Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) "or" is not exclusive;

(d) words in the singular include the plural, and in the plural include the singular; and

(e) provisions apply to successive events and transactions.

## ARTICLE 2 REDEMPTION

#### Section 2.01. Selection of Securities to Be Redeemed.

If less than all of the Securities are to be redeemed at any time, selection of such Securities for redemption will be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which the Securities are listed or, if the Securities are not so listed, on a pro rata basis, by lot or such other method as the Trustee shall deem fair and appropriate (and in such manner as complies with applicable legal requirements), provided that no Securities of less than \$1,000 shall be redeemed in part.

If the Company elects to redeem Securities pursuant to the optional redemption provisions of Section 2.02 hereof, it shall furnish to the Trustee, at least 35 days but not more than 60 days before a redemption date, an Officers' Certificate setting forth (i) the clause of this Supplemental Indenture or the Securities pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount of Securities to be redeemed, (iv) the redemption price and (v) a statement to the effect that such redemption will comply with the conditions contained herein.



Notices of redemption shall be mailed by first class mail, postage prepaid, at least 30 but not more than 60 days before the redemption date to each Holder of Securities to be redeemed at such Holder's registered address. Notices of redemption may not be conditional. If any Security is to be redeemed in part only, any notice of redemption that relates to such Security shall state the portion of the principal amount thereof that has been or is to be redeemed.

A new Security in principal amount equal to the unredeemed portion of any Security redeemed in part will be issued in the name of the Holder thereof upon cancellation of the original Security. Securities called for redemption become due on the date fixed for redemption. On and after the redemption date, interest shall cease to accrue on the Securities or portions thereof called for redemption.

Section 2.02. Optional Redemption.

(a) At any time prior to June 1, 2002, the Company may, at its option, on any one or more occasions redeem up to 35% of the aggregate principal amount of Securities originally offered in the Offering at a redemption price equal to 112.00% of the principal amount thereof, plus accrued and unpaid interest to the redemption date, with the net cash proceeds of one or more Equity Offerings; provided that:

(i) at least 65% of the original aggregate principal amount of Securities remains outstanding immediately after the occurrence of such redemption (excluding Securities held by the Company and its Restricted Subsidiaries); and

(ii) the redemption shall occur within 45 days of the date of the closing of such Equity Offering.

(b) Except pursuant to Section 2.02(a) hereof, the Securities will not be redeemable at the Company's option.

Section 2.03. Offer to Purchase by Application of Excess Proceeds.

If at any time the aggregate amount of Excess Proceeds that have not been applied in accordance with Section 3.07 hereof exceeds \$10.0 million, the Company shall make an offer to all Holders of Securities and all holders of other Indebtedness that is pari passu with the Securities containing provisions similar to those set forth in this Supplemental Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets, to the extent required by the terms thereof (an "Asset Sale Offer") to purchase the maximum principal amount of Securities and such other pari passu Indebtedness that may be purchased out of such Excess Proceeds, at an offer price in cash in an amount equal to 100% of principal amount thereof plus accrued and unpaid interest, if any, to the date of purchase, in accordance with the procedures specified below.

The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Company shall purchase the maximum principal amount of Securities and such other pari passu Indebtedness that may be purchased with such Excess Proceeds (or such pro rata portion) (which maximum principal amount of Securities shall be the "Offer Amount") or, if less than the Offer Amount has been tendered, all Securities and such other pari passu Indebtedness tendered in response to the Asset Sale Offer, subject to the provisions of Section 3.07 hereof.

If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued interest shall be paid to the Person in whose name a Security or such other pari passu Indebtedness is registered at the close of business on such record date, and no additional interest shall be payable to Holders who tender Securities or such other pari passu Indebtedness pursuant to the Asset Sale Offer on the portion of the tendered Securities and such other pari passu Indebtedness purchased pursuant to the Asset Sale Offer.

Upon the commencement of any Asset Sale Offer, the Company shall send, by first class mail, a notice to the Trustee and each of the Holders of the Securities and such other pari passu Indebtedness, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Securities and such other pari passu Indebtedness pursuant to the Asset Sale Offer. The Asset Sale Offer shall be made to all Holders. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

(a) that the Asset Sale Offer is being made pursuant to this Section 2.03 and Section 3.07 hereof and the length of time the Asset Sale Offer shall remain open;

(b) the Offer Amount (including the amount of accrued interest, if any), the purchase price and the Purchase Date;

(c) that any Security and such other pari passu Indebtedness not tendered or accepted for payment shall continue to accrue interest in accordance with the terms thereof;

(d) that any Security and such other pari passu Indebtedness or portion thereof accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest after the Purchase Date;

(e) that Holders electing to have a Security or such other pari passu Indebtedness or portion thereof purchased pursuant to any Asset Sale Offer shall be required to surrender the Security and/or such other pari passu Indebtedness, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Security or such other pari passu Indebtedness completed, to the Company, a depositary, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three Business Days before the Purchase Date and must complete any form letter of transmittal proposed by the Company and acceptable to the Trustee and the Paying Agent;

(f) that Holders shall be entitled to withdraw their election if the Company, the depositary or the Paying Agent, as the case may be, receives, not later than the fourth Business Day before the Purchase Date, a telegram, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Security or such other pari passu Indebtedness or portion thereof the Holder delivered for purchase, the Security or and such other pari passu Indebtedness certificate number and a statement that such Holder is withdrawing his election to have the Security or such other pari passu Indebtedness or portion thereof purchased;

(g) that, if the aggregate principal amount of Securities and such other pari passu Indebtedness surrendered by Holders exceeds the Offer Amount, the Company shall select the Securities and such other pari passu Indebtedness to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Trustee so that only Securities and such other pari passu Indebtedness in denominations of \$1,000, or integral multiples thereof, shall be purchased); and

(h) that Holders whose Securities or such other pari passu Indebtedness were purchased only in part shall be issued new Securities or such other pari passu Indebtedness equal in principal amount to the unpurchased portion of the Securities or such other pari passu Indebtedness surrendered; and

(i) the instructions that Holders must follow to tender their Securities and such other pari passu Indebtedness.

On or before 10:00 a.m. on the Purchase Date, the Company shall, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Securities and such other pari passu Indebtedness or portions thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Securities and such other pari passu Indebtedness or portions thereof tendered, and shall deliver to the Trustee an Officers' Certificate stating that such Securities and such other pari passu Indebtedness or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 2.03 and providing payment instructions therefor (with a copy to the Paying Agent if applicable). The Company, depositary or the Paying Agent, as the case may be, shall promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Securities or such other pari passu Indebtedness or portion thereof tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Security or such other pari passu Indebtedness, and the Trustee shall authenticate and mail or deliver such new Security or any other series of Debt Securities issued pursuant to the Original Indenture to such Holder equal in principal amount equal to any unpurchased portion of the Security or such other series of Debt Securities issued pursuant to the Original Indenture surrendered. Any Security or such other pari passu Indebtedness not so accepted shall be promptly mailed or delivered by the Company or at the Company's written instruction to the Holder thereof. The Company shall publicly announce the results of the Asset Sale Offer on the second Business Day following the Purchase Date. In the event that the aggregate amount of Excess Proceeds exceeds the aggregate principal amount of Securities and such other pari passu Indebtedness or portion thereof surrendered by Holders thereof pursuant to an Asset Sale Offer, the Company may use such Excess Proceeds for any purpose not otherwise prohibited by this Supplemental Indenture. If the aggregate principal amount of Securities and such other pari passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee shall select the Securities and such other pari passu Indebtedness to be purchased on a pro rata basis based on the principal amount of Securities and such other pari passu Indebtedness tendered. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

The Company shall comply, to the extent applicable, with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder in connection with each repurchase of Securities pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sales provisions of this Section 2.03, the Company will comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 2.03 or Article XIII of the Original Indenture by virtue thereof. The Trustee shall have no duty or obligation to monitor or ensure compliance with any such rules, laws or regulations.

The provisions set forth in Article XIII of the Original Indenture shall not apply to Asset Sale Offers.

ARTICLE 3  
COVENANTS

## Section 3.01. Reports.

Whether or not required by the rules and regulations of the Commission, so long as any Securities are outstanding, the Company shall furnish and shall cause the Operating Company to furnish to the Holders of Securities, within the time periods specified in the Commission's rules and regulations, (i) all quarterly and annual financial information that would be required to be contained in a filing with the Commission on Forms 10-Q and 10-K if the Company and the Operating Company were required to file such forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" for the Company only that describes the financial condition and results of operations of the Company and its Subsidiaries and, with respect to the annual information only, a report on the annual financial statements by the Company's and the Operating Company's certified independent accountants and (ii) all current reports that would be required to be filed with the Commission on Form 8-K if the Company and the Operating Company were required to file such reports. If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by the preceding paragraph shall include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company. In addition, whether or not required by the Commission, the Company shall file and shall cause the Operating Company to file a copy of all the information and reports referred to in clauses (i) and (ii) above with the Commission for public availability within the time periods specified in the Commission's rules and regulations (unless the Commission will not accept such a filing) and make such information available to securities analysts and prospective investors upon request. The Company shall also comply with the provisions of TIA ss. 314(a).

## Section 3.02. Taxes.

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

## Section 3.03. Stay, Extension and Usury Laws.

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

## Section 3.04. Restricted Payments.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly: (i) declare or pay any dividend or make any other payment or distribution on account of the Company's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Company's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company or to the Company or a Restricted Subsidiary of the Company); (ii) purchase, redeem or otherwise acquire or retire for value (including without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any direct or indirect parent of the Company; (iii) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is subordinated to the Securities, except a payment of interest or principal at the Stated Maturity thereof; or (iv) make any Restricted Investment (all such payments and other actions set forth in clauses (i) through (iv) above being collectively referred to as "Restricted Payments"), unless, at the time of and after giving effect to such Restricted Payment:

(A) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof; and

(B) the Company would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 3.06(a) hereof; and

(C) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after the Issue Date (including all Restricted Payments permitted by Section 3.04(b) hereof other than clauses (ii), (iii), (iv), (vi), (viii), (ix), (x) and (xi)), is less than the sum, without duplication, of:

(1) (x) for so long as the Company is a REIT under the Code for Federal income tax purposes, 95% of the aggregate amount of the Funds From Operations After Preferred Stock Dividends (or, if the Funds From Operations After Preferred Stock Dividends is a loss, minus 100% of the amount of such loss) accrued on a cumulative basis during the period (taken as one accounting period) beginning on the first day of the fiscal quarter in which the Issue Date occurs and ending on the last day of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment or (y) for so long as the Company is not a REIT under the Code for Federal income tax purposes, 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the date the Company first ceased to be a REIT under the Code to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment calculated as though the Company had been a C-Corporation for Federal income tax purposes for the entire period (or if, such Consolidated Net Income for such period is a deficit, less 100% of such deficit);

(2) (x) 100% of the aggregate net cash proceeds received by the Company since the Issue Date as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Company (other than Disqualified Stock) or (y) 100% of the aggregate net cash

proceeds originally received by the Company from the issue or sale of Disqualified Stock or debt securities of the Company that have been converted or exchanged since the Issue Date into such Equity Interests (other than Equity Interests (or Disqualified Stock or convertible debt securities) sold to a Subsidiary of the Company);

(3) an amount equal to the net reduction in Investments (other than Permitted Investments) in any Person other than a Restricted Subsidiary after the Issue Date resulting from payments of interest on Indebtedness, dividends, repayments of loans or advances, or other transfers of assets, in each case to the Company or any of its Restricted Subsidiaries or from the net cash proceeds from the sale of any such Investment (except, in each case, to the extent any such payment or proceeds are included in the calculation of Funds From Operations After Preferred Stock Dividends), or Consolidated Net Income, as applicable;

(4) the Fair Market Value of non-cash tangible assets or Capital Stock (other than that of the Company) representing at least the majority of Equity Interests in any Person acquired after the Issue Date in exchange for an issuance of Capital Stock that is not Disqualified Stock; and

(5) to the extent that any Unrestricted Subsidiary of the Company is redesignated as a Restricted Subsidiary after the Issue Date and to the extent not otherwise included in clauses (1) through (4) above, the lesser of (x) the fair market value of the Company's Investment in such Subsidiary as of the date of such redesignation or (y) such fair market value as of the date on which such Subsidiary was originally designated as an Unrestricted Subsidiary.

(b) The foregoing provisions in Section 3.04(a) hereof will not prohibit:

(i) the payment of any dividend within 60 days after the date of declaration thereof, if at said date of declaration such payment would have complied with the provisions of this Supplemental Indenture;

(ii) the redemption, repurchase, retirement, defeasance or other acquisition of any subordinated Indebtedness or Equity Interests of the Company in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary of the Company) of, other Equity Interests of the Company (other than any Disqualified Stock); provided that the amount of any such net cash proceeds that are utilized for any such redemption, repurchase, retirement, defeasance or other acquisition shall be excluded from clause (C)(2) of Section 3.04(a) hereof;

(iii) the defeasance, redemption, repurchase or other acquisition of subordinated Indebtedness with the net cash proceeds from an incurrence or exchange of Permitted Refinancing Indebtedness;

(iv) the payment of any dividend or distribution by a Restricted Subsidiary of the Company to the holders of its common Equity Interests on a pro rata basis;

(v) the Company from making Permitted REIT Distributions so long as no Default or Event of Default shall have occurred and be continuing immediately after any such distribution;

(vi) the Special REIT Dividends;

(vii) so long as no Default or Event of Default has occurred and is continuing,

(A) the purchase, redemption or other acquisition, cancellation or retirement for value of Capital Stock, or options, warrants, equity appreciation rights or other rights to purchase or acquire Capital Stock of the Company or any Restricted Subsidiary of the Company or any parent of the Company held by any existing or former employees of the Company or any Subsidiary of the Company or their assigns, estates or heirs, in each case in connection with the repurchase provisions under employee stock option or stock purchase agreements or other agreements to compensate management employees; provided that such redemptions or repurchases pursuant to this clause will not exceed \$1.0 million in the aggregate during any calendar year and \$5.0 million in the aggregate for all such redemptions and repurchases; provided further that such amount in any calendar year may be increased by an amount not to exceed (1) the cash proceeds from the sale of Capital Stock of the Company to existing or former employees of the Company or any Subsidiary of the Company after the Issue Date (to the extent the cash proceeds from the sale of such Capital Stock have not otherwise been applied to the payment of Restricted Payments by virtue of clause (C)(2) of Section 3.04(a) hereof) plus (2) the cash proceeds of key man life insurance policies received by the Company and its Subsidiaries after the Issue Date less (3) the amount of any Restricted Payments previously made pursuant to clause (1) and (2) of this clause (vii)(A); and

(B) loans or advances to employees or directors of the Company or any Subsidiary of the Company the proceeds of which are used to purchase Capital Stock of the Company, in an aggregate amount not in excess of \$10.0 million at any one time outstanding;

(viii) so long as no Default or Event of Default has occurred and is continuing, the declaration and payment of dividends to holders of any class or series of Preferred Stock of the Company issued in accordance with the terms of the Indenture to the extent such dividends are included in the definition of "Fixed Charges;"

(ix) repurchases of Equity Interests of the Company deemed to occur upon the exercise of stock options if such Equity Interests represent a portion of the exercise price thereof;

(x) the purchase, redemption, acquisition or retirement for value of any Indebtedness that is subordinated to the Securities with Excess Net Proceeds if required by the terms thereof; and

(xi) Restricted Payments not otherwise permitted in an amount not to exceed \$20.0 million.

(c) The amount of all Restricted Payments (other than cash) shall be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. Not later than 10 days following the end of the fiscal quarter in which such Restricted Payment was made, the Company shall deliver to the Trustee an Officers' Certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this Section 3.04 were computed, together with a copy of any fairness opinion or appraisal to the extent required by this Supplemental Indenture.

Section 3.05. Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(i) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to the Company or any of its Restricted Subsidiaries;

(ii) make loans or advances to the Company or any of its Restricted Subsidiaries; or

(iii) transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

(b) However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(i) Existing Indebtedness and Existing Agreements as in effect on the Issue Date and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings thereof, provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are no more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in such Existing Indebtedness and Existing Agreements, as applicable, as in effect on the Issue Date;

(ii) the Bank Credit Facility as in effect on the Issue Date and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings thereof, provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are no more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in such Bank Credit Facility, as in effect on the Issue Date;

(iii) the Indenture and the Securities;

(iv) applicable law, regulation or order;

(v) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired, provided that, in the case of Indebtedness, such Indebtedness was permitted by the terms of the Indenture to be incurred;

(vi) customary non-assignment provisions in leases entered into in the ordinary course of business;



(vii) purchase money obligations for property acquired in the ordinary course of business that impose restrictions on the property so acquired of the nature described in clause (iii) of Section 3.05(a) hereof;

(viii) any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending its sale or other disposition;

(ix) Permitted Refinancing Indebtedness, provided that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are no more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(x) Liens securing Indebtedness that limit the right of the debtor to dispose of the assets subject to such Lien;

(xi) provisions with respect to the disposition or distribution of assets or property in joint venture agreements, assets sale agreements, stock sale agreements and other similar agreements entered into in the ordinary course of business;

(xii) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business; and

(xiii) in the case of clause (iii) of Section 3.05(a) hereof, any encumbrance or restriction, pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any of its Restricted Subsidiaries.

Section 3.06. Incurrence of Indebtedness and Issuance of Disqualified Stock or Subsidiary Preferred Stock.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), or issue any Disqualified Stock or Subsidiary Preferred Stock; provided, however, that the Company or a Restricted Subsidiary may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock or Subsidiary Preferred Stock, if:

(i) the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters (or, if such calculation is made on or before March 31, 2000, for as many full fiscal quarters completed that began on or after January 1, 1999) for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or Subsidiary Preferred Stock is issued would have been at least 2.5 to 1.0, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Stock or Subsidiary Preferred Stock had been issued, as the case may be, at the beginning of such four-quarter period;

(ii) Consolidated Debt is no greater than 65% of Consolidated Adjusted Total Assets, determined on a pro forma basis after giving effect to such incurrence; and

(iii) the aggregate principal amount of all Indebtedness of the Company that is secured by any Lien on any property of the Company or any of its Restricted Subsidiaries, excluding (A) Guarantees of Indebtedness already included in secured Indebtedness and (B) any such Indebtedness

that is owed to or held by the Company or any of its Restricted Subsidiaries, does not exceed 45% of Consolidated Adjusted Total Assets, determined on a pro forma basis after giving effect to such incurrence.

(b) Section 3.06(a) hereof shall not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

(i) the incurrence by the Company or any Restricted Subsidiary of Indebtedness under the Bank Credit Facility and any Guarantees thereof in an aggregate principal amount not to exceed at any one time \$1,000.0 million;

(ii) the incurrence by the Company or any Restricted Subsidiary of the Existing Indebtedness;

(iii) the incurrence by the Company or any Restricted Subsidiary of Indebtedness represented by the Securities issued on the Issue Date and the incurrence by any Guarantors of Indebtedness represented by their Subsidiary Guarantees;

(iv) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property, plant or equipment used in the business of the Company or such Restricted Subsidiary, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (iv), not to exceed \$10.0 million at any time outstanding;

(v) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace Indebtedness or Disqualified Stock (other than intercompany Indebtedness) that was permitted by the Indenture to be incurred under Section 3.06(a) hereof or clauses (ii), (iii), (iv), (v), or (x) of this Section 3.06(b);

(vi) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; provided, however, that:

(A) if the Company is the obligor on such Indebtedness, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Securities and the Indenture; and

(B) (1) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary thereof and (2) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary thereof shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (vi);

(vii) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations that are incurred for the purpose of fixing or hedging interest rate risk with respect to

any floating rate Indebtedness that is permitted by the terms of the Indenture to be outstanding or for the purpose of hedging foreign currency exchange risk;

(viii) the guarantee by the Company or any Restricted Subsidiary of Indebtedness of the Company or any Guarantor that was permitted to be incurred by another provision of this Section 3.06;

(ix) the accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this covenant; provided, in each such case, that the amount thereof is included in Fixed Charges of the Company as accrued interest;

(x) Indebtedness of a Restricted Subsidiary of the Company incurred and outstanding on the date on which such Restricted Subsidiary was acquired by the Company (other than Indebtedness incurred (A) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Restricted Subsidiary became a Restricted Subsidiary or was otherwise acquired by the Company or (B) otherwise in connection with, or in contemplation of, such acquisition) and as to which the Company and its other Restricted Subsidiaries were not obligated to become liable for such Indebtedness;

(xi) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness incurred in respect of workers' compensation claims, self-insurance obligations, performance, proposal, completion, surety and similar bonds and completion guarantees provided by the Company or a Restricted Subsidiary of the Company in the ordinary course of business; provided that the underlying obligation to perform is that of the Company and its Restricted Subsidiaries and not that of the Company's Unrestricted Subsidiaries;

(xii) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness arising from agreements of the Company or a Restricted Subsidiary of the Company providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or Equity Interests of a Restricted Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or Equity Interests of a Restricted Subsidiary for the purpose of financing such acquisition; provided that the maximum assumable liability in respect of all such Indebtedness shall at no time exceed the gross proceeds actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(xiii) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business, provided, however, that such Indebtedness is extinguished within five business days of incurrence; and

(xiv) the incurrence by the Company or any Guarantors of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (xiv), not to exceed \$100.0 million.

In addition, the Company shall not permit any of its Unrestricted Subsidiaries to incur any Indebtedness (including Acquired Debt) or issue any shares of Disqualified Stock, other than Non-Recourse Indebtedness. If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date (and, if such Indebtedness is not permitted to be incurred as of such date under this Section 3.06, the Company shall be in Default of this Section 3.06).

The Company shall not incur any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Company unless such Indebtedness is also contractually subordinated in right of payment to the Securities on substantially identical terms; provided, however, that no Indebtedness of the Company shall be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company solely by virtue of being unsecured.

For purposes of determining compliance with this Section 3.06, (A) in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (i) through (xiv) above, or is entitled to be incurred pursuant to the first paragraph of this Section 3.06, the Company will be permitted to classify or later reclassify such item of Indebtedness in any manner that complies with this Section 3.06; provided that Indebtedness under the Bank Credit Facility or any refinancing thereof substantially concurrent therewith outstanding on the date on which the Securities are first issued and authenticated under the Indenture shall be deemed to have been incurred on such date in reliance on the exception provided by clause (i) of the definition of "Permitted Debt;" and (B) the amount of Indebtedness issued at a price less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP. Accrual of interest, accrual of dividends, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 3.06. The Trustee shall have no duty or obligation to determine compliance with this Section 3.06.

Section 3.07. Asset Sales.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless (i) the Company (or the Restricted Subsidiary, as the case may be) receives consideration at the time of such Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of and (ii) at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary is in the form of cash or Cash Equivalents. For purposes of this provision, each of the following shall be deemed to be cash:

(A) any liabilities (as shown on the Company's or such Restricted Subsidiary's most recent balance sheet) of the Company or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Securities or any Subsidiary Guarantee) that are assumed by the transferee of any such assets (1) pursuant to a customary novation agreement that releases the Company or such Restricted Subsidiary from further liability or (2) for which the Company and its Restricted Subsidiaries are not directly liable; and

(B) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are contemporaneously (subject to ordinary

settlement periods) converted by the Company or such Restricted Subsidiary into cash (to the extent of the cash received in that conversion).

(b) Within 360 days after the receipt of any Net Proceeds from an Asset Sale or the Net Proceeds from a disposition of Designated Assets pursuant to the terms of its related lease, the Company may apply such Net Proceeds: (i) to repay Indebtedness under the Bank Credit Facility, and if the Indebtedness repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto; (ii) to acquire all or substantially all of the assets of, or a majority of the Voting Stock of, another Permitted Business; (iii) to make a capital expenditure in a Permitted Business; or (iv) to acquire other long-term assets that are used or useful in a Permitted Business. Pending the final application of any such Net Proceeds, the Company may temporarily reduce revolving credit borrowings or otherwise invest such Net Proceeds in any manner that is not prohibited by the Indenture. Any such Net Proceeds that are not applied or invested as provided in Section 3.07(a) hereof will constitute "Excess Proceeds."

#### Section 3.08. Transactions with Affiliates.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with any Affiliate (each, an "Affiliate Transaction"), unless:

(a) such Affiliate Transaction is on terms that are no less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person; and

(b) the Company delivers to the Trustee (i) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$5.0 million, a resolution of the Board of Directors set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with this Section 3.08 and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors and (ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$15.0 million, an opinion as to the fairness to the Company of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

The following items shall not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph: (i) any employment or indemnity agreement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business and consistent with the past practice of the Company or such Restricted Subsidiary; (ii) transactions between or among the Company and/or its Restricted Subsidiaries; (iii) transactions with a Person that is an Affiliate of the Company solely because the Company owns an Equity Interest in such Person; (iv) payment of reasonable directors fees to Persons who are not otherwise Affiliates of the Company; (v) issuances or sales of Equity Interests (other than Disqualified Stock) to Affiliates of the Company; (vi) Restricted Payments that are permitted by Section 3.04 hereof and the definition of "Permitted Investments;" and (vii) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock options and stock ownership plans and other reasonable fees, compensation, benefits and indemnities paid or entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business to or with officers, directors or employees of the Company and its Restricted Subsidiaries.

## Section 3.09. Liens.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume or otherwise cause or suffer to exist or become effective any Lien of any kind (other than Permitted Liens) upon any of their property or assets, now owned or hereafter acquired, unless all payments due under the Indenture and the Securities are secured on an equal and ratable basis with the obligations so secured until such time as such obligations are no longer secured by a Lien.

The limitations on Liens set forth in the preceding paragraph shall not be effective until the Covenant Amendment Date. Prior to the Covenant Amendment Date, the limitations on the incurrence of Secured Indebtedness set forth in the following paragraph shall be effective. On the Covenant Amendment Date, the limitations on the incurrence of Secured Indebtedness set forth in the following paragraph shall cease to be effective.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to incur any Secured Indebtedness other than (a) Indebtedness permitted by clause (i) of Section 3.06(b) hereof, (b) any portion of Existing Indebtedness that constitutes Secured Indebtedness and (c) additional Secured Indebtedness in an aggregate amount not to exceed \$50.0 million at any one time outstanding.

## Section 3.10. Offer to Repurchase Upon Change of Control.

(a) Upon the occurrence of a Change of Control, the Company shall make an offer (a "Change of Control Offer") to each Holder to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of each Holder's Securities at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest thereon, if any, to the date of purchase (the "Change of Control Payment"). Within 10 days following any Change of Control, the Company shall mail a notice to each Holder stating: (i) that the Change of Control Offer is being made pursuant to this Section 3.10 and that all Securities tendered will be accepted for payment; (ii) the purchase price and the purchase date, which shall be no earlier than 30 days and no later than 60 days from the date such notice is mailed (the "Change of Control Payment Date"); (iii) that any Security not tendered will continue to accrue interest; (iv) that, unless the Company defaults in the payment of the Change of Control Payment, all Securities accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Payment Date; (v) that Holders electing to have any Securities purchased pursuant to a Change of Control Offer will be required to surrender the Securities, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Securities completed, to the Paying Agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date; (vi) that Holders will be entitled to withdraw their tendered Securities and their election to require the Company to purchase such Securities, provided, that the Paying Agent receives, not later than the close of business on the last day of the offer period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Securities tendered for purchase, the Security certificate number and a statement that such Holder is withdrawing his tendered Securities and his election to have the Securities purchased; and (vii) that Holders whose Securities are being purchased only in part will be issued new Securities equal in principal amount to the unpurchased portion of the Securities surrendered, which unpurchased portion must be equal to \$1,000 in principal amount or an integral multiple thereof. The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of Securities as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with this Section 3.10, the Company shall comply with the

applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 3.10 by virtue of such conflict. The Trustee shall have no duty or obligation to monitor or determine compliance with any such rule, law or regulation.

(b) On the Change of Control Payment Date, the Company shall, to the extent lawful, (i) accept for payment all Securities or portions thereof properly tendered pursuant to the Change of Control Offer, (ii) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Securities or portions thereof so tendered and (iii) deliver or cause to be delivered to the Trustee the Securities so accepted together with an Officers' Certificate stating the aggregate principal amount of Securities or portions thereof being purchased by the Company. The Paying Agent shall promptly mail to each Holder of Securities so tendered the Change of Control Payment for such Securities, and the Trustee shall promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Security equal in principal amount to any unpurchased portion of the Securities surrendered by such Holder, if any; provided, that each such new Security shall be in a principal amount of \$1,000 or an integral multiple thereof. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(c) Notwithstanding anything to the contrary in this Section 3.10, the Company shall not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 3.10 and Section 2.03 hereof and all other provisions of the Indenture applicable to a Change of Control Offer made by the Company and purchases all Securities validly tendered and not withdrawn under such Change of Control Offer.

#### Section 3.11. Business Activities.

The Company shall not, and shall not permit any Restricted Subsidiary to, engage in any business other than Permitted Businesses, except to such extent as would not be material to the Company and its Restricted Subsidiaries taken as a whole.

#### Section 3.12. Subsidiary Guarantees.

The Company shall not permit any of its Restricted Subsidiaries after the Issue Date, directly or indirectly, to Guarantee or pledge any assets to secure the payment of any other Indebtedness of the Company unless such Restricted Subsidiary simultaneously executes and delivers a supplemental indenture to the Indenture providing for the Guarantee of the payment of the Securities by such Restricted Subsidiary, which Guarantee shall not be expressly subordinated to such other Indebtedness.

Notwithstanding the preceding paragraph, any such Guarantee by a Restricted Subsidiary of the Securities shall provide by its terms that it shall be automatically and unconditionally released and discharged upon any sale, exchange or transfer, to any Person not an Affiliate of the Company, of all of the Company's stock in, or all or substantially all the assets of, such Restricted Subsidiary, which sale, exchange or transfer is made in compliance with the applicable provisions of the Indenture. The form of such supplemental indenture is attached as Exhibit C hereto.

#### Section 3.13. Designation of Restricted and Unrestricted Subsidiaries.

The Board of Directors may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, all outstanding Investments owned by the Company and its Restricted

Subsidiaries in the Subsidiary so designated shall be deemed to be an Investment made as of the time of such designation and shall reduce the amount available for Restricted Payments under clause (C)(2) of Section 3.04(a) hereof or the definition of "Permitted Investments," as applicable. All such outstanding Investments shall be valued at their fair market value at the time of such designation. That designation shall only be permitted if such Restricted Payment would be permitted at that time and if such Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that such designation shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation shall only be permitted if (1) such Indebtedness is permitted under Section 3.06 hereof, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation. Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary shall be evidenced to the Trustee by filing with the Trustee a certified copy of the Board Resolution giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 3.04 hereof. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 3.06 hereof, the Company shall be in default of such Section.

#### Section 3.14. Transactions with CCA Entities.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with any CCA Entity (each, a "CCA Entity Transaction"), unless (i) such CCA Entity Transaction is on terms that are no less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person and (ii) the Company delivers to the Trustee (A) with respect to any CCA Entity Transaction or series of related CCA Entity Transactions involving aggregate consideration in excess of \$5.0 million in any twelve-month period, a resolution of the Board of Directors set forth in an Officers' Certificate certifying that such CCA Entity Transaction complies with this Section 3.14 and that such CCA Entity Transaction has been approved by a majority of the disinterested members of the Board of Directors and (B) with respect to any CCA Entity Transaction or series of related CCA Entity Transactions involving aggregate consideration in excess of \$15.0 million in any twelve-month period, an opinion as to the fairness to the Company of such CCA Entity Transaction from a financial point of view issued by an accounting, appraisal, consulting or investment banking firm of national standing.

(b) The following items shall not be deemed to be CCA Entity Transactions and, therefore, shall not be subject to the provisions of Section 3.14(a) hereof: (i) any new arrangement with respect to properties not under lease with any of the CCA Entities as of the Issue Date entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business, which is fair to the Company and its Restricted Subsidiaries in the reasonable opinion of a majority of the disinterested members of the Board of Directors of the Company; (ii) amendments to lease agreements or management contracts that



do not materially alter the rent provisions or economic terms of such agreements; and (iii) payments or transactions pursuant to the Existing CCA Entity Agreements.

Section 3.15. Changes in Covenants when Securities Rated Investment Grade.

As monitored by the Company and reported to the Trustee in an Officers' Certificate, following the first date upon which the Securities are rated Baa3 or better by Moody's Investors Service, Inc. and BBB- or better by Standard & Poor's Ratings Service (or, in either case, if such person ceases to rate the Securities for reasons outside of the control of the Company, the equivalent investment grade credit rating from any other "nationally recognized statistical rating organization" (within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act) selected by the Company as a replacement agency) (the "Rating Event Date") (and provided no Event of Default or event that with notice or the passage of time would constitute an Event of Default shall exist on the Rating Event Date), Sections 3.04, 3.05, 3.07, 3.08, 3.09, 3.11, 3.12 and 3.13 hereof will no longer be applicable to the Securities. Following the Rating Event Date, all Unrestricted Subsidiaries shall become Restricted Subsidiaries.

The Sections that cease to be applicable to the Securities after the Rating Event Date shall not subsequently be reinstated.

ARTICLE 4  
SUCCESSORS

Section 4.01. Merger, Consolidation, or Sale of Assets.

The Company shall not, directly or indirectly, (a) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation), or (b) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the assets of the Company and its Restricted Subsidiaries, taken as a whole, in one or more related transactions to, another Person unless (i) either (A) the Company is the surviving corporation or (B) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition shall have been made is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia, (ii) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition shall have been made assumes all the obligations of the Company under the Securities and the Indenture pursuant to agreements reasonably satisfactory to the Trustee, (iii) immediately after such transaction, no Default or Event of Default exists and (iv) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company), or to which such sale, assignment, transfer, conveyance or other disposition shall have been made shall, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 3.06(a) hereof.

The provisions of this Section 4.01 shall not be applicable to a sale, assignment, transfer, conveyance or other disposition of assets, or merger or consolidation, between or among the Company and any of its Restricted Subsidiaries.

Section 10.01 of the Original Indenture shall not apply to the Securities and Section 12.05 of the Original Indenture shall be subject to the provisions of this Section 4.01.

ARTICLE 5  
DEFAULTS AND REMEDIES

Section 5.01. Events of Default.

An "Event of Default" occurs if:

(a) the Company defaults in the payment when due of interest on the Securities and such default continues for a period of 30 days;

(b) the Company defaults in the payment when due of principal of or premium, if any, on the Securities when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise;

(c) the Company fails to comply for 10 days after written notice from the Trustee or the Holders of at least 25% in principal amount of the then outstanding Securities with any of its obligations under Sections 2.03, 3.01, 3.04, 3.05, 3.06, 3.08, 3.09, 3.10, 3.11, 3.12, 3.13, 3.14 or 8.05 hereof or any of the provisions of Article 4 hereof (in each case, other than a failure to purchase Securities which will constitute an Event of Default under clause (b) above);

(d) the Company or any of its Restricted Subsidiaries fails to observe or perform any other covenant, representation, warranty or other agreement in the Indenture or the Securities for 60 days after written notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Securities;

(e) a default occurs under any mortgage, indenture or instrument under which there may be issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), whether such Indebtedness or Guarantee now exists, or is created after the Issue Date, which default (i) is caused by a failure is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "Payment Default") or (ii) results in the acceleration of such Indebtedness prior to its express maturity, and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$25.0 million or more;

(f) a final judgment or final judgments for the payment of money are entered by a court or courts of competent jurisdiction against the Company or any of its Subsidiaries and such judgment or judgments remain undischarged for a period (during which execution shall not be effectively stayed) of 60 days, provided that the aggregate of all such undischarged judgments exceeds \$25.0 million;

(g) the Company or any of its Significant Subsidiaries or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

(i) commences a voluntary case,

(ii) consents to the entry of an order for relief against it in an involuntary case,

(iii) consents to the appointment of a custodian of it or for all or substantially all of its property,

(iv) makes a general assignment for the benefit of its creditors, or

(v) generally is not paying its debts as they become due; or

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

(i) is for relief against the Company or any of its Significant Subsidiaries or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary in an involuntary case;

(ii) appoints a custodian of the Company or any of its Significant Subsidiaries or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company or any of its Significant Subsidiaries or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; or

(iii) orders the liquidation of the Company or any of its Significant Subsidiaries or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days; or

(j) except as permitted by the Indenture, any Subsidiary Guarantee is held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor, or any Person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under such Subsidiary Guarantee.

The Events of Default in this Section 5.01 replace and supersede in full the Events of Default set forth in Section 5.01 of the Original Indenture.

#### Section 5.02. Acceleration.

If any Event of Default (other than an Event of Default specified in clause (g) or (h) of Section 5.01 hereof with respect to the Company, any Significant Subsidiary or any group of Significant Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Securities may declare all the Securities to be due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (g) or (h) of Section 5.01 hereof occurs with respect to the Company, any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, all outstanding Securities shall be due and payable immediately without further action or notice. The provisions set forth in the first paragraph of Section 5.02 of the Original Indenture shall not apply to the Securities.

In the case of any Event of Default occurring by reason of any willful action or inaction taken or not taken by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Securities pursuant

to the optional redemption provisions of the Indenture, an equivalent premium shall also become and be immediately due and payable to the extent permitted by law upon the acceleration of the Securities.

Section 5.03. Compliance Certificate; Notices of Default.

The Company shall deliver to the Trustee annually a statement regarding compliance with the Indenture. Upon becoming aware of any Default or Event of Default, the Company shall deliver to the Trustee a statement specifying such Default or Event of Default. The Trustee may withhold from Holders of the Securities notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in their interest.

ARTICLE 6  
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 6.01. Option to Effect Legal Defeasance or Covenant Defeasance.

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, elect to have either Section 6.02 or 6.03 hereof be applied to all outstanding Securities upon compliance with the conditions set forth below in this Article 6. Sections 15.01 and 15.02 of the Original Indenture shall not apply to the Securities.

Section 6.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 6.01 hereof of the option applicable to this Section 6.02, the Company shall, subject to the satisfaction of the conditions set forth in Section 6.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Securities on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Securities, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 15.03 of the Original Indenture and the other Sections of the Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Securities and the Indenture and cured all then existing Events of Default (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Securities to receive, solely from the trust fund described in Section 6.04 hereof, and as more fully set forth in such Section, payments in respect of the principal of, or interest or premium, if any, on such Securities when such payments are due solely out of the trust created pursuant to the Indenture, (b) the Company's obligations with respect to such Securities concerning issuing temporary Securities, registration of such Securities, mutilated, destroyed, lost or stolen Securities and the maintenance of an office or agency for payment and money for security payments held in trust, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith and (d) this Article 6. Subject to compliance with this Article 6, the Company may exercise its option under this Section 6.02 notwithstanding the prior exercise of its option under Section 6.03 hereof.

## Section 6.03. Covenant Defeasance.

Upon the Company's exercise under Section 6.01 hereof of the option applicable to this Section 6.03, the Company shall, subject to the satisfaction of the conditions set forth in Section 6.04 hereof, be released from its obligations under the covenants contained in Sections 3.04, 3.05, 3.06, 3.07, 3.08, 3.09, 3.10, 3.11, 3.12, 3.13, 3.14 and 8.05 hereof with respect to the outstanding Securities on and after the date the conditions set forth in Section 6.04 hereof are satisfied (hereinafter, "Covenant Defeasance"), and the Securities shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Securities shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Securities, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Sections 5.01(c) through 5.01(f) hereof, but, except as specified above, the remainder of the Indenture and such Securities shall be unaffected thereby. In addition, upon the Company's exercise under Section 6.01 hereof of the option applicable to this Section 6.03 hereof, subject to the satisfaction of the conditions set forth in Section 6.04 hereof, Sections 5.01(c) through 5.01(f) hereof shall not constitute Events of Default.

## Section 6.04. Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 6.02 or 6.03 hereof to the outstanding Securities:

In order to exercise either Legal Defeasance or Covenant Defeasance:

(a) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Securities, cash in United States dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, or interest and premium, if any, on the outstanding Securities on the Stated Maturity or on the applicable redemption date, as the case may be, and the Company must specify whether the Securities are being defeased to maturity or to a particular redemption date;

(b) in the case of an election under Section 6.02 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel with customary or reasonable assumptions reasonably acceptable to the Trustee confirming that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Securities will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of an election under Section 6.03 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel with customary or reasonable assumptions reasonably acceptable to

the Trustee confirming that the Holders of the outstanding Securities will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default shall have occurred and be continuing either (A) on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) or (B) insofar as Sections 5.01(g) or 5.01(h) hereof is concerned, at any time in the period ending on the 91st day after the date of deposit;

(e) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under any material agreement or instrument (other than the Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(f) 91 days shall have passed between the date of deposit and no intervening bankruptcy of the Company shall have occurred under applicable bankruptcy law;

(g) the Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of defeating, hindering, delaying or defrauding creditors of the Company or others; and

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

#### ARTICLE 7 SATISFACTION AND DISCHARGE

##### Section 7.01. Satisfaction and Discharge of Indenture.

The Indenture shall be discharged and shall cease to be of further effect as to all Securities issued thereunder, when: (a) either (i) all Securities that have been authenticated (except lost, stolen or destroyed notes that have been replaced or paid and Securities for whose payment money has theretofore been deposited in trust and thereafter repaid to the Company) have been delivered to the Trustee for cancellation or (ii) all Securities that have not been delivered to the Trustee for cancellation have become due and payable by reason of the making of a notice of redemption or otherwise or will become due and payable within one year and the Company has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the notes not delivered to the trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption; (b) no Default or Event of Default shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company is a party or by which the Company is bound; (c) the Company has paid or caused to be paid all sums payable by it under the Indenture; and (d) the Company has delivered irrevocable instructions to the trustee under the Indenture to apply the deposited money toward the payment of the notes at maturity or the redemption date, as the case may be. In addition, the Company must deliver an Officers' Certificate and

an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied. The provisions of Section 4.01 of the Original Indenture, except for the last paragraph thereof, shall not apply to the Securities.

ARTICLE 8  
AMENDMENT, SUPPLEMENT AND WAIVER

Section 8.01. Without Consent of Holders of Securities.

Notwithstanding Section 8.02 hereof, the Company, or any Guarantor, with respect to its Subsidiary Guarantee or the Indenture, and the Trustee may amend or supplement the Indenture or the Securities or any Subsidiary Guarantee without the consent of any Holder of Securities:

(a) to cure any ambiguity, defect or inconsistency;

(b) to provide for uncertificated Securities in addition to or in place of certificated Securities;

(c) to provide for the assumption of the Company's obligations to the Holders of the Securities in the case of a merger or consolidation or sale of all or substantially all of the Company's assets;

(d) to make any change that would provide any additional rights or benefits to the Holders of the Securities, including providing for additional Subsidiary Guarantees, or that does not adversely affect the legal rights under the Indenture of any such Holder; or

(e) to comply with requirements of the Commission in order to effect or maintain the qualification of the Indenture under the TIA.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon receipt by the Trustee of the documents described in Section 11.03 of the Original Indenture, the Trustee shall join with the Company in the execution of any amended or supplemental Indenture authorized or permitted by the terms of the Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental Indenture that affects its own rights, duties or immunities under the Indenture or otherwise. Section 11.01 of the Original Indenture shall not apply to the Securities.

Section 8.02. With Consent of Holders of Securities.

Except as provided below in this Section 8.02, the Company and the Trustee may amend or supplement the Indenture and the Securities with the consent of the Holders of at least a majority in principal amount of the Securities (including Additional Securities, if any) then outstanding voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities), and any existing Default or compliance with any provision of the Indenture or the Securities may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Securities (including Additional Securities, if any) voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Securities).

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Securities as aforesaid, and upon receipt by the Trustee of the documents described in Section 11.03 of the Original Indenture, the Trustee shall join with the Company in the execution of such amended or supplemental Indenture unless such amended or supplemental Indenture directly affects the Trustee's own rights, duties or immunities under the Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental Indenture.

It shall not be necessary for the consent of the Holders of Securities under this Section 8.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 8.02 becomes effective, the Company shall mail to the Holders of Securities affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental Indenture or waiver. Subject to Sections 5.08 and 5.13 of the Original Indenture, the Holders of a majority in aggregate principal amount of the Securities (including Additional Securities, if any) then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of the Indenture or the Securities. However, without the consent of each Holder affected, an amendment or waiver under this Section 8.02 may not (with respect to any Securities held by a non-consenting Holder):

(a) reduce the principal amount of Securities whose Holders must consent to an amendment, supplement or waiver;

(b) reduce the principal of or change the fixed maturity of any Security or alter or the provisions with respect to the redemption of the Securities (other than Sections 2.03, 3.07 and 3.10 hereof);

(c) reduce the rate of or change the time for payment of interest on any Security;

(d) waive a Default or Event of Default in the payment of principal of, or interest or premium, if any, on the Securities (except a rescission of acceleration of the Securities by the Holders of at least a majority in aggregate principal amount of the then outstanding Securities (including Additional Securities, if any) and a waiver of the payment default that resulted from such acceleration);

(e) make any Security payable in money other than that stated in the Securities;

(f) make any change in the provisions of the Indenture relating to waivers of past Defaults or the rights of Holders of Securities to receive payments of principal of, or interest or premium, if any, on the Securities;

(g) waive a redemption payment with respect to any Security (other than a payment required by Sections 2.03, 3.07 and 3.10 hereof); or

(h) make any change in the foregoing amendment and waiver provisions.

Section 11.02 and Article XIV of the Original Indenture shall not apply to the Securities.



## Section 8.03. Revocation and Effect of Consents.

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

The Company may fix a record date for determining which Holders of the Securities must consent to such amendment, supplement or waiver. If the Company fixes a record date, the record date shall be fixed at (i) the later of 30 days prior to the first solicitation of such consent or (ii) such other date as the Company shall designate.

## Section 8.04. Notation on or Exchange of Securities.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Security thereafter authenticated. The Company in exchange for all Securities may issue and the Trustee shall authenticate new Securities that reflect the amendment, supplement or waiver.

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

## Section 8.05. Payments for Consent.

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Securities for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the Indenture or the Securities unless such consideration is offered to be paid and is paid to all Holders of the Securities that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

ARTICLE 9  
SUBSIDIARY GUARANTEES

## Section 9.01. Subsidiary Guarantee.

Subject to this Article 9, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of the Indenture, the Securities or the obligations of the Company hereunder or thereunder, that: (a) the principal of and interest on the Securities will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Securities, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Securities or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so

guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

The Guarantors hereby agree that their obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Securities or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Securities with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor, other than the defense of payment. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Subsidiary Guarantee shall not be discharged except by complete performance of the obligations contained in the Securities and the Indenture.

If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 5 hereof for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 5 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantee.

#### Section 9.02. Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of Securities, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Subsidiary Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 9, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent transfer or conveyance.

Section 9.03. Execution and Delivery of Subsidiary Guarantee.

To evidence its Subsidiary Guarantee set forth in Section 9.01, each Guarantor hereby agrees that a notation of such Subsidiary Guarantee substantially in the form included in Exhibit B shall be endorsed by an Officer of such Guarantor on each Security authenticated and delivered by the Trustee and that the Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents and attested to by an Officer and delivered to the Trustee.

Each Guarantor hereby agrees that its Subsidiary Guarantee set forth in Section 9.01 shall remain in full force and effect notwithstanding any failure to endorse on each Security a notation of such Subsidiary Guarantee.

If an Officer whose signature is on the Indenture or on the Subsidiary Guarantee no longer holds that office at the time the Trustee authenticates the Security on which a Subsidiary Guarantee is endorsed, the Subsidiary Guarantee shall be valid nevertheless.

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

In the event that the Company creates or acquires any new Subsidiaries subsequent to the date of this Indenture, if required by Section 3.15 hereof, the Company shall cause such Subsidiaries to execute supplemental indentures to this Indenture and Subsidiary Guarantees in accordance with Section 3.15 hereof and this Article 9, to the extent applicable.

Section 9.04. Guarantors May Consolidate, etc., on Certain Terms.

Except as otherwise provided in Section 9.05, no Guarantor may consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person whether or not affiliated with such Guarantor unless:

(a) subject to Section 9.05 hereof, the Person formed by or surviving any such consolidation or merger (if other than a Guarantor or the Company) unconditionally assumes all the obligations of such Guarantor, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee, under the Securities, the Indenture and the Subsidiary Guarantee on the terms set forth herein or therein; and

(b) immediately after giving effect to such transaction, no Default or Event of Default exists.

In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Subsidiary Guarantee endorsed upon the Securities and the due and punctual performance of all of the covenants and conditions of the Indenture to be performed by the Guarantor, such successor Person shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Subsidiary Guarantees to be endorsed upon all of the Securities issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Subsidiary Guarantees so issued shall in all respects have the same legal rank and benefit under the Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of the Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 3 and 4 hereof, and notwithstanding clauses (a) and (b) above, nothing contained in the Indenture or in any of the Securities shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

Section 9.05. Releases Following Sale of Assets.

In the event of a sale or other disposition of all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all to the capital stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transactions) a Restricted Subsidiary of the Company, then such Guarantor (in the event of a sale or other disposition, by way of merger, consolidation or otherwise, of all of the capital stock of such Guarantor) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor) will be released and relieved of any obligations under its Subsidiary Guarantee; provided that the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of this Indenture, including without limitation Section 3.07 hereof. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 3.07 hereof, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.

Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest on the Securities and for the other obligations of any Guarantor under the Indenture as provided in this Article 9.

ARTICLE 10  
MISCELLANEOUS

Section 10.01. No Personal Liability of Directors, Officers, Employees and Stockholders.

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

Section 10.02. Priority of Supplemental Indenture.

In the event any conflict arises between the terms of the Original Indenture and the terms of this Supplemental Indenture, the terms of this Supplemental Indenture shall be controlling and superseded such conflicting terms of the Original Indenture; provided that, in all circumstances, Section 1.06 of the Original Indenture shall control. Unless otherwise specifically modified or amended hereby, the terms of the Original Indenture shall remain in full force and effect with respect to the Securities.

Section 10.03. Governing Law.

This Supplemental Indenture shall be deemed to be a contract made and to be performed entirely in the State of New York, and for all purposes shall be governed by and construed in accordance with the internal laws of said State without regard to the conflicts of law rules of said State.

Section 10.04. Appointment of Paying Agent, Etc.

The Company hereby appoints State Street Bank and Trust Company to be Paying Agent, an Authenticating Agent and a Security Registrar with respect to the Securities, pursuant to Section 3.01(25) of the Original Indenture and agrees to pay the reasonable fees and expenses of State Street Bank and Trust Company in connection with its duties as Paying Agent, Authenticating Agent and Security Registrar.

Section 10.05. Execution of the Notes.

The Notes shall be executed on behalf of the Company by its Chairman, a Vice Chairman, its President, one of its Vice Presidents or its Treasurer, under its corporate seal and attested by any one of such officers.

[Signatures on following page]

Dated as of June 11, 1999

SIGNATURES

PRISON REALTY TRUST, INC.

By: /s/ Michael W. Devlin

-----  
Name: Michael W. Devlin  
Title: Chief Operating Officer

Attest:

By: /s/ Vida H. Carroll

-----  
Name: Vida H. Carroll  
Title: Chief Financial Officer,  
Secretary and Treasurer

STATE STREET BANK AND TRUST COMPANY

By: /s/ Robert J. Dunn

-----  
Name: Robert J. Dunn  
Title: Vice President

Attest:

By: /s/ Yvette Malavet

-----  
Authorized Signatory  
Title: Notary Public

[Face of Note]

CUSIP 74264 NAB1

12% Senior Note due 2006

No. \_\_\_\_ \$100,000,000.00

PRISON REALTY TRUST, INC.

promises to pay to Cede & Co., or registered assigns, the principal sum of One Hundred Million Dollars (\$100,000,000.00) on June 1, 2006.

Interest Payment Dates: June 1 and December 1, commencing on December 1, 1999

Record Dates: May 15 and November 15

PRISON REALTY TRUST, INC.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

(SEAL)

This is one of the Securities referred to in the within-mentioned Indenture:

STATE STREET BANK AND TRUST COMPANY,  
as Trustee

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

Dated: June 11, 1999

[Back of Note]  
12% Senior Note due 2006

This Security is a Global Security within the meaning of the Indenture hereinafter referred to and registered to and registered in the name of The Depository Trust Company (the "Depository") or a nominee of the Depository. This Global Security is exchangeable for Securities registered in the name of a Person other than the Depository or its nominee only in the limited circumstances described in the Indenture, and no transfer of this Security (other than a transfer of this Security as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository or another nominee of the Depository) may be registered except in such limited circumstances.

Unless this Security is presented by an authorized representative of the Depository (55 Water Street, New York, New York) to the Company or its agent for registration of transfer, exchange or payment, and any Security issued upon registration or transfer of, or in exchange for, or in lieu of, this Security is registered in the name of Cede & Co. or such other name as requested by an authorized representative of the Depository and any payment hereon is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. Prison Realty Trust, Inc., a Maryland corporation (the "Company"), promises to pay interest on the principal amount of this Security at the rate and the manner specified below. Interest will accrue at 12% per annum and will be payable semi-annually in cash on each June 1 and December 1, commencing December 1, 1999, or if any such day is not a Business Day, on the next succeeding Business Day (each an "Interest Payment Date") to Holders of record of the Securities at the close of business on the immediately preceding May 15 and November 15, whether or not a Business Day. Interest will be computed on the basis of a 360-day year of twelve 30-day months. Interest on the Securities will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from June 11, 1999. To the extent lawful, the Company shall pay interest on overdue principal at the rate the then applicable interest on the Securities; it shall pay interest on overdue installments of interest (without regard to any applicable grace periods) at the same rate to the extent lawful.

2. METHOD OF PAYMENT. The Company will pay interest on the Securities (except defaulted interest) to the Persons who are registered Holders of Securities at the close of business on the record date next preceding the Interest Payment Date, even if such Securities are canceled after such record date and on or before such Interest Payment Date. The Holder thereof must surrender this Security to a Paying Agent to collect principal payments. The Company will pay principal and interest in the money of the United States that at the time of payment is legal tender for payment of public and private debts. The Security will be payable as to principal, premium, if any, and interest at the office or agency of the Company maintained for such purpose or, at the option of the Company, payment of interest may be made by wire transfer to the Holders of Securities at their respective addresses set forth in the register of Holders of Securities. Unless otherwise designated by the Company, the Company's office or agency will be the office of State Street Bank and Trust Company maintained for such purpose.

3. PAYING AGENT AND REGISTRAR. Initially, State Street Bank and Trust Company, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any



Paying Agent or Registrar without notice to any Holder of a Security. The Company may act in any such capacity.

4. INDENTURE. The Company issued the Securities as Registered Securities under an Indenture, dated as of June 10, 1999, as amended and supplemented by the First Supplemental Indenture, dated as of June 11, 1999 (collectively, the "Indenture") between the Company and the Trustee. The terms of the Securities include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code ss.ss. 77aaa-77bbb), as in effect on the date of the Indenture. The Securities are subject to all such terms, and Holders of Securities are referred to the Indenture and such Act for a statement of such terms. The terms of the Indenture shall govern any inconsistencies between the Indenture and the Securities. The Securities are unsecured obligations of the Company limited to \$150,000,000 million in aggregate principal amount, of which \$100,000,000 were issued on June 11, 1999.

#### 5. OPTIONAL REDEMPTION.

At any time prior to June 1, 2002, the Company may, at its option, on any one or more occasions redeem up to 35% of the aggregate principal amount Securities originally offered in the Offering at a redemption price equal to 112.00% of the principal amount thereof, plus accrued and unpaid interest to the redemption date, with the net cash proceeds of one or more Equity Offerings; provided that at least 65% in aggregate principal amount of the Securities originally issued remain outstanding immediately after the occurrence of such redemption and that such redemption occurs within 45 days of the date of the closing of such Equity Offering.

Except pursuant to the preceding paragraph, the Securities will not be redeemable at the Company's option.

#### 6. REPURCHASE AT OPTION OF HOLDER.

(a) Upon the occurrence of a Change of Control, the Company shall be required to make an offer (a "Change of Control Offer") to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of each Holder's Securities at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest thereon, if any, to the date of purchase (the "Change of Control Payment"). Within 10 days following any Change of Control, the Company shall mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture. Holders of Securities may elect to have such Securities purchased by completing the form entitled "Option of Holder to Elect Purchase" appearing below.

(b) When the aggregate amount of Excess Proceeds from Asset Sales exceeds \$10.0 million, the Company shall make an offer to all Holders of Securities and all Holders of other Indebtedness that is pari passu with the Securities (as "Asset Sale Offer") to purchase the maximum principal amount of Securities and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof plus accrued and unpaid interest thereon, if any, to the date fixed for the closing of such offer. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use such Excess Proceeds for any purpose not otherwise prohibited by the Indenture. If the aggregate principal amount of Securities and such other pari passu Indebtedness tendered pursuant to such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee shall select the Securities and such other pari passu Indebtedness to be purchased on a pro rata basis, based on the principal amount of Securities and such other pari passu Indebtedness

tendered. Holders of Securities that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Securities purchased by completing the form entitled "Option of Holder to Elect Purchase" on the reverse of the Securities.

7. NOTICE OF REDEMPTION. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Securities are to be redeemed at its registered address. Securities may be redeemed in part but only in whole multiples of \$1,000, unless all of the Securities held by a Holder are to be redeemed. On and after the redemption date, interest ceases to accrue on Securities or portions thereof called for redemption.

8. DENOMINATIONS, TRANSFER, EXCHANGE. The Securities are in registered form without coupons in denominations of \$1,000 and integral multiples of \$1,000. The transfer of Securities may be registered and Securities may be exchanged as provided in the Indenture. The Security Registrar and the Trustee may require a Holder of a Security, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder of Securities to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Security or portion of a Security selected for redemption, except for the unredeemed portion of any Security being redeemed in part. Also, it need not exchange or register the transfer of any Securities for a period of 15 days before a selection of Securities to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

9. PERSONS DEEMED OWNERS. Prior to due presentment to the Security Registrar for registration of the transfer of this Security, the Trustee, any Paying Agent, the Security Registrar and the Company may deem and treat the Person in whose name this Security is registered as its absolute owner for the purpose of receiving payment of principal of, premium, if any, and interest on this Security for all other purposes whatsoever, whether or not this Security is overdue, and neither the Trustee, any Paying Agent, the Security Registrar nor the Company shall be affected by notice to the contrary. The registered Holder of a Security shall be treated as its owner for all purposes.

10. AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture or the Securities may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Securities (and Additional Securities, if any) voting as a single class, and any existing default or compliance with any provision of the Indenture or the Securities may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Securities (and Additional Securities, if any) voting as a single class (including consents obtained in connection with a tender offer or exchange offer for Securities). Without the consent of any Holder of a Security, the Indenture, the Securities or the Subsidiary Guarantees may be amended or supplemented to cure any ambiguity, defect or inconsistency, to provide for uncertificated Securities in addition to or in place of certificated Securities, to provide for the assumption of the Company's obligations to Holders of the Securities in case of a merger or consolidation or sale of all or substantially all of the Company's assets, to make any change that would provide any additional rights or benefits to the Holders of the Securities or that does not adversely affect the legal rights under the Indenture of any such Holder or to comply with the requirements of the Commission in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act.

11. DEFAULTS AND REMEDIES. Events of Default include: (i) default for 30 days in the payment when due of interest on the Securities; (ii) default in payment when due of principal of or premium, if any, on the Securities, (iii) failure by the Company to comply for 10 days after notice from

the Trustee or the Holders of at least 25% in principal amount of the Securities then outstanding with Sections 2.03, 3.01, 3.04, 3.05, 3.06, 3.08, 3.09, 3.10, 3.11, 3.12, 3.13, 3.14 or 8.05 or Article 4 of the Indenture; (iv) failure by the Company for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in principal amount of the then outstanding Securities to comply with any other agreements in the Indenture; (v) default under certain other agreements relating to Indebtedness of the Company which default is caused by a Payment Default or results in the acceleration of such Indebtedness prior to its express maturity; (vi) certain final judgments for the payment of money that remain undischarged for a period of 60 days; (vii) except as permitted by the Indenture, any Subsidiary Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor or any Person acting on its behalf shall deny or disaffirm its obligations under such Guarantor's Subsidiary Guarantee; and (viii) certain events of bankruptcy or insolvency with respect to the Company or any of its Significant Subsidiaries. If any Event of Default occurs (other than by reason of bankruptcy or insolvency) and is continuing under the Indenture, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Securities may declare all the Securities to be due and payable. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, with respect to the Company, any Subsidiary that is a Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary, all outstanding Securities will become due and payable without further action or notice. Holders of the Securities may not enforce the Indenture or the Securities except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Securities may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Securities notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Securities then outstanding by notice to the Trustee may on behalf of the Holders of all of the Securities waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Securities. In the case of any Event of Default occurring by reason of any willful action or inaction taken or not taken by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Securities pursuant to the optional redemption provisions of the Indenture, an equivalent premium shall also become and be immediately due and payable to the extent permitted by law upon the acceleration of the Securities. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

12. TRUSTEE DEALINGS WITH COMPANY. The Trustee under the Indenture, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

13. NO PERSONAL LIABILITY OF DIRECTORS, OFFICERS, EMPLOYEES, INCORPORATORS AND STOCKHOLDERS. No director, officer, employee, incorporator or stockholder, of the Company, as such, shall have any liability for any obligations of the Company under the Securities or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Securities by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Securities.

14. AUTHENTICATION. This Security shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

15. ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder of a Security or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

16. CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Securities and has directed the Trustee to use CUSIP numbers in notices of redemption as a convenience to Holders of Securities. No representation is made as to the accuracy of such numbers either as printed on the Securities or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company will furnish to any Holder of a Security upon written request and without charge a copy of the Indenture. Requests may be made to:

Prison Realty Trust, Inc.  
10 Burton Hills Boulevard, Suite 100  
Nashville, Tennessee 37215  
Attention: Chief Financial Officer

ASSIGNMENT FORM

To assign this Security, fill in the form below:

(I) or (we) assign and transfer this Security to:

-----  
(Insert assignee's legal name)

-----  
(Insert assignee's soc. sec. or tax I.D. no.)  
-----  
-----  
-----  
-----

-----  
(Print or type assignee's name, address and zip code)

and irrevocably appoint

-----  
to transfer this Security on the books of the Company. The agent may substitute  
another to act for him.

Date: -----

Your Signature: -----  
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee\*: -----

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Security purchased by the Company pursuant to Section 3.07 or 3.10 of the Supplemental Indenture, check the appropriate box below:

[ ] ERROR! SWITCH ARGUMENT NOT SPECIFIED. Section 3.07

[ ] ERROR! SWITCH ARGUMENT NOT SPECIFIED. Section 3.10

If you want to elect to have only part of the Security purchased by the Company pursuant to Section 2.03 or Section 3.10 of the Supplemental Indenture, state the amount you elect to have purchased:

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

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

FORM OF SUBSIDIARY GUARANTEE

The undersigned hereby unconditionally guarantees (a) the due and punctual payment of the principal of, premium, if any, and interest on the Securities (as defined in the First Supplemental Indenture, dated as of June 11, 1999 (the "First Supplemental Indenture") to the Indenture of even date therewith between Prison Realty Trust, Inc. (the "Company") and State Street Bank and Trust Company, as Trustee (as amended by the First Supplemental Indenture, the "Indenture")), whether at maturity, by acceleration or otherwise, the due and punctual payment of interest on the overdue principal of and interest, if any, on the Securities, to the extent lawful, and the due and punctual performance of all other obligations of the Company to the Holders (as defined in the Indenture) or the Trustee all in accordance with the terms hereof and as set forth in Article 9 of the First Supplemental Indenture, (b) in case of any extension of time of payment or renewal of any Securities or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise and (c) has agreed to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or any Holder in enforcing any rights under this Subsidiary Guarantee. Capitalized terms used herein have the meanings assigned to them in the First Supplemental Indenture unless otherwise indicated.

No stockholder, officer, director or incorporator, as such, past, present or future, of any Guarantor shall have any personal liability under this Subsidiary Guarantee by reason of his or its status as such stockholder, officer, director or incorporator.

This Subsidiary Guarantee shall be binding upon each Guarantor and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges herein conferred upon that party shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions hereof. This Subsidiary Guarantee may be released in accordance with the provisions set forth in Article 9 of the First Supplemental Indenture to the Indenture.

This Subsidiary Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication of the Security with respect to which this Subsidiary Guarantee relates shall have been executed by the Trustee or an Authenticating Agent under the Indenture by the manual signature of one of its authorized officers.

[NAME OF GUARANTOR]

By: \_\_\_\_\_  
 Name:  
 Title:

Attest:  
 By: \_\_\_\_\_  
 Name:  
 Title:

FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of \_\_\_\_\_, among \_\_\_\_\_ (the "Guaranteeing Subsidiary"), a subsidiary of Prison Realty Trust, Inc. (or its permitted successor), a Maryland corporation (the "Company"), the Company and State Street Bank and Trust Company, as trustee under the Indenture referred to below (the "Trustee").

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture, dated as of June 10, 1999 (the "Original Indenture"), as amended and supplemented by the First Supplemental Indenture, dated as of June 11, 1999 (the "First Supplemental Indenture" and together with the Original Indenture, the "Indenture") providing for the issuance of an aggregate principal amount of up to \$150,000,000 of 12% Senior Notes due 2006 (the "Securities");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's Obligations under the Securities and the Indenture on the terms and conditions set forth herein (the "Subsidiary Guarantee"); and

WHEREAS, pursuant to Section 8.01 of the First Supplemental Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Securities as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees as follows:

(a) To jointly and severally Guarantee to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, the Securities or the obligations of the Company hereunder or thereunder, that:

(i) the principal of and interest on the Securities will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Securities, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(ii) in case of any extension of time of payment or renewal of any Securities or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any



performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately.

(b) The obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Securities or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Securities with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor, other than the defense of payment.

(c) The following is hereby waived: diligence presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever.

(d) This Subsidiary Guarantee shall not be discharged except by complete performance of the obligations contained in the Securities and the Indenture, and the Guaranteeing Subsidiary accepts all obligations of a Guarantor under the Indenture.

(e) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors, or any Custodian, Trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

(f) The Guaranteeing Subsidiary shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

(g) As between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 5 of the Indenture for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 5 of the Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee.

(h) The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantee.

(i) Pursuant to Section 9.02 of the First Supplemental Indenture, after giving effect to any maximum amount and any other contingent and fixed liabilities that are relevant under any applicable Bankruptcy or fraudulent conveyance laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article 9 of the First Supplemental Indenture, this new Subsidiary Guarantee shall be limited to the maximum amount permissible such that the obligations of such Guarantor under this Subsidiary Guarantee will not constitute a fraudulent transfer or conveyance.

3. EXECUTION AND DELIVERY. Each Guaranteeing Subsidiary agrees that the Subsidiary Guarantees shall remain in full force and effect notwithstanding any failure to endorse on each Security a notation of such Subsidiary Guarantee.

4. GUARANTEEING SUBSIDIARY MAY CONSOLIDATE, ETC. ON CERTAIN TERMS.

(a) Except as otherwise provided in Section 9.05 of the First Supplemental Indenture, the Guaranteeing Subsidiary may not consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another corporation, Person or entity whether or not affiliated with such Guarantor unless:

(i) subject to Section 9.04 of the First Supplemental Indenture, the Person formed by or surviving any such consolidation or merger (if other than a Guarantor or the Company) unconditionally assumes all the obligations of such Guarantor, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee, under the Securities, the Indenture and the Subsidiary Guarantee on the terms set forth herein or therein; and

(ii) immediately after giving effect to such transaction, no Default or Event of Default exists.

(b) In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor corporation, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Subsidiary Guarantee endorsed upon the Securities and the due and punctual performance of all of the covenants and conditions of the Indenture to be performed by the Guarantor, such successor corporation shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor corporation thereupon may cause to be signed any or all of the Subsidiary Guarantees to be endorsed upon all of the Securities issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Subsidiary Guarantees so issued shall in all respects have the same legal rank and benefit under the Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of the Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

(c) Except as set forth in Articles 3 and 4 and Section 9.05 of Article 9 of the First Supplemental Indenture, and notwithstanding clauses (a) and (b) above, nothing contained in the Indenture or in any of the Securities shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

5. RELEASES.

(a) In the event of a sale or other disposition of all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all to the capital stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transaction) a Restricted Subsidiary of the Company, then such Guarantor (in the event of a sale or other disposition, by way of merger, consolidation or otherwise, of all of the capital stock of such Guarantor) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor) will be released and relieved of any obligations under its Subsidiary Guarantee; provided that the Net Proceeds of such sale or other disposition are applied in accordance

with the applicable provisions of the Indenture, including without limitation Section 3.07 of the First Supplemental Indenture. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of the Indenture, including without limitation Section 3.07 of the First Supplemental Indenture, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.

(b) Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest on the Securities and for the other obligations of any Guarantor under the Indenture as provided in Article 9 of the First Supplemental Indenture.

6. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Securities, any Subsidiary Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Securities by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Securities. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the Commission that such a waiver is against public policy.

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

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

9. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

10. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

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

Dated: \_\_\_\_\_, \_\_\_\_\_

[GUARANTEEING SUBSIDIARY]

By:  
Name:  
Title:

PRISON REALTY TRUST, INC.

By: \_\_\_\_\_

Name:  
Title:

STATE STREET BANK AND TRUST COMPANY,  
as Trustee

By: \_\_\_\_\_

Authorized Signatory

EXECUTION COPY

\$1,000,000,000

AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of August 4, 1999

among

PRISON REALTY TRUST, INC.  
(formerly known as Prison Realty Corporation),  
as Borrower,

AND

CERTAIN SUBSIDIARIES OF THE BORROWER  
FROM TIME TO TIME PARTY HERETO,  
as Guarantors,

THE SEVERAL LENDERS  
FROM TIME TO TIME PARTY HERETO,

LEHMAN COMMERCIAL PAPER INC.,  
as Administrative Agent,

SOCIETE GENERALE,  
as Documentation Agent,

THE BANK OF NOVA SCOTIA,  
as Syndication Agent

SOUTHTRUST BANK, N.A.,  
as Co-Agent

AND

LEHMAN BROTHERS INC.  
as Advisor, as Lead Arranger and as Book Manager

## TABLE OF CONTENTS

	Page
Section 1. DEFINITIONS	2
1.1.    Definitions	2
1.2.    Computation of Time Periods	37
1.3.    Accounting Terms	37
1.4.    Interrelationship with Original Credit Agreement	38
1.5.    Confirmation of Existing Obligations	39
Section 2. CREDIT FACILITIES	39
2.1.    Revolving Loans	39
2.2.    Letter of Credit Subfacility	41
2.3.    Swingline Loan Subfacility	46
2.4.    Term Loan	48
2.5.    Tranche C Term Loan	50
Section 3. OTHER PROVISIONS RELATING TO CREDIT FACILITIES	52
3.1.    Default Rate	52
3.2.    Extension and Conversion	52
3.3.    Prepayments	53
3.4.    Termination and Reduction of Revolving Committed Amount	55
3.5.    Fees	56
3.6.    Capital Adequacy	57
3.7.    Limitation on Eurodollar Loans	58
3.8.    Illegality	58
3.9.    Requirements of Law	59
3.10.   Treatment of Affected Loans	60
3.11.   Taxes	60
3.12.   Compensation	62
3.13.   Pro Rata Treatment	63
3.13A  Tranche C Pro Rata Treatment	64
3.14.   Sharing of Payments	64
3.15.   Payments, Computations, Etc	65
3.16.   Evidence of Debt	67
Section 4. GUARANTY	67
4.1.    The Guaranty	67
4.2.    Obligations Unconditional	68
4.3.    Reinstatement	69
4.4.    Certain Additional Waivers	69
4.5.    Remedies	70

4.6.	Rights of Contribution	70
4.7.	Guarantee of Payment; Continuing Guarantee	71
Section 5. CONDITIONS		71
5.1.	Conditions to Effectiveness	71
5.2.	Conditions to all Extensions of Credit	77
Section 6. REPRESENTATIONS AND WARRANTIES		78
6.1.	Financial Condition	78
6.2.	No Material Change	78
6.3.	Organization and Good Standing	79
6.4.	Power; Authorization; Enforceable Obligations	79
6.5.	No Conflicts	80
6.6.	No Default	80
6.7.	Ownership	80
6.8.	Indebtedness	80
6.9.	Litigation	80
6.10.	Taxes	80
6.11.	Compliance with Law	81
6.12.	ERISA	81
6.13.	Subsidiaries	82
6.14.	Governmental Regulations, Etc	83
6.15.	Purpose of Loans and Letters of Credit	84
6.16.	Environmental Matters	84
6.17.	Intellectual Property	85
6.18.	Solvency	85
6.19.	Investments	86
6.20.	Location of Collateral	86
6.21.	Disclosure	86
6.22.	[Intentionally omitted.]	86
6.23.	Labor Matters	86
6.24.	Year 2000 Compliance	86
6.25.	First Priority Lien	87
6.26.	Leases	87
Section 7. AFFIRMATIVE COVENANTS		87
7.1.	Information Covenants	87
7.2.	Preservation of Existence and Franchises	91
7.3.	Books and Records	91
7.4.	Compliance with Law	92
7.5.	Payment of Taxes and Other Indebtedness	92
7.6.	Insurance	92
7.7.	Maintenance of Property	93
7.8.	Performance of Obligations	93

7.9.	Use of Proceeds	94
7.10.	Audits/Inspections	94
7.11.	Financial Covenants	94
7.12.	Additional Credit Parties	95
7.13.	Environmental Laws	96
7.14.	Collateral	97
7.15.	Leases	97
7.16.	Year 2000 Compliance	98
7.17.	Appraisals	98
7.18.	Hedging Agreements	98
Section 8. NEGATIVE COVENANTS		98
8.1.	Indebtedness	98
8.2.	Liens	100
8.3.	Nature of Business	100
8.4.	Consolidation, Merger, Dissolution, etc	100
8.5.	Asset Dispositions	101
8.6.	Investments	101
8.7.	Restricted Payments	102
8.8.	Prepayments of Indebtedness, etc	103
8.9.	Transactions with Affiliates	103
8.10.	Fiscal Year; Organizational Documents	104
8.11.	Limitation on Restricted Actions	104
8.12.	Ownership of Subsidiaries	104
8.13.	Sale Leasebacks	105
8.14.	No Further Negative Pledges	105
8.15.	Transactions with CCA Entities	105
8.16.	Speculative Transactions	106
Section 9. EVENTS OF DEFAULT		106
9.1.	Events of Default	106
9.2.	Acceleration; Remedies	109
Section 10. AGENCY PROVISIONS		110
10.1.	Appointment, Powers and Immunities	110
10.2.	Reliance by Administrative Agent	111
10.3.	Defaults	111
10.4.	Rights as a Lender	111
10.5.	Indemnification	112
10.6.	Non-Reliance on Agents and Other Lenders	112
10.7.	Successor Administrative Agent	113
Section 11. MISCELLANEOUS		113
11.1.	Notices	113



11.2.	Right of Set-Off; Adjustments	114
11.3.	Benefit of Agreement	115
11.3A	Tranche C Assignments and Pledges	117
11.4.	No Waiver; Remedies Cumulative	117
11.5.	Expenses; Indemnification	117
11.6.	Amendments, Waivers and Consents	118
11.6A	Tranche C Amendments, Waivers and Consents	120
11.7.	Counterparts	121
11.8.	Headings	121
11.9.	Survival	121
11.10.	Governing Law; Submission to Jurisdiction; Venue	122
11.11.	Severability	122
11.12.	Entirety	123
11.13.	Binding Effect; Termination	123
11.14.	Confidentiality	123
11.15.	Conflict	124
11.16.	Existing Agreement Superseded	124

## SCHEDULES

Schedule 1.1(a)	Existing CCA Entity Agreements
Schedule 1.1(b)	Investments
Schedule 1.1(c)	Liens
Schedule 2.1(a)	Lenders
Schedule 5.1(f)(i)	Mortgaged Properties
Schedule 6.9	Certain Litigation
Schedule 6.13	Subsidiaries
Schedule 6.17	Intellectual Property
Schedule 6.20(a)	Real Property Locations
Schedule 6.20(b)	Personal Property Locations
Schedule 6.20(c)	Chief Executive Offices/Principal Places of Business
Schedule 7.6	Insurance
Schedule 8.1	Indebtedness

## EXHIBITS

Exhibit 1.1(a)	Agecroft Charter
Exhibit 2.1(b)(i)	Form of Notice of Borrowing
Exhibit 2.1(e)	Form of Revolving Note
Exhibit 2.3(d)	Form of Swingline Note
Exhibit 2.4(d)	Form of Term Note
Exhibit 2.5(f)	Form of Tranche C Term Note
Exhibit 3.2	Form of Notice of Extension/Conversion
Exhibit 3.11(d)	Form of Exemption Certificate
Exhibit 7.1(c)	Form of Officer's Compliance Certificate
Exhibit 7.1(e)	Form of Borrowing Base Certificate
Exhibit 7.12	Form of Joinder Agreement
Exhibit 11.3(b)	Form of Assignment and Acceptance

## AMENDED AND RESTATED CREDIT AGREEMENT

THIS AMENDED AND RESTATED CREDIT AGREEMENT, dated as of August 4, 1999, by and among PRISON REALTY TRUST, INC. (formerly known as Prison Realty Corporation), a Maryland corporation (the "Borrower"), the subsidiaries of the Borrower from time to time party hereto (collectively, the "Subsidiary Guarantors"), the Lenders (as defined herein), LEHMAN COMMERCIAL PAPER INC. ("LCPI"), as administrative agent for the Lenders (in such capacity, the "Administrative Agent"), SOCIETE GENERALE, as documentation agent (in such capacity, the "Documentation Agent"), LEHMAN BROTHERS INC. ("LBI"), as advisor, book manager and lead arranger (in such capacities, the "Lead Arranger"), THE BANK OF NOVA SCOTIA, as syndication agent (the "Syndication Agent"), and SOUTHTRUST BANK, N.A., as Co-Agent (the "Co-Agent"), AMENDS AND RESTATES IN FULL the Credit Agreement dated as of January 1, 1999 (as heretofore amended, modified, restated or supplemented from time to time, the "Original Credit Agreement"), among the Borrower, the subsidiaries of the Borrower party thereto (the "Original Subsidiary Guarantors"), the banks and other financial institutions party thereto as lenders (the "Original Lenders"), NATIONSBANK, N.A. (now known as Bank of America, N.A.), as Administrative Agent for the Original Lenders (the "Original Administrative Agent"), LCPI, as documentation agent (the "Original Documentation Agent") and THE BANK OF NOVA SCOTIA, as syndication agent (the "Original Syndication Agent"); this amendment and restatement of the Original Credit Agreement, as amended, supplemented, restated or otherwise modified from time to time, is hereinafter referred to as this "Credit Agreement."

## W I T N E S S E T H

WHEREAS, the Original Lenders previously extended credit to the Borrower under the Original Credit Agreement;

WHEREAS, the Borrower has requested that the Original Credit Agreement be amended and restated in full as set forth herein; and

WHEREAS, the Required Lenders under and as defined in the Original Credit Agreement (the "Amending Lenders") are willing so to amend and restate the Original Credit Agreement and to continue to extend credit to the Borrower, upon and subject to the terms and conditions set forth herein, and in connection therewith (i) the Original Administrative Agent is being replaced by the Administrative Agent and (ii) the Original Documentation Agent is being replaced by the Documentation Agent;

WHEREAS, it is the intent of the Borrower, the Original Subsidiary Guarantors, the Subsidiary Guarantors, the Amending Lenders, the Administrative Agent, the Documentation Agent, the Syndication Agent, the Co-Agent and the Lead Arranger that this Credit Agreement amend and restate in its entirety the Original Credit Agreement and that, from and after the Restatement Effective Date, the Original Credit Agreement shall be of no force and effect except to evidence the terms and conditions under which the Borrower heretofore has incurred obligations and liabilities to the Original Lenders and the Original Administrative Agent (as evidenced by the Original Credit Agreement and the Original Administrative Agent's books and records); and

WHEREAS, this Credit Agreement is made in renewal, amendment, restatement and modification of, but not in extinguishment or novation of, the obligations under the Original Credit Agreement.

NOW, THEREFORE, the parties hereto hereby agree to amend and restate the Original Credit Agreement as follows:

#### SECTION 1.

#### DEFINITIONS

##### 1.1. DEFINITIONS.

As used in this Credit Agreement, the following terms shall have the meanings specified below unless the context otherwise requires:

"Additional Credit Party" means each Person that becomes a Subsidiary Guarantor after the Restatement Effective Date by execution of a Joinder Agreement.

"Adjusted Base Rate" means the Base Rate plus the Applicable Percentage.

"Adjusted Cash Flow" means, with respect to any Real Property, as of the end of each fiscal quarter of the Consolidated Parties for the fiscal quarter ending on such date, the lesser of:

(a) the sum of (i) cash lease payments received with respect to such Real Property for such period under all leases that comply with Section 7.15 ("Gross Lease Revenues"); provided that, with respect to any Real Property that is not wholly-owned by the Borrower, the cash lease payments with respect to such Real Property included in the calculation of Adjusted Cash Flow hereunder shall be limited to a percentage of such cash lease payments equal to the lesser of (A) the Borrower's percentage ownership in such Real Property and (B) the percentage of such cash lease payments actually received by the Borrower, less (ii) actual capital expenditures for maintenance items for such period, with respect to such Real Property, less (iii) actual management fees paid with respect to such Real Property during such period, all as determined in accordance with GAAP, and

(b) the sum of (i) operating income for such period less (ii) non-cash operating income for such period after giving effect to the deduction resulting from the Straight-Lining of Rents less (iii) real estate taxes for such period less (iv) property insurance premiums for such period less (v) ground lease payments made with respect to such Real Property for such period less (vi) a capital reserve equal to actual capital expenditures for the maintenance, repair and upkeep of existing properties for such period, less (vii) a management fee equal to actual management fees paid with respect to such Real Property during such period, all as determined in accordance with GAAP.

"Adjusted Eurodollar Rate" means the Eurodollar Rate plus the Applicable Percentage.

"Administrative Agent" shall have the meaning assigned to such term in the preamble hereto, together with any successors or assigns.

"Administrative Agent's Fees" shall have the meaning assigned to such term in Section 3.5(d).

"Affiliate" means, with respect to any Person, any other Person (i) directly or indirectly controlling or controlled by or under direct or indirect common control with such Person or (ii) directly or indirectly owning or holding five percent (5%) or more of the Capital Stock in such Person. For purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Agecroft" means Agecroft Properties, Inc., a Tennessee corporation.

"Agecroft Charter" means the charter of Agecroft attached hereto as Exhibit 1.1(a).

"Agecroft Investment" means that certain Investment by the Borrower in Agecroft in connection with the Agecroft Transaction in an aggregate amount not exceeding \$81,000,000 consisting of a combination of a loan (evidenced by the Agecroft Note) and an equity investment.

"Agecroft Note" means that certain promissory note, in a maximum principal amount equal to \$65,000,000 made by Agecroft in favor of the Borrower and pledged to the Administrative Agent as Collateral for the Credit Party Obligations.

"Agecroft Transaction" means the transactions in connection with the design, development, construction, financing, leasing and subleasing of a prison facility located in the United Kingdom pursuant to the Agecroft Transaction Documents.

"Agecroft Transaction Documents" means those documents listed in the Agecroft Charter and that certain Direct Agreement, dated as of July 6, 1998, among Agecroft, the Borrower, CCA, Agecroft Prison Management Limited ("APM") and Her Majesty's Principal Secretary of State for the Home Department ("HMPS"), that certain Step-In and Collateral Agreement, dated as of July 6, 1998, among CCA, APM, HMPS and UK Detention Services Limited, and that certain Access Agreement to be entered into by and between Agecroft, the Borrower and APM following completion of construction of the prison facility, all as previously provided to the Administrative Agent.

"Aggregate Committed Amount" means the aggregate of the Revolving Committed Amount, the Term Loan Committed Amount and the Tranche C Term Loan Committed Amount.

"Aggregate Required Lenders" means, at any time, the Required Revolving Lenders, the Required Term Lenders and the Required Tranche C Term Lenders, each voting as a separate class.

"Amending Lenders" shall have the meaning assigned to such term in the recitals hereto.

"Applicable Lending Office" means, for each Lender, the office of such Lender (or of an Affiliate of such Lender) as such Lender may from time to time specify to the Administrative Agent and the Borrower by written notice as the office by which its Eurodollar Loans are made and maintained.

"Applicable Percentage" means, for purposes of calculating the applicable interest rate for any day for any Revolving Loan, the applicable rate of the Unused Fee for any day for purposes of Section 3.5(b), or the applicable rate of the Standby Letter of Credit Fee for any day for purposes of Section 3.5(c)(i), the appropriate applicable percentage set forth below opposite the applicable Senior Debt Rating then in effect as of the most recent Ratings Date. The Applicable Percentage shall be determined based on the Senior Debt Rating; provided that (a) if the Borrower shall not have a rating for its Senior Debt by S&P and Moody's, then the Applicable Percentages shall be based on Pricing Level VI and (b) if the Borrower shall have a split Senior Debt Rating the lower of the two ratings shall apply.

Applicable Percentage for Revolving Loans						
Pricing Level	S&P Rating	Moody's Rating	Eurodollar Loans	Base Rate Loans	Applicable Percentage for Unused Fee	Applicable Percentage for Standby Letter of Credit Fee
I	> BBB+ -	> Baa1 -	2.00%	.50%	.50%	2.00%
II	> BBB -	> Baa2 -	2.25%	.75%	.55%	2.25%
III	> BBB- -	> Baa3 -	2.50%	1.00%	.60%	2.50%
IV	> BB+ -	> Ba1 -	3.00%	1.50%	.70%	3.00%
V	> BB -	> Ba2 -	3.25%	1.75%	.75%	3.25%
VI	< BB	< Ba2	3.75%	2.25%	.80%	3.75%

The Applicable Percentages for the Revolving Loans, Unused Fee and Standby Letter of Credit Fee shall be determined and adjusted on the date that the Senior Debt Rating changes (each a "Ratings Date"). Each Applicable Percentage shall be effective from and including one Ratings Date until but excluding the next Ratings Date. Any adjustment in the Applicable Percentages for the Revolving Loans and Standby Letter of Credit Fee shall be applicable to all existing Revolving Loans and standby Letters of Credit as well as any new Revolving Loans and standby Letters of Credit made or issued.

"Asset Disposition" means the disposition of any or all of the assets (including without limitation the Capital Stock of a Subsidiary) of any Consolidated Party whether by sale, lease, transfer or otherwise (including pursuant to any casualty or condemnation event). The term "Asset Disposition" shall not include (a) the sale of inventory in the ordinary course of business and (b) any single disposition of assets which does not yield Net Cash Proceeds of at least \$1,000,000, provided that all such dispositions excluded under this clause (b) shall not in the aggregate yield Net Cash Proceeds exceeding \$3,000,000 during any fiscal year of the Borrower. Asset Dispositions shall not include (i) any disposition of cash or Cash Equivalents in the ordinary course of business, (ii) any lease of Real Property complying with Section 7.15 or (iii) any disposition of property by the Borrower to a Restricted Subsidiary that is a Credit Party or by a Restricted Subsidiary to the Borrower or to another Restricted Subsidiary that is a Credit Party.

"Bankruptcy Code" means the Bankruptcy Code in Title 11 of the United States Code, as amended, modified, succeeded or replaced from time to time.

"Bankruptcy Event" means, with respect to any Person, the occurrence of any of the following with respect to such Person: (i) a court or governmental agency having jurisdiction in the premises shall enter a decree or order for relief in respect of such Person in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or ordering the winding up or liquidation of its affairs; or (ii) there shall be commenced against such Person an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or any case, proceeding or other action for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or for the winding up or liquidation of its affairs, and such involuntary case or other case, proceeding or other action shall remain undismissed, undischarged or unbonded for a period of sixty (60) consecutive days; or (iii) such Person shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or make any general assignment for the benefit of creditors; or (iv) such Person shall be unable to, or shall admit in writing its inability to, pay its debts generally as they become due.

"Base Rate" means, for any day, the rate per annum equal to the higher of (a) the Federal Funds Rate for such day plus one-half of one percent (0.5%) and (b) the Prime Rate for such day. Any change in the Base Rate due to a change in the Prime Rate or the Federal Funds Rate shall be effective on the effective date of such change in the Prime Rate or Federal Funds Rate.

"Base Rate Loan" means any Loan bearing interest at a rate determined by reference to the Base Rate.

"Borrower" means the Person identified as such in the preamble hereto, together with any permitted successors and assigns.

"Borrowing Base" means, as of any day, the sum of the Borrowing Base Values of each Borrowing Base Property, in each case as set forth in the most recent Borrowing Base Certificate delivered to the Administrative Agent and the Lenders in accordance with the terms of Section 7.1(e); provided, however, so long as any First Union Letters of Credit or NationsBank Letters of Credit are outstanding, the Borrowing Base shall be deemed reduced by the aggregate face amount of such First Union Letters of Credit and NationsBank Letters of Credit that remain outstanding except to the extent any amount borrowed hereunder (and not repaid) is used to cash collateralize the Borrower's obligations under the First Union Letters of Credit or the NationsBank Letters of Credit.

"Borrowing Base Certificate" means a Borrowing Base Certificate substantially in the form of Exhibit 7.1(e).

"Borrowing Base Properties" means (i) each of the Existing Properties identified on Schedule 5.1(f)(i) that satisfies each of the following conditions and (ii) each New Property of a Credit Party that satisfies each of the following conditions:

(a) The property shall qualify as Eligible Real Estate.

(b) The Administrative Agent shall have received a pro forma compliance certificate with respect to the property which includes an annualized calculation of the projected quarterly Consolidated Adjusted EBITDA of such property and the projected quarterly Adjusted Cash Flow of such property in form and substance satisfactory to the Lenders.

(c) The Administrative Agent shall have received and be satisfied with, in its sole discretion, the lease or sub-lease, as appropriate, entered into by the Borrower (as lessor or sublessor, as applicable) in leasing such property.

(d) The Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, a fully executed and notarized Mortgage in favor of the Administrative Agent encumbering the ownership interest of the Borrower in the property, together with such UCC-1 financing statements as the Administrative Agent shall deem appropriate with respect to the property.

(e) The Administrative Agent shall have received, in form and substance reasonably satisfactory to the Administrative Agent, an opinion of counsel in the state in which the property is located with respect to the enforceability of the form of Mortgage and sufficiency of the form of UCC-1 financing statements to be recorded or filed in such state and such other matters as the Administrative Agent may request, in form and substance reasonably satisfactory to the Administrative Agent.

(f) The Administrative Agent shall have received, in form and substance reasonably satisfactory to the Administrative Agent, a Mortgage Policy issued by the Title Insurance Company in an amount satisfactory to the Administrative



Agent with respect to the property, assuring the Administrative Agent that the applicable Mortgage creates a valid and enforceable first priority mortgage lien on the property, free and clear of all defects and encumbrances except Permitted Liens, which Mortgage Policy shall contain such coverage and endorsements as shall be reasonably satisfactory to the Administrative Agent and for any other matters that the Administrative Agent may request and provide affirmative insurance and such reinsurance as the Administrative Agent may request, all of the foregoing in form and substance reasonably satisfactory to the Administrative Agent.

(g) The Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, a map or plat of a survey of the site of the property certified to the Administrative Agent and the Title Insurance Company in a manner satisfactory to them, dated a date satisfactory to the Administrative Agent and the Title Insurance Company by an independent professional licensed land surveyor reasonably satisfactory to the Administrative Agent and the Title Insurance Company, and otherwise in form and substance satisfactory to the Administrative Agent.

(h) The Administrative Agent shall have received, in form and substance reasonably satisfactory to the Administrative Agent, a current certification from the Borrower's registered engineer land surveyor in a form acceptable to the Administrative Agent as to whether any of the improvements on the property are located within any area designated by the Director of the Federal Emergency Management Agency as a "special flood hazard" area and if any improvements on such parcel are located within a "special flood hazard" area, evidence of a flood insurance policy from a company and in an amount satisfactory to the Administrative Agent for the applicable portion of the premises, naming the Administrative Agent, for the benefit of the Lenders, as mortgagee.

(i) The Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, a copy of the management agreement between the lessee (or sublessee) of the property and the appropriate governmental entity (if applicable).

(j) The Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, (i) for the twelve month period preceding the date of such property's admittance as a Borrowing Base Property (or if such property has not been in operation for twelve months, for the period from the date of its opening through the date of its admittance as a Borrowing Base Property) historical operating statements and occupancy reports with respect to such property (and, if available, historical operating statements and occupancy reports with respect to such property for the three year period preceding the date of such property's admittance as a Borrowing Base Property), together with (ii) operating statements and occupancy reports with respect to such property for the first projected year following the property's admittance as a Borrowing Base Property.

(k) The Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, an environmental site assessment report for the property dated not more than twelve (12) months prior to the date of the date of the admittance of such property as a Borrowing Base Property.

(l) With respect to each Real Property owned by the Borrower and leased to Management Opco, the Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, a subordination of lease agreement from Management Opco with respect to such property.

(m) With respect to each Real Property which has been in operation for at least five (5) years, the Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, a current engineering report for the property.

(n) With respect to each New Property, the Borrower shall, subject to the proviso below, provide the Lenders with each of the items identified in subsections (b) through (m) above and the Aggregate Required Lenders shall have approved the admittance of such New Property as a Borrowing Base Property; provided, however, a Lender's failure to notify the Administrative Agent of its objection to the admittance of such New Property as a Borrowing Base Property within fifteen (15) days of such Lender's receipt of notice from the Administrative Agent of its receipt of all of the items identified in subsections (b) through (m) above shall be deemed to constitute such Lender's consent to such New Property's admittance as a Borrowing Base Property. The Administrative Agent agrees to forward to any Lender copies of the items identified in Subsections (b) through (m) above upon the request of such Lender.

Notwithstanding the foregoing, the Credit Parties hereby acknowledge and agree that (i) any property which fails to maintain an occupancy rate of at least 75% for two consecutive fiscal quarters shall no longer be considered a Borrowing Base Property; provided, however, subject to satisfaction of the conditions set forth in subsections (a) through (n) above, with respect to any New Property that does not achieve at least a 75% occupancy level during the six month period commencing on the date such New Property commences operations, such New property shall constitute a Borrowing Base Property during such six month period and 75% of such New Property's Borrowing Base Value will be included in the Borrowing Base during such six month period and (ii) the sum of the Borrowing Base Values of the justice facilities of the Borrower shall not constitute more than five percent (5%) of the sum of the Borrowing Base Values of the Borrowing Base Properties. In the event the aggregate value of the justice facilities of the Borrower included in the Borrowing Base exceeds five percent (5%) of the Borrowing Base, the Borrowing Base will be reduced by an amount equal to such excess.

"Borrowing Base Value" means, at any date of determination with respect to each Borrowing Base Property, an amount for such Borrowing Base Property equal to the lesser of:

(a) 45% of the Implied Value of such Borrowing Base Property.

(b) the amount of indebtedness payments on which could be covered 2 times by the Adjusted Cash Flow of such Borrowing Base Property assuming (i) an interest rate equal to the greater of (A) the Seven Year Treasury Rate plus two percent (2%) per annum and (B) nine percent (9%) per annum and (ii) a principal mortgage amortization of 20 years.

For purposes of determining the Borrowing Base Value of any Borrowing Base Property which has not been operational for four full fiscal quarters, the Adjusted Cash Flow attributable to such Borrowing Base Property shall be deemed to be the result obtained by annualizing the components of the actual Adjusted Cash Flow attributable to such Borrowing Base Property for the period that such Borrowing Base Property has been operational.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close, except that, when used in connection with a Eurodollar Loan, such day shall also be a day on which dealings between banks are carried on in U.S. dollar deposits in London, England.

"Business Development Agreement" means the Business Development Agreement, dated as of May 4, 1999, between the Borrower and Management Opco.

"Capitalization Rate" means eleven and one-half percent (11.5%).

"Capital Lease" means, as applied to any Person, any lease of any Property (whether real, personal or mixed) by that Person as lessee which, in accordance with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

"Capital Stock" means (i) in the case of a corporation, capital stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (iii) in the case of a partnership, partnership interests (whether general or limited), (iv) in the case of a limited liability company, membership interests and (v) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Collateral Account" shall have the meaning assigned to such term in Section 3.3(b).

"Cash Equivalents" means (a) securities issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition, (b) U.S. dollar denominated time deposits and certificates of deposit of (i) any Lender, (ii) any domestic commercial bank of recognized standing having capital and

surplus in excess of \$500,000,000 or (iii) any Revolving Lender or any bank whose short-term commercial paper rating from S&P is at least A-1 or the equivalent thereof or from Moody's is at least P-1 or the equivalent thereof (any such bank being an "Approved Bank"), in each case with maturities of not more than 270 days from the date of acquisition, (c) commercial paper and variable or fixed rate notes issued by any Approved Bank (or by the parent company thereof) or any variable rate notes issued by, or guaranteed by, any domestic corporation rated A-1 (or the equivalent thereof) or better by S&P or P-1 (or the equivalent thereof) or better by Moody's and maturing within six months of the date of acquisition, (d) repurchase agreements entered into by any Person with a bank or trust company (including any of the Lenders) or recognized securities dealer having capital and surplus in excess of \$500,000,000 for direct obligations issued by or fully guaranteed by the United States of America in which such Person shall have a perfected first priority security interest (subject to no other Liens) and having, on the date of purchase thereof, a fair market value of at least 100% of the amount of the repurchase obligations and (e) Investments, classified in accordance with GAAP as current assets, in money market investment programs registered under the Investment Company Act of 1940, as amended, which are administered by reputable financial institutions having capital of at least \$500,000,000 and the portfolios of which are limited to Investments of the character described in the foregoing subdivisions (a) through (d).

"CCA" means Corrections Corporation of America, a Tennessee corporation, which was merged with and into the Borrower on December 31, 1998, pursuant to the Merger Agreement.

"CCA Entities" means each of Management Opco, Service Company A and Service Company B and any Affiliate of any of them (other than the Borrower or any of its Subsidiaries).

"CCA Entity Transaction" shall have the meaning assigned to such term in Section 8.15.

"Change of Control" means the occurrence of any of the following events: (i) any Person or two or more Persons acting in concert shall have acquired "beneficial ownership," directly or indirectly, of, or shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation, will result in its or their acquisition of, control over, Voting Stock of the Borrower (or other securities convertible into such Voting Stock) representing 9% or more of the combined voting power of all Voting Stock of the Borrower, (ii) during any period of up to 24 consecutive months (such period commencing at any time on or after the Original Closing Date), individuals who at the beginning of such 24 month period were directors of the Borrower (together with any new director whose election by the Borrower's Board of Directors or whose nomination for election by the Borrower's shareholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the directors of the Borrower then in office, (iii) there shall have occurred under any indenture or other instrument evidencing any Indebtedness in excess of \$1,000,000 any "change of control" (as defined

in such indenture or other evidence of Indebtedness) obligating a Credit Party to repurchase, redeem or repay (or offer to repurchase, redeem or repay) all or part of the Indebtedness or capital stock provided for therein, or (iv) any of the Chairman of the Board of Directors, Chief Executive Officer, President or Chief Development Officer of the Borrower as of the Original Closing Date ceases to continue to hold such office or continue with management responsibilities substantially similar to those existing on the Original Closing Date and a replacement for such Person reasonably satisfactory to the Aggregate Required Lenders and possessing substantially similar qualifications and reputation to the Person being replaced is not employed by the Borrower within ninety (90) days after such first Person ceases to hold such office or continue to have such management responsibilities. As used herein, "beneficial ownership" shall have the meaning provided in Rule 13d-3 of the Securities and Exchange Commission under the Securities Act of 1934.

"Closing Date" means the Original Closing Date.

"Co-Agent" shall have the meaning assigned to such term in the preamble hereto, together with any successors and assigns.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor statute thereto, as interpreted by the rules and regulations issued thereunder, in each case as in effect from time to time. References to sections of the Code shall be construed also to refer to any successor sections.

"Collateral" means a collective reference to the collateral which is identified in, and at any time will be covered by, the Collateral Documents.

"Collateral Documents" means a collective reference to the Security Agreement, the Pledge Agreement, the Mortgages and such other documents executed and delivered in connection with the attachment and perfection of the Administrative Agent's security interests and liens arising thereunder, including, without limitation, UCC financing statements and patent and trademark filings.

"Commitment" means the Revolving Commitment, the Swingline Commitment, the LOC Commitment, the Term Loan Commitment and the Tranche C Term Loan Commitment.

"Consolidated Adjusted EBITDA" means, for any period, the amount equal to the sum of (a) Consolidated Net Income for such period, plus (b) an amount which, in the determination of Consolidated Net Income for such period, has been deducted for (i) Consolidated Interest Expense, (ii) total federal, state, local and foreign income, value added and similar taxes (including the write-off of deferred taxes) and (iii) depreciation and amortization expense, all as determined in accordance with GAAP less (c) actual management fees paid by the Consolidated Parties during such period less (d) Consolidated Capital Expenditures for such period with respect to Real Properties in operation less (e) an amount which, in the determination of Consolidated Net Income for such period, is attributable to interest that has accrued and has not been paid in cash with

respect to the Management Opco Note less (f) an amount which, in the determination of Consolidated Net Income for such period, is attributable to rent payments earned under the Lease Agreements but not yet paid in cash, all as determined in accordance with GAAP. For purposes of calculating the Leverage Ratio, with respect to any Real Property which has not been operational for an entire twelve month period, Consolidated Adjusted EBITDA attributable to such Real Property shall be deemed to be the result obtained by annualizing the components of the actual Consolidated Adjusted EBITDA attributable to such Real Property.

"Consolidated Capital Expenditures" means, for any period, all capital expenditures of the Consolidated Parties for the maintenance, repair and upkeep of existing properties, determined on a consolidated basis for such period in accordance with GAAP.

"Consolidated Interest Expense" means, for any period, interest expense (including the amortization of debt discount and premium, the amortization of fees (including without limitation any fees payable in respect of any Hedging Agreement), the interest component under Capital Leases, the implied interest component under Synthetic Leases and dividends paid on preferred stock) of the Consolidated Parties on a consolidated basis for such period, as determined in accordance with GAAP.

"Consolidated Net Income" means, for any period, net income (excluding extraordinary items) after taxes for such period of the Consolidated Parties on a consolidated basis, as determined in accordance with GAAP.

"Consolidated Net Worth" means, as of any date, shareholders' equity or net worth of the Consolidated Parties minus the sum of (a) interest that has accrued and has not been paid in cash on the Management Opco Note (whether or not such accrued interest has been added to the principal balance of the Management Opco Note) and (b) the sum of all rent payments that have been earned under the Lease Agreements but not paid in cash as a result of an agreement to defer the payment of such rent until a later date.

"Consolidated Parties" means a collective reference to the Borrower and its Restricted Subsidiaries, and "Consolidated Party" means any one of them. For purposes of this Credit Agreement, Service Company A, Service Company B, Management Opco and any Special Affiliates of the Borrower shall not be considered a Consolidated Party, notwithstanding the treatment of such Special Affiliates under GAAP (including without limitation any requirement that such Special Affiliates be accounted for as a Subsidiary for purposes of consolidated financial statements under GAAP).

"Credit Documents" means a collective reference to this Credit Agreement, the Notes, the LOC Documents, each Joinder Agreement, any related commitment letters, the Collateral Documents and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto (in each case as the same may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time), and "Credit Document" means any one of them.

"Credit Parties" means a collective reference to the Borrower and the Guarantors, and "Credit Party" means any one of them.

"Credit Party Obligations" means, without duplication, (i) all of the obligations of the Credit Parties to the Lenders (including any Issuing Lender), the Administrative Agent, the Documentation Agent, the Syndication Agent, the Co-Agent and the Lead Arranger whenever arising, under this Credit Agreement, the Notes, the Collateral Documents or any of the other Credit Documents (including, but not limited to, any interest accruing after the occurrence of a Bankruptcy Event with respect to any Credit Party, regardless of whether such interest is an allowed claim under the Bankruptcy Code) and (ii) all liabilities and obligations, whenever arising, owing from any Credit Party to any Lender, or any Affiliate of a Lender, arising under any Hedging Agreement.

"Debt Service Coverage Ratio" means, as of the end of each fiscal quarter of the Consolidated Parties for the fiscal quarter ending on such date, the ratio of (a) the sum of the Adjusted Cash Flow for each of the Borrowing Base Properties for the applicable period, minus (in respect of any fiscal quarter ended after June 30, 1999) any Tenant Incentive Fees incurred or paid by the Borrower during such period, to (b) Implied Debt Service for the applicable period. The Adjusted Cash Flow for any fiscal quarter for any Borrowing Base Property that has been operational for less than the entire fiscal quarter shall be determined by giving pro forma effect to the components of Adjusted Cash Flow as if such Borrowing Base Property had been operational from the first day of such fiscal quarter.

"Default" means any event, act or condition which with notice or lapse of time, or both, would constitute an Event of Default.

"Defaulting Lender" means, at any time, any Lender that (a) has failed to make a Loan or purchase a Participation Interest required pursuant to the terms of this Credit Agreement within one Business Day of when due, (b) other than as set forth in (a) above, has failed to pay to the Administrative Agent or any Lender an amount owed by such Lender pursuant to the terms of this Credit Agreement within one Business Day of when due, unless such amount is subject to a good faith dispute or (c) has been deemed insolvent or has become subject to a bankruptcy or insolvency proceeding or with respect to which (or with respect to any of assets of which) a receiver, trustee or similar official has been appointed.

"Documentation Agent" shall have the meaning assigned to such term in the preamble hereto, together with any successors and assigns.

"Dollars" and "\$" means dollars in lawful currency of the United States of America.

"Domestic Subsidiary" means, with respect to any Person, any Subsidiary of such Person which is incorporated or organized under the laws of any State of the United States or the District of Columbia.

"Duff & Phelps" means Duff & Phelps Credit Rating Co., or any successor or assignee of the business of such entity in the business of rating securities.

"Eligible Assignee" means (i) a Lender; (ii) an Affiliate of a Lender; and (iii) any other Person approved by the Administrative Agent (such approval not to be unreasonably withheld or delayed) and, unless an Event of Default has occurred and is continuing at the time any assignment is effected in accordance with Section 11.3, the Borrower (such approval not to be unreasonably withheld or delayed by the Borrower and such approval to be deemed given by the Borrower if no objection is received by the assigning Lender and the Administrative Agent from the Borrower within two Business Days after notice of such proposed assignment has been provided by the assigning Lender to the Borrower); provided, however, that the approval of the Administrative Agent and the Borrower with respect to any proposed Eligible Assignee of a Term Loan or Tranche C Term Loan is not required and provided, further, that neither the Borrower nor an Affiliate of the Borrower shall qualify as an Eligible Assignee.

"Eligible Real Estate" means, as of any date of determination, any correctional, justice or detention property that satisfies the following criteria: (a) except as provided in clause (c) below, the property must be located in the United States or a United States territory, (b) except as provided in clause (c) below, the property must be wholly owned by the Borrower (which may include a leasehold property of the Borrower subject to a lease acceptable to the Required Lenders and the Required Tranche C Term Lenders in their reasonable discretion), (c) with respect to any New Property, (i) if the property is not wholly owned by the Borrower, it must be located in the United States or a United States territory or (ii) if the property is not located in the United States or a United States territory, it must be wholly owned by the Borrower; provided that the value of all such properties included in this clause (c) may not exceed five percent (5%) of Total Value, (d) the property must be unencumbered other than any lien securing the Credit Party Obligations, (e) the property must be free of structural and title defects and have passed a structural inspection conducted by an architect or engineer engaged by the Administrative Agent or the Borrower shall have provided to the Lenders other written evidence of structural integrity with respect to the property reasonably acceptable in form and substance to the Required Lenders and the Required Tranche C Term Lenders, (f) the Lenders must have received an environmental site assessment report for the property in form and substance reasonably satisfactory to the Required Lenders and the Required Tranche C Term Lenders dated not more than twelve (12) months prior to the acquisition of such property by the Borrower, (g) the property must be fully operating and generating revenue, (h) the lessee leasing the property from the Borrower must be in compliance with all material terms of the facility management agreement between such lessee and the appropriate governmental entity, (i) the Borrower must have leased the property to a lessee or sublessee (where applicable) reasonably acceptable to the Required Lenders and the Required Tranche C Term Lenders pursuant to the terms and conditions of a lease agreement reasonably acceptable in form and substance to the Required Lenders and the Required Tranche C Lenders and (j) the Borrower and lessee or sublessee (where applicable) of the property must be in compliance with all material terms and conditions contained in the lease or sublease (where applicable) agreement between the Borrower and such lessee or sublessee (where applicable). For purposes of this definition, the parties hereby agree that a Lender's failure to notify the Administrative Agent of its



objection to any of the items identified in this definition within fifteen (15) days of notice from the Administrative Agent of its receipt of all items identified in clauses (e), (f) and (i) of this definition shall be deemed to constitute such Lender's approval of such items. The Administrative Agent agrees to forward to any Lender copies of the items identified in clauses (e), (f) and (i) upon the request of such Lender.

"Environmental Laws" means any and all lawful and applicable Federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"Equity Issuance" means any issuance by any Consolidated Party to any Person which is not a Credit Party of (a) shares of its Capital Stock, (b) any shares of its Capital Stock pursuant to the exercise of options or warrants or (c) any shares of its Capital Stock pursuant to the conversion of any debt securities to equity.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute thereto, as interpreted by the rules and regulations thereunder, all as the same may be in effect from time to time. References to sections of ERISA shall be construed also to refer to any successor sections.

"ERISA Affiliate" means an entity which is under common control with any Consolidated Party within the meaning of Section 4001(a)(14) of ERISA, or is a member of a group which includes any Consolidated Party and which is treated as a single employer under Sections 414(b) or (c) of the Code.

"ERISA Event" means (i) with respect to any Plan, the occurrence of a Reportable Event or the substantial cessation of operations (within the meaning of Section 4062(e) of ERISA); (ii) the withdrawal by any Consolidated Party or any ERISA Affiliate from a Multiple Employer Plan during a plan year in which it was a substantial employer (as such term is defined in Section 4001(a)(2) of ERISA), or the termination of a Multiple Employer Plan; (iii) the distribution of a notice of intent to terminate or the actual termination of a Plan pursuant to Section 4041(a)(2) or 4041A of ERISA; (iv) the institution of proceedings to terminate or the actual termination of a Plan by the PBGC under Section 4042 of ERISA; (v) any event or condition which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (vi) the complete or partial withdrawal of any Consolidated Party or any ERISA Affiliate from a Multiemployer Plan; (vii) the conditions for imposition of a

lien under Section 302(f) of ERISA exist with respect to any Plan; or (viii) the adoption of an amendment to any Plan requiring the provision of security to such Plan pursuant to Section 307 of ERISA.

"Eurodollar Loan" means any Loan that bears interest at a rate based upon the Eurodollar Rate.

"Eurodollar Rate" means, for any Eurodollar Loan for any Interest Period therefor, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) determined by the Administrative Agent to be equal to the quotient obtained by dividing (a) the Interbank Offered Rate for such Eurodollar Loan for such Interest Period by (b) 1 minus the Eurodollar Reserve Requirement for such Eurodollar Loan for such Interest Period.

"Eurodollar Reserve Requirement" means, at any time, the maximum rate at which reserves (including, without limitation, any marginal, special, supplemental, or emergency reserves) are required to be maintained under regulations issued from time to time by the Board of Governors of the Federal Reserve System (or any successor) by member banks of the Federal Reserve System against "Eurodollar liabilities" (as such term is used in Regulation D). Without limiting the effect of the foregoing, the Eurodollar Reserve Requirement shall reflect any other reserves required to be maintained by such member banks with respect to (i) any category of liabilities which includes deposits by reference to which the Adjusted Eurodollar Rate is to be determined, or (ii) any category of extensions of credit or other assets which include Eurodollar Loans. The Adjusted Eurodollar Rate shall be adjusted automatically on and as of the effective date of any change in the Eurodollar Reserve Requirement.

"Event of Default" shall have the meaning assigned to such term in Section 9.1.

"Executive Officer" of any Person means any of the chief executive officer, chief operating officer, president, vice president, chief financial officer or treasurer of such Person.

"Existing CCA Entity Agreements" means agreements of the CCA Entities as in effect on the Restatement Effective Date and listed on Schedule 1.1(a).

"Existing Properties" has the meaning assigned to such term in Section 5.1(f)(i).

"Fees" means all fees payable pursuant to Section 3.5.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business

Day, the Federal Funds Rate for such day shall be the average rate charged to the Administrative Agent (in its individual capacity) on such day on such transactions as determined by the Administrative Agent.

"First Union Letters of Credit" has the meaning assigned to such term in clause (ix) of the definition of "Permitted Liens."

"Fitch" means Fitch Investors Service, or any successor or assignee of the business of such entity in the business of rating securities.

"Foreign Subsidiary" means, with respect to any Person, any Subsidiary of such Person other than a Domestic Subsidiary; provided, however, that a Foreign Subsidiary that is treated as a pass-through entity for United States federal income tax purposes shall be deemed a Domestic Subsidiary for purposes of this Credit Agreement and the other Credit Documents while so treated.

"Funds from Operations" for any period, with respect to any Person, shall have the meaning given to such term, and shall be calculated in accordance with, standards promulgated by the Board of Governors of the National Association of Real Estate Investment Trusts in effect from time to time.

"GAAP" means generally accepted accounting principles in the United States applied on a consistent basis and subject to the terms of Section 1.3.

"Governmental Authority" means any Federal, state, local or foreign court or governmental agency, authority, instrumentality or regulatory body.

"Gross Lease Revenue" shall have the meaning given to such term in the definition of Adjusted Cash Flow.

"Guarantors" means a collective reference to each of the Subsidiary Guarantors, together with their successors and permitted assigns, and "Guarantor" means any one of them.

"Guaranty Obligations" means, with respect to any Person, without duplication, any obligations of such Person (other than endorsements in the ordinary course of business of negotiable instruments for deposit or collection) guaranteeing or intended to guarantee any Indebtedness of any other Person in any manner, whether direct or indirect, and including without limitation any obligation, whether or not contingent, (i) to purchase any such Indebtedness or any Property constituting security therefor, (ii) to advance or provide funds or other support for the payment or purchase of any such Indebtedness or to maintain working capital, solvency or other balance sheet condition of such other Person (including without limitation keep well agreements, maintenance agreements, comfort letters or similar agreements or arrangements) for the benefit of any holder of Indebtedness of such other Person, (iii) to lease or purchase Property, securities or services primarily for the purpose of assuring the holder of such Indebtedness, or (iv) to otherwise assure or hold harmless the holder of such Indebtedness against loss in respect thereof. The amount of any Guaranty Obligation hereunder shall (subject to any

limitations set forth therein) be deemed to be an amount equal to the outstanding principal amount of the Indebtedness in respect of which such Guaranty Obligation is made.

"Hedging Agreements" means any interest rate protection agreement or foreign currency exchange agreement between the Borrower and any Lender, or any Affiliate of a Lender.

"Implied Debt Service" means, the scheduled debt payments that would have been due on the average outstanding loan balance under this Credit Agreement for the prior fiscal quarter assuming a principal mortgage amortization of 20 years and assuming an interest rate equal to the greater of (i) nine percent (9%) per annum and (b) the Seven Year Treasury Rate plus two percent (2.0%) per annum.

"Implied Value" means, with respect to any Real Property on any date, an amount equal to the Adjusted Cash Flow of such Real Property for the four full fiscal quarters most recently ended on or prior to such date, divided by the Capitalization Rate. For purposes of determining the Implied Value of any Real Property which has not been operational for four full fiscal quarters, the Adjusted Cash Flow attributable to such Real Property shall be deemed to be the result obtained by annualizing the components of the actual Adjusted Cash Flow attributable to such Real Property for the period that such Real Property has been operational.

"Indebtedness" means, with respect to any Person, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, or upon which interest payments are customarily made, (c) all obligations of such Person under conditional sale or other title retention agreements relating to Property purchased by such Person (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business), (d) all obligations of such Person issued or assumed as the deferred purchase price of Property or services purchased by such Person (other than trade debt incurred in the ordinary course of business and due within six months of the incurrence thereof) which would appear as liabilities on a balance sheet of such Person, (e) all obligations of such Person under take-or-pay or similar arrangements or under commodities agreements, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, Property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (g) all Guaranty Obligations of such Person, (h) the principal portion of all obligations of such Person under Capital Leases, (i) all obligations of such Person under Hedging Agreements and similar arrangements whether or not permitted under this Credit Agreement and whether or not any Lender or any Affiliate of any Lender is a party thereto, (j) all obligations of such Person to repurchase any securities which repurchase obligation is related to the issuance thereof, (k) the undrawn face amount of all standby letters of credit issued, trade letters of credit issued or bankers' acceptances facilities created for the account of such Person and, without duplication, all drafts drawn thereunder (to the extent unreimbursed), (l) all preferred Capital Stock issued by such

Person and required by the terms thereof to be redeemed, or for which mandatory sinking fund payments are due, by a fixed date occurring less than twelve (12) years after the Restatement Effective Date, (m) all other obligations of such person under any arrangement or financing structure classified as debt (for tax purposes) by any nationally recognized rating agency, (n) the principal portion of all obligations of such Person under Synthetic Leases and (o) the Indebtedness of any partnership in which such Person is a general partner, and the Indebtedness of any unincorporated joint venture in which such Person is a joint venturer, to the extent that such Person would, either pursuant to contract or by operation of law, be liable for such Indebtedness.

"Intellectual Property" shall have the meaning assigned to such term in Section 6.17.

"Interbank Offered Rate" means, for any Eurodollar Loan for any Interest Period therefor, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Telerate Page 3750 (or any successor page) as the London interbank offered rate for deposits in Dollars at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period for a term comparable to such Interest Period. If for any reason such rate is not available, the term "Interbank Offered Rate" shall mean, for any Eurodollar Loan for any Interest Period therefor, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Reuters Screen LIBO Page as the London interbank offered rate for deposits in Dollars at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period for a term comparable to such Interest Period; provided, however, if more than one rate is specified on Reuters Screen LIBO Page, the applicable rate shall be the arithmetic mean of all such rates (rounded upwards, if necessary, to the nearest 1/100 of 1%).

"Interest Coverage Ratio" means, as of the end of each fiscal quarter of the Consolidated Parties for the twelve month period ending on such date, the ratio of Consolidated Adjusted EBITDA for such period to Consolidated Interest Expense for such period. Notwithstanding the foregoing, for purposes of calculating the Interest Coverage Ratio as of the end of any fiscal quarter ending within twelve months of the Original Closing Date, Interest Coverage Ratio shall mean, the ratio of Consolidated Adjusted EBITDA for the period from the Original Closing Date through such applicable fiscal quarter end to Consolidated Interest Expense for the period from the Original Closing Date through such applicable fiscal quarter end.

"Interest Payment Date" means (a) as to Base Rate Loans, the last day of each calendar month, the date of repayment of principal of such Loan and the Revolving Loan Maturity Date, Term Loan Maturity Date or Tranche C Term Loan Maturity Date, as applicable, and (b) as to Eurodollar Loans, the last day of each applicable Interest Period, the date of repayment of principal of such Loan and the Revolving Loan Maturity Date, Term Loan Maturity Date or Tranche C Term Loan Maturity Date, as applicable, and in addition where the applicable Interest Period for a Eurodollar Loan is greater than three months, then also the date three months from the beginning of the Interest Period and each three months thereafter.

"Interest Period" means, as to Eurodollar Loans, a period of one, two, three or six months' duration, as the Borrower may elect, commencing, in each case, on the date of the borrowing (including continuations and conversions thereof); provided, however, (a) if any Interest Period would end on a day which is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day (except that where the next succeeding Business Day falls in the next succeeding calendar month, then on the next preceding Business Day), (b) no Interest Period shall extend beyond the Revolving Loan Maturity Date, Term Loan Maturity Date or Tranche C Term Loan Maturity Date, as applicable, (c) with regard to the Term Loans, no Interest Period shall extend beyond any Principal Amortization Payment Date unless the portion of the Term Loans comprised of Base Rate Loans together with the portion of the Term Loans comprised of Eurodollar Loans with Interest Periods expiring on or prior to such Principal Amortization Payment Date is at least equal to the amount of such Principal Amortization Payment due on such date, (d) with regard to the Tranche C Term Loans, no Interest Period shall extend beyond any Principal Amortization Payment Date unless the portion of the Tranche C Term Loans comprised of Base Rate Loans together with the portion of Tranche C Term Loans comprised of Eurodollar Loans with Interest Periods expiring on or prior to such Principal Amortization Payment Date is at least equal to the amount of such Principal Amortization Payment due on such date and (e) where an Interest Period begins on a day for which there is no numerically corresponding day in the calendar month in which the Interest Period is to end, such Interest Period shall end on the last Business Day of such calendar month.

"Investment" means (a) the acquisition (whether for cash, property, services, assumption of Indebtedness, securities or otherwise) of assets, Capital Stock, bonds, notes, debentures, partnership, joint ventures or other ownership interests or other securities of any Person or (b) any deposit with, or advance, loan or other extension of credit to, any Person (other than deposits made in connection with the purchase of equipment or other assets in the ordinary course of business) or (c) any other capital contribution to or investment in any Person, including, without limitation, any Guaranty Obligations (including any support for a letter of credit issued on behalf of such Person) incurred for the benefit of such Person.

"Issuing Lender" means any Revolving Lender selected by the Borrower with the consent of such Revolving Lender and with the approval of the Administrative Agent (such approval not to be unreasonably withheld).

"Issuing Lender Fees" shall have the meaning assigned to such term in Section 3.5(c)(ii).

"Joinder Agreement" means a Joinder Agreement substantially in the form of Exhibit 7.12 hereto, executed and delivered by an Additional Credit Party in accordance with the provisions of Section 7.12.

"Lead Arranger" shall have the meaning assigned to such term in the preamble hereto, together with any successors and assigns.

"Lease Agreement" shall have the meaning assigned to such term in Section 9.1(1).

"Lender" means any of the Persons identified as a "Lender" on Schedule 2.1(a) hereto, and any Person which may become a Lender by way of assignment in accordance with the terms hereof, together with their successors and permitted assigns.

"Letter of Credit" means any letter of credit issued by an Issuing Lender for the account of the Borrower in accordance with the terms of Section 2.2.

"Leverage Ratio" means, with respect to the Consolidated Parties on a consolidated basis as of the last day of any fiscal quarter, the ratio of (a) Total Indebtedness on the last day of such fiscal quarter to (b) Consolidated Adjusted EBITDA for the twelve month period ending on the last day of such fiscal quarter; provided, however, for purposes of calculating the Leverage Ratio as of the end of any fiscal quarter ending within twelve months of the Original Closing Date, Consolidated Adjusted EBITDA for the applicable period shall be deemed to be the result obtained by annualizing the components of Consolidated Adjusted EBITDA for the period commencing on the Original Closing Date and ending as of the end of such fiscal quarter.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, security interest, encumbrance, lien (statutory or otherwise), preference, priority or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any financing or similar statement or notice filed under the Uniform Commercial Code as adopted and in effect in the relevant jurisdiction or other similar recording or notice statute, and any lease in the nature thereof).

"Loan" or "Loans" means the Revolving Loans, the Term Loans and/or the Tranche C Term Loans (or a portion of any Revolving Loan, Term Loan or Tranche C Term Loan bearing interest at the Adjusted Base Rate or the Adjusted Eurodollar Rate) and/or any Swingline Loans individually or collectively, as appropriate.

"LOC Commitment" means the commitment of the Issuing Lenders to issue Letters of Credit, and to honor payment obligations under, Letters of Credit hereunder in an aggregate face amount at any time outstanding (together with the amounts of any unreimbursed drawings thereon) of up to the LOC Committed Amount and with respect to each Revolving Lender, the commitment of each Revolving Lender to purchase participation interests in the Letters of Credit.

"LOC Committed Amount" shall have the meaning assigned to such term in Section 2.2.

"LOC Documents" means, with respect to any Letter of Credit, such Letter of Credit, any amendments thereto, any documents delivered in connection therewith, any application therefor, and any agreements, instruments, guarantees or other documents (whether general in application or applicable only to such Letter of Credit) governing or providing for (i) the rights and obligations of the parties concerned or at risk or (ii) any collateral security for such obligations.

"LOC Obligations" means, at any time, the sum of (i) the maximum amount which is, or at any time thereafter may become, available to be drawn under Letters of Credit then outstanding, assuming compliance with all requirements for drawings referred to in such Letters of Credit plus (ii) the aggregate amount of all drawings under Letters of Credit honored by an Issuing Lender but not theretofore reimbursed by the Borrower.

"Management Opco" means Corrections Corporation of America (formerly Correctional Management Services Corporation (and not CCA)), a Tennessee corporation.

"Management Opco Credit Agreement" means that certain Loan and Security Agreement, dated as of March 1, 1999, among Management Opco, Foothill Capital Corporation and the other financial institutions party thereto, as amended by that certain Amendment Number One to Loan and Security Agreement, dated June 3, 1999, and as otherwise amended or modified.

"Management Opco Note" means that certain promissory note dated December 31, 1998 in the amount of \$137,000,000 issued by Management Opco in favor of CCA and now held by the Borrower as a result of the Merger, as modified by that certain Note Modification Agreement, dated March 1, 1999, among Management Opco, the Borrower and the Original Administrative Agent.

"Master Lease" means that certain Master Agreement to Lease dated January 1, 1999 between the Borrower and Management Opco, as amended or modified from time to time as provided herein.

"Material Adverse Effect" means a material adverse effect on (i) the condition (financial or otherwise), operations, business, assets or liabilities of the Consolidated Parties taken as a whole or (ii) the rights and remedies of the Administrative Agent or the other Secured Parties under the Credit Documents.

"Materials of Environmental Concern" means any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, defined or regulated as such in or under any Environmental Laws, including, without limitation, asbestos, polychlorinated biphenyls and urea-formaldehyde insulation.

"Merger" means, collectively, those certain mergers of each of CCA and PZN with and into the Borrower pursuant to the terms and conditions of the Merger Agreement, which were consummated on December 31, 1998, and January 1, 1999, respectively.

"Merger Agreement" means that certain Amended and Restated Agreement and Plan of Merger among the Borrower, PZN and CCA dated September 29, 1998.



"Moody's" means Moody's Investors Service, Inc., or any successor or assignee of the business of such company in the business of rating securities.

"Mortgage" shall have the meaning given to such term in Section 5.1(f).

"Mortgage Policy" shall have the meaning given to such term in Section 5.1(f).

"Multiemployer Plan" means a Plan which is a multiemployer plan as defined in Sections 3(37) or 4001(a)(3) of ERISA.

"Multiple Employer Plan" means a Plan which any Consolidated Party or any ERISA Affiliate and at least one employer other than the Consolidated Parties or any ERISA Affiliate are contributing sponsors.

"NationsBank" means NationsBank, N.A. (now known as Bank of America, N.A.), and its successors.

"NationsBank Letters of Credit" has the meaning assigned to such term in clause (ix) of the definition of "Permitted Liens."

"Net Cash Proceeds" means (i) the aggregate cash proceeds received by the Consolidated Parties in respect of any Equity Issuance or Asset Disposition, net of (a) direct costs (including, without limitation, legal, accounting and investment banking fees, and sales commissions) and (b) taxes paid or payable as a result thereof and (ii) any cash amounts received (or deemed received) by the Borrower in repayment of the Agecroft Note; it being understood that "Net Cash Proceeds" shall include, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received by the Consolidated Parties in any Equity Issuance, Asset Disposition or repayment of the Agecroft Note.

"Net Worth" means, as of any date, shareholders' equity or net worth of the Borrower minus the sum of (a) interest that has accrued and has not been paid in cash on the Management Opco Note (whether or not such accrued interest has been added to the principal balance of the Management Opco Note) and (b) the sum of all rent payments that have been earned under the Lease Agreements but not paid in cash as a result of an agreement to defer the payment of such rent until a later date.

"New Properties" means any real property asset owned by the Borrower or any leasehold estate of the Borrower (in each case other than those real property assets and leasehold estates listed on Schedule 5.1(f)(i)) which, in either case, qualifies as a parcel of Eligible Real Estate and satisfies each of the conditions identified in the definition of "Borrowing Base Properties".

"Non-Conforming Investments" means Investments by a Consolidated Party in undeveloped land, non-income producing properties, properties not constituting correctional, detention or justice facilities or any other investments not related to the ownership of correctional, justice or detention facilities.

"Non-Recourse Debt" means Indebtedness (i) as to which neither the Borrower nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness) other than a pledge of the equity interests of any Unrestricted Subsidiary, (b) is directly or indirectly liable (as a guarantor or otherwise) other than by virtue of a pledge of the equity interests of any Unrestricted Subsidiary, or (c) constitutes the lender; (ii) no default with respect to which (including any rights that the holders thereof may have to take enforcement action against any Unrestricted Subsidiary) would permit (upon notice, lapse of time or both) any holder of any other Indebtedness (other than the Obligations) of the Borrower or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity; and (iii) as to which the lenders thereunder will not have any recourse to the Capital Stock or assets of the Borrower or any of its Restricted Subsidiaries (other than the equity interests of any Unrestricted Subsidiary).

"Non-U.S. Lender" shall have the meaning assigned to such term in Section 3.11(d).

"Note" or "Notes" means the Revolving Notes, the Swingline Notes, the Term Notes and/or the Tranche C Term Notes, if any, individually or collectively, as appropriate.

"Notice of Borrowing" means a written notice of borrowing in substantially the form of Exhibit 2.1(b)(i), as required by Section 2.1(b)(i) or Section 2.5(b).

"Notice of Extension/Conversion" means the written notice of extension or conversion in substantially the form of Exhibit 3.2, as required by Section 3.2.

"Obligations" means, collectively, the Revolving Loans, the Swingline Loans, the LOC Obligations, the Term Loans and the Tranche C Term Loans.

"Opco License Agreement" means that certain Service Mark and Trade Name Use Agreement dated as of December 31, 1998, between CCA (as predecessor-in-interest to the Borrower) and Management Opco, as amended or modified from time to time.

"Operating Lease" means, as applied to any Person, any lease (including, without limitation, leases which may be terminated by the lessee at any time) of any Property (whether real, personal or mixed) which is not a Capital Lease other than any such lease in which that Person is the lessor.

"Original Administrative Agent" shall have the meaning assigned to such term in the preamble hereto.

"Original Closing Date" shall mean January 1, 1999.

"Original Credit Agreement" shall have the meaning assigned to such term in the preamble hereto.

"Original Documentation Agent" shall have the meaning assigned to such term in the preamble hereto.

"Original Lenders" shall have the meaning assigned to such term in the preamble hereto.

"Original Subsidiary Guarantors" shall have the meaning assigned to such term in the preamble hereto.

"Original Syndication Agent" shall have the meaning assigned to such term in the heading hereof.

"Original Term Lenders" means the Term Lenders under the Original Credit Agreement immediately prior to the Restatement Effective Date.

"Other Taxes" shall have the meaning assigned to such term in Section 3.11.

"Participation Interest" means a purchase by a Lender of a participation in Letters of Credit or LOC Obligations as provided in Section 2.2 or in any Loans as provided in Section 3.14.

"PBGC" means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA and any successor thereof.

"Permitted Investments" means Investments which are either (i) cash and Cash Equivalents; (ii) accounts receivable created, acquired or made by any Consolidated Party in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; (iii) Investments consisting of Capital Stock, obligations, securities or other property received by any Consolidated Party in settlement of accounts receivable (created in the ordinary course of business); (iv) Investments existing as of the Restatement Effective Date and set forth in Schedule 1.1(b); (v) Investments in any Credit Party; (vi) Investments consisting of the acquisition of Real Properties, provided that for any Real Properties located outside of the United States or a United States territory, the provisions of clause (c) of the definition of "Eligible Real Estate" are complied with and, if such Investment is made through a Subsidiary of the Borrower (other than an Unrestricted Subsidiary), the provisions of Section 7.12 are complied with respect to such Subsidiary, (vii) Investments subsequent to the Original Closing Date in Service Company A and Service Company B in an amount not to exceed \$5,000,000 in the aggregate during the term of this Credit Agreement, (viii) payments to Management Opco arising from the operation of the Tenant Incentive Agreement, to the extent such payments would be classified as "Investments" hereunder and (ix) prior to Agecroft's designation as an Unrestricted Subsidiary hereunder, the Agecroft Investment.

"Permitted Liens" means:

(i) Liens in favor of the Administrative Agent for the benefit of the Secured Parties to secure the Credit Party Obligations;

(ii) Liens (other than Liens created or imposed under ERISA) for taxes, assessments or governmental charges or levies not yet due or Liens for taxes being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established (and as to which the Property subject to any such Lien is not yet subject to foreclosure, sale or loss on account thereof);

(iii) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, materialmen and suppliers and other Liens imposed by law or pursuant to customary reservations or retentions of title arising in the ordinary course of business, provided that such Liens secure only amounts not yet due and payable or, if due and payable, are unfiled and no other action has been taken to enforce the same or are being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established (and as to which the Property subject to any such Lien is not yet subject to foreclosure, sale or loss on account thereof);

(iv) Liens (other than Liens created or imposed under ERISA) incurred or deposits made by any Consolidated Party in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, leases, government contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);

(v) Liens in connection with attachments or judgments (including judgment or appeal bonds) provided that the judgments secured shall, within 30 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall have been discharged within 30 days after the expiration of any such stay;

(vi) easements, rights-of-way, restrictions (including zoning restrictions), minor defects or irregularities in title and other similar charges or encumbrances not, in any material respect, impairing the use of the encumbered Property for its intended purposes;

(vii) leases or subleases granted to others not interfering in any material respect with the business of any Consolidated Party;

(viii) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions;

(ix) Liens on cash held by (i) NationsBank, as issuing lender under the Original Credit Agreement, to secure the Borrower's obligations in respect of letters of credit issued under the Original Credit Agreement and outstanding on the Restatement Effective Date (the "NationsBank Letters of Credit") and (ii) First Union National Bank, as issuing lender under a predecessor credit agreement to the Original Credit Agreement, to secure the Borrower's obligations in respect of letters of credit issued under such predecessor credit agreement and outstanding on the Restatement Effective Date (the "First Union Letters of Credit"), in each case so long as such liens are released within ninety (90) days of the Restatement Effective Date;

(x) Liens existing as of the Original Closing Date and set forth on Schedule 1.1(c); provided that (a) no such Lien shall at any time be extended to or cover any Property

other than the Property subject thereto on the Original Closing Date and (b) the principal amount of the Indebtedness secured by such Liens shall not be increased, extended, renewed, refunded or refinanced; and

(xi) Liens on the assets or Capital Stock of any Unrestricted Subsidiary securing the obligations of such Unrestricted Subsidiary or any other Unrestricted Subsidiary that owns or is owned by such Unrestricted Subsidiary.

"Permitted Unsecured Debt" means Indebtedness incurred after the Restatement Effective Date pursuant to Section 8.1(e) and issued in a public offering or Rule 144A transaction.

"Permitted Unsecured Debt Documents" means the indenture, underwriting agreement, purchase agreement, registration rights agreement and other documentation governing any Permitted Unsecured Debt.

"Person" means any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust or other enterprise (whether or not incorporated) or any Governmental Authority.

"Plan" means any employee benefit plan (as defined in Section 3(3) of ERISA) which is covered by ERISA and with respect to which any Consolidated Party or any ERISA Affiliate is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an "employer" within the meaning of Section 3(5) of ERISA.

"Pledge Agreement" means the amended and restated pledge agreement dated as of the Restatement Effective Date executed in favor of the Administrative Agent by each of the Credit Parties, as amended, modified, restated or supplemented from time to time.

"Prime Rate" means the per annum rate of interest established from time to time by NationsBank as its prime rate, which rate may not be the lowest rate of interest charged by NationsBank to its customers.

"Principal Amortization Payment" means a principal amortization payment on the Term Loans or the Tranche C Term Loans, as set forth in Sections 2.4(b) and 2.5(d), respectively.

"Principal Amortization Payment Date" means the date a Principal Amortization Payment is due.

"Property" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"PZN" means CCA Prison Realty Trust, a Maryland real estate investment trust, which was merged with and into the Borrower on January 1, 1999, pursuant to the Merger Agreement.

"Real Properties" means each of the Existing Properties and New Properties, and "Real Property" means any one of them.

"Register" shall have the meaning given such term in Section 11.3(c).

"Regulation T, U, or X" means Regulation T, U or X, respectively, of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.

"REIT" means a real estate investment trust as defined in Sections 856-860 of the Code.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles) of any Materials of Environmental Concern.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the notice requirement has been waived by regulation.

"Required Lenders" means, at any time, the Required Revolving Lenders and the Required Term Lenders, each voting as a separate class.

"Required Revolving Lenders" means, at any time, the Revolving Lenders which are then in compliance with their obligations hereunder (as determined by the Administrative Agent) and holding in the aggregate at least 66 2/3% of (i) the Revolving Commitments (and Participation Interests therein) or (ii) if the Revolving Commitments have been terminated, the outstanding Revolving Loans and Participation Interests (including the Participation Interests of the Issuing Lender in any Letters of Credit).

"Required Term Lenders" means, at any time, the Term Lenders which are then in compliance with their obligations hereunder (as determined by the Administrative Agent) and holding in the aggregate at least 66 2/3% of the outstanding Term Loans.

"Required Tranche C Term Lenders" means, at any time, the Tranche C Term Lenders which are then in compliance with their obligations hereunder (as determined by the Administrative Agent) and holding in the aggregate at least 66 2/3% of the outstanding Tranche C Term Loans.

"Requirement of Law" means, as to any Person, the articles or certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its material property is subject.

"Restatement Effective Date" means the first date on which all of the conditions precedent set forth in Section 5.1 have been satisfied.

"Restricted Payment" means (i) any dividend or other payment or distribution, direct or indirect, on account of any shares of any class of Capital Stock of any Consolidated Party, now or hereafter outstanding (including without limitation any payment in connection with any merger or consolidation involving any Consolidated Party), or to the direct or indirect holders of any shares of any class of Capital Stock of any Consolidated Party, now or hereafter outstanding, in their capacity as such (other than dividends or distributions payable in the same class of Capital Stock of the applicable Person or to any Credit Party (directly or indirectly through Subsidiaries), (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of Capital Stock of any Consolidated Party, now or hereafter outstanding and (iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of Capital Stock of any Consolidated Party, now or hereafter outstanding.

"Restricted Subsidiary" means, with respect to any Person, any Subsidiary of such Person that is not an Unrestricted Subsidiary.

"Revolving Commitment" means, with respect to each Revolving Lender, the commitment of such Revolving Lender in an aggregate principal amount at any time outstanding of up to such Revolving Lender's Revolving Commitment Percentage of the Revolving Committed Amount, (i) to make Revolving Loans in accordance with the provisions of Section 2.1(a) and (ii) to purchase Participation Interests in Letters of Credit in accordance with the provisions of Section 2.2(c).

"Revolving Commitment Percentage" means, for any Revolving Lender, the percentage identified as its Revolving Commitment Percentage on Schedule 2.1(a), as such percentage may be modified in connection with any assignment made in accordance with the provisions of Section 11.3.

"Revolving Committed Amount" means FOUR HUNDRED MILLION DOLLARS (\$400,000,000) or such lesser amount as the Revolving Committed Amount may be reduced from time to time pursuant to Section 3.4.

"Revolving Lender" means Lenders holding Revolving Commitments, as identified on Schedule 2.1(a) and their successors and assigns.

"Revolving Loan Maturity Date" means January 1, 2002.

"Revolving Loans" shall have the meaning assigned to such term in Section 2.1(a).

"Revolving Note" means a promissory note of the Borrower in favor of a Revolving Lender evidencing the Revolving Loans provided by such Lender pursuant to Section 2.1, as such promissory note may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time.

"Revolving Obligations" means, collectively, the Revolving Loans, the Swingline Loans and the LOC Obligations.

"S&P" means Standard & Poor's Ratings Group, a division of McGraw Hill, Inc., or any successor or assignee of the business of such division in the business of rating securities.

"Sale and Leaseback Transaction" means any direct or indirect arrangement with any Person or to which any such Person is a party, providing for the leasing to any Consolidated Party of any Property, whether owned by such Consolidated Party as of the Original Closing Date or later acquired, which has been or is to be sold or transferred by such Consolidated Party to such Person or to any other Person from whom funds have been, or are to be, advanced by such Person on the security of such Property.

"Secured Parties" means, collectively, the Administrative Agent, the Lenders (including, without limitation, any Issuing Lender and any Affiliate of any Lender which has entered into a Hedging Agreement with any Credit Party), the Documentation Agent, the Syndication Agent, the Co-Agent and the Lead Arranger and "Secured Party" means any one of them.

"Security Agreement" means the amended and restated security agreement dated as of the Restatement Effective Date executed in favor of the Administrative Agent by each of the Credit Parties, as amended, modified, restated or supplemented from time to time.

"Senior Debt" shall have the meaning given such term in the definition of Senior Debt Rating.

"Senior Debt Rating" means the publicly announced ratings by S&P and Moody's for the senior secured (non-credit enhanced) long term debt of the Borrower ("Senior Debt").

"Senior Notes" means the Borrower's \$100,000,000 in principal amount of 12% Senior Notes, due 2006 (the "Initial Senior Notes"), and the senior notes of the Borrower, having the same terms as the Initial Senior Notes, issued in exchange for the Initial Senior Notes as contemplated by the Senior Notes Documents.

"Senior Notes Documents" means the Senior Notes Indenture, the Underwriting Agreement and the Senior Notes, each as in effect on the Restatement Effective Date.

"Senior Notes Indenture" means the Indenture, dated as of June 10, 1999, among the Borrower and State Street Bank and Trust Company, as trustee (the "Trustee"), as supplemented by that certain First Supplemental Indenture, dated as of June 11, 1999, among the Borrower and the Trustee, pursuant to which the Senior Notes are issued.

"Service Company A" means Prison Management Services, Inc., a Tennessee corporation.



"Service Company A License Agreement" means that certain Service Mark and Trade Name Use Agreement dated as of December 31, 1998 between Service Company A and Management Opco, as amended or modified from time to time.

"Service Company B" means Juvenile and Jail Facility Management Services, Inc., a Tennessee corporation.

"Service Company B License Agreement" means that certain Service Mark and Trade Name Use Agreement dated as of December 31, 1998 between Service Company B and Management Opco, as amended or modified from time to time.

"Services Agreement" means the Amended and Restated Services Agreement, dated as of March 5, 1999, between the Borrower and Management Opco.

"Seven Year Treasury Rate" means, for any date, a rate of interest equal to the yield to maturity for actively traded U.S. Treasury securities as determined by the Administrative Agent prior to 9:00 a.m. New York City time on such date (based on the offer price for U.S. Treasury securities on such day as indicated on page 5 of the so-called "Telerate Screen") having a term to maturity as closely approximating seven (7) years as possible.

"Single Employer Plan" means any Plan which is covered by Title IV of ERISA, but which is not a Multiemployer Plan or a Multiple Employer Plan.

"Solvent" or "Solvency" means, with respect to any Person as of a particular date, that on such date (i) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (ii) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature in their ordinary course, (iii) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's Property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged or is to engage, (iv) the fair value of the Property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person and (v) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Special Affiliate" means any corporation, association or other business entity formed for the purpose of earning income not qualified as "rents from real property" under applicable provisions of the Code, in which the Borrower owns substantially all of the economic interest but less than 10% of the voting interests, and the remaining economic and voting interests are subject to restrictions requiring that ownership of such interests be held by officers, directors or employees of the Borrower or any non-affiliated

third parties. Service Company A and Service Company B are each Special Affiliates of the Borrower.

"Standby Letter of Credit Fee" shall have the meaning assigned to such term in Section 3.5(c)(i).

"Straight-Lining of Rents" means, with respect to any lease, the method by which rent received with respect to such lease is considered earned equally over the term of such lease despite the existence of (i) any free rent periods under such lease or (ii) any rent step-up provisions under such lease.

"Subsidiary" means, as to any Person at any time, (a) any corporation more than 50% of whose Capital Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at such time, any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at such time owned by such Person directly or indirectly through Subsidiaries, and (b) any partnership, association, joint venture or other entity of which such Person directly or indirectly through Subsidiaries owns at such time more than 50% of the Capital Stock.

"Subsidiary Guarantor" means each of the Persons identified as a "Subsidiary Guarantor" on the signature pages hereto and each Additional Credit Party which may hereafter execute a Joinder Agreement, together with their successors and permitted assigns, and "Subsidiary Guarantor" means any one of them.

"Swingline Commitment" means the commitment of the Swingline Lender to make Swingline Loans in an aggregate principal amount at any time outstanding of up to the Swingline Committed Amount.

"Swingline Committed Amount" shall have the meaning assigned to such term in Section 2.3(a).

"Swingline Lender" means Lehman Commercial Paper Inc.

"Swingline Loan" shall have the meaning assigned to such term in Section 2.3(a).

"Swingline Note" means a promissory note of the Borrower in favor of the Swingline Lender in the original principal amount of \$25,000,000, as such promissory note may be amended, modified, restated or replaced from time to time.

"Syndication Agent" shall have the meaning assigned to such term in the heading hereof, together with any successors and assigns.

"Synthetic Lease" means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an Operating Lease for purposes of GAAP.

"Taxes" shall have the meaning assigned to such term in Section 3.11.

"Tenant Incentive Agreement" means the Amended and Restated Tenant Incentive Agreement, dated as of May 4, 1999, between the Borrower and Management Opco.

"Tenant Incentive Fees" shall mean the fees payable by the Borrower to Management Opco pursuant to the Tenant Incentive Agreement.

"Term Lenders" means Lenders holding Term Loan Commitments, as identified on Schedule 2.1(a) and their successors and assigns.

"Term Loan" shall have the meaning assigned to such term in Section 2.4(a).

"Term Loan Committed Amount" means TWO HUNDRED FIFTY MILLION DOLLARS (\$250,000,000).

"Term Loan Commitment" means, with respect to each Term Lender, the commitment of such Term Lender to make its portion of the Term Loan in a principal amount equal to such Lender's Term Loan Commitment Percentage (if any) of the Term Loan Committed Amount.

"Term Loan Commitment Percentage" means, for any Term Lender, the percentage identified as its Term Loan Commitment Percentage on Schedule 2.1(a), as such percentage may be modified in connection with any assignment made in accordance with the provisions of Section 11.3.

"Term Loan Maturity Date" means December 31, 2002.

"Term Loans" shall have the meaning assigned to such term in Section 2.4(a).

"Term Note" means a promissory note of the Borrower in favor of a Term Lender evidencing the Term Loans provided by such Lender pursuant to Section 2.4, as such promissory note may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time.

"Title Insurance Company" shall have the meaning given to such term in Section 5.1(f).

"Total Assets" means the total assets of the Consolidated Parties on a consolidated basis, as determined in accordance with GAAP.

"Total Capitalization" means, as of any date of determination, the sum of (a) Total Indebtedness plus (b) the shareholders' equity or net worth of the Consolidated Parties on a consolidated basis, as determined in accordance with GAAP.

"Total Indebtedness" means, as of any date of determination, all Indebtedness (other than under clause (i) of the definition thereof) of the Consolidated Parties on a consolidated basis, as determined in accordance with GAAP.

"Total Value" means, as of any date of determination, an amount equal to the sum of (a) the aggregate Implied Value of all Real Properties plus (b) one hundred percent (100%) of all cash and Cash Equivalents of the Consolidated Parties.

"Trade Letter of Credit Fee" shall have the meaning assigned to such term in Section 3.5(c)(ii).

"Trade Name Use Agreement" means the Service Mark and Trade Name Use Agreement, dated as of December 31, 1998, between the Borrower (as successor-in-interest to CCA) and Management Opco.

"Tranche C Commitment Percentage" means, for any Tranche C Term Lender, the percentage identified as its Tranche C Term Loan Commitment Percentage on Schedule 2.1(a), as such percentage may be modified in connection with any assignment made in accordance with the provisions of Section 11.3.

"Tranche C Term Lenders" means Lenders holding Tranche C Term Loan Commitments, as identified on Schedule 2.1(a), and their successors and assigns.

"Tranche C Term Loan" shall have the meaning assigned to such term in Section 2.5(a).

"Tranche C Term Loan Committed Amount" means THREE HUNDRED FIFTY MILLION DOLLARS (\$350,000,000).

"Tranche C Term Loan Commitment" means, with respect to each Tranche C Term Lender, the commitment of such Tranche C Term Lender to make its portion of the Tranche C Term Loan in a principal amount equal to such Lenders' Tranche C Term Loan Commitment Percentage of the Tranche C Term Loan Committed Amount.

"Tranche C Term Loan Maturity Date" means December 31, 2002.

"Tranche C Term Loans" shall have the meaning assigned to such term in Section 2.5(a).

"Tranche C Term Note" means a promissory note of the Borrower in favor of a Tranche C Term Lender evidencing the Tranche C Term Loans provided by such Lender pursuant to Section 2.5, as such promissory note may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time.

"Underwriting Agreement" means the Underwriting Agreement among the Borrower and LBI.

"Unrestricted Subsidiary" means any Subsidiary of the Borrower that the Borrower notifies the Administrative Agent in writing is an "Unrestricted Subsidiary", but only to the extent that such Subsidiary (a) has no Indebtedness other than Non-

Recourse Debt; (b) is not a party to any agreement, contract, arrangement or understanding with the Borrower or any Restricted Subsidiary of the Borrower not permitted by Section 8.9; (c) is a Person with respect to which neither the Borrower nor any of its Restricted Subsidiaries has any direct or indirect obligation (x) to subscribe for additional equity interests in such Person, except with respect to Investments permitted under Section 8.6(iii), (y) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results or (z) to otherwise guarantee performance or payment; and (d) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Borrower or any of its Restricted Subsidiaries. If, at any time, any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary (or is redesignated by the Borrower as a Restricted Subsidiary), it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Credit Agreement, any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Borrower as of such date and any Investments in such Subsidiary shall be deemed to be Investments in a Restricted Subsidiary of the Borrower as of such date (and, if such Indebtedness or Investments are not permitted to be incurred hereunder the Borrower shall be in default under this Credit Agreement). At the time of any designation by the Borrower of any Restricted Subsidiary as an Unrestricted Subsidiary, such designation shall be deemed (A) an Investment in an Unrestricted Subsidiary in an amount equal to the sum of (i) the net worth of such Restricted Subsidiary immediately prior to such designation (such net worth to be calculated without regard to any Guarantee Obligation of such Restricted Subsidiary with respect to the Obligations) and (ii) the aggregate principal amount of any Indebtedness owed by such designated Restricted Subsidiary to the Borrower or any other Restricted Subsidiary immediately prior to such designation, all calculated, except as set forth in the parenthetical to clause (i), on a consolidated basis in accordance with GAAP and (B) an Asset Disposition (unless the amount of such Investment would not constitute an Asset Disposition because the amount thereof would be within the limitations set forth in the second sentence of the definition of Asset Disposition in this Section 1.1).

"Unused Fee" shall have the meaning assigned to such term in Section 3.5(b).

"Unused Fee Calculation Period" shall have the meaning assigned to such term in Section 3.5(b).

"Unused Revolving Committed Amount" means, for any period, the amount by which (a) the then applicable Revolving Committed Amount exceeds (b) the daily average sum for such period of (i) the outstanding aggregate principal amount of all Revolving Loans plus (ii) the outstanding aggregate principal amount of all LOC Obligations.

"Voting Stock" means, with respect to any Person, Capital Stock issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote has been suspended by the happening of such a contingency.

"Wholly Owned Subsidiary" of any Person means any Subsidiary 100% of whose Voting Stock is at the time owned by such Person directly or indirectly through other Wholly Owned subsidiaries.

1.2. COMPUTATION OF TIME PERIODS.

For purposes of computation of periods of time hereunder, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding."

1.3. ACCOUNTING TERMS.

Except as otherwise expressly provided herein, all accounting terms used herein shall be interpreted, and all financial statements and certificates and reports as to financial matters required to be delivered to the Lenders hereunder shall be prepared, in accordance with GAAP applied on a consistent basis. All calculations made for the purposes of determining compliance with this Credit Agreement shall (except as otherwise expressly provided herein) be made in accordance with GAAP applied on a basis consistent with the most recent annual or quarterly financial statements delivered pursuant to Section 7.1 (or, prior to the delivery of the first financial statements pursuant to Section 7.1, consistent with the financial statements as at December 31, 1997); provided, however, if there occurs any revision in GAAP or the rules promulgated thereunder, then such calculations shall be made on a basis consistent with such revision, unless the Borrower or the Required Lenders or the Required Tranche C Term Lenders shall object in writing to the Administrative Agent not later than 60 days after delivery of the first financial statements pursuant to Section 7.1, after the effectiveness of such revision, in which case the Borrower shall continue to make all calculations in accordance with GAAP and the rules and regulations promulgated thereunder as in effect immediately prior to the effectiveness of such revision.

1.4. INTERRELATIONSHIP WITH ORIGINAL CREDIT AGREEMENT.

(a) As stated in the preamble hereof, this Credit Agreement is intended to amend and restate the provisions of the Original Credit Agreement and, notwithstanding any substitution of Notes as of the Restatement Effective Date, except as expressly modified herein, (x) all of the terms and provisions of the Original Credit Agreement shall continue to apply for the period prior to the Restatement Effective Date, including any determinations of payment dates, interest rates, Events of Default or any amount that may be payable to the Original Administrative Agent or the Original Lenders (or their assignees or replacements hereunder), and (y) the obligations under the Original Credit Agreement shall continue to be paid or prepaid on or prior to the Restatement Effective Date, and shall from and after the Restatement Effective Date continue to be owing and be subject to the terms of this Credit Agreement. All references in the Notes and the other Credit Documents to (i) the Original Credit Agreement or the "Credit Agreement" shall be deemed to include references to this Credit Agreement and (ii) the "Lenders" or a "Lender" or to the "Administrative Agent" shall mean such terms as defined in this Credit Agreement. As to all periods occurring on or after the Restatement Effective Date, all of the covenants set forth in the Original Credit Agreement shall be of no further force and effect, it being understood that all obligations of the Borrower under the Original Credit

Agreement shall be governed by this Credit Agreement from and after the Restatement Effective Date.

(b) The Borrower, the Agents and the Lenders acknowledge and agree that all principal, interest, fees, costs and reimbursable expenses accruing or arising under or in connection with the Original Credit Agreement which remain unpaid and outstanding as of the Restatement Effective Date shall be and remain outstanding and payable as an obligation under this Credit Agreement and the other Credit Documents; provided that no Lender hereunder which was not an Original Lender shall be liable for any obligation or indemnification of Lenders under the Original Credit Agreement.

1.5. CONFIRMATION OF EXISTING OBLIGATIONS.

The Borrower hereby reaffirms and admits the validity and enforceability of this Credit Agreement and the other Credit Documents and all of its obligations hereunder and thereunder and agrees and admits that, as of the date hereof, it has no defenses to, or offsets or counterclaim against, any of its obligations to the Agents or any Lender under the Credit Documents of any kind whatsoever.

SECTION 2.

CREDIT FACILITIES

2.1. REVOLVING LOANS.

(a) Revolving Commitment. To the extent any Revolving Loans (as defined below) are outstanding under the Original Credit Agreement on the Restatement Effective Date, such Revolving Loans shall be deemed to constitute Revolving Loans outstanding hereunder from and after the Restatement Effective Date. In addition, subject to the terms and conditions hereof and in reliance upon the representations and warranties set forth herein, each Revolving Lender severally agrees to make available to the Borrower such Revolving Lender's Revolving Commitment Percentage of revolving credit loans requested by the Borrower in Dollars ("Revolving Loans") from time to time from the Restatement Effective Date until the Revolving Loan Maturity Date, or such earlier date on which the Revolving Commitments shall have been terminated as provided herein; provided, however, that (i) with regard to the Lenders collectively, the aggregate principal amount of the Obligations outstanding shall not exceed the lesser of (A) the Aggregate Committed Amount and (B) the Borrowing Base; and (ii) with regard to each Revolving Lender individually, the amount of such Revolving Lender's Revolving Commitment Percentage of the Revolving Obligations outstanding shall not exceed such Revolving Lender's Revolving Commitment Percentage of the Revolving Committed Amount. Revolving Loans may consist of Base Rate Loans or Eurodollar Loans, or a combination thereof, as the Borrower may request; provided, however, that no more than six Eurodollar Loans shall be outstanding under this Section 2.1 at any time (it being understood that, for purposes hereof, Eurodollar Loans with different Interest Periods shall be considered as separate Eurodollar Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions

hereof, be combined at the end of existing Interest Periods to constitute a new Eurodollar Loan with a single Interest Period). Revolving Loans hereunder may be repaid and reborrowed in accordance with the provisions hereof.

(b) Revolving Loan Borrowings.

(i) Notice of Borrowing. The Borrower shall request a Revolving Loan borrowing by a written Notice of Borrowing (or telephonic notice promptly confirmed by a Notice of Borrowing) to the Administrative Agent not later than 11:00 A.M. (New York City time) on the Business Day prior to the date of the requested borrowing in the case of Base Rate Loans, and on the third Business Day prior to the date of the requested borrowing in the case of Eurodollar Loans. Each such Notice of Borrowing shall be irrevocable and shall specify (A) that a Revolving Loan is requested, (B) the date of the requested borrowing (which shall be a Business Day), (C) the aggregate principal amount to be borrowed, and (D) whether the borrowing shall be comprised of Base Rate Loans, Eurodollar Loans or a combination thereof, and if Eurodollar Loans are requested, the Interest Period(s) therefor. If the Borrower shall fail to specify in any such Notice of Borrowing (I) an applicable Interest Period in the case of a Eurodollar Loan, then such notice shall be deemed to be a request for an Interest Period of one month, or (II) the type of Revolving Loan requested, then such notice shall be deemed to be a request for a Base Rate Loan hereunder. The Administrative Agent shall give notice to each Revolving Lender promptly upon receipt of each Notice of Borrowing pursuant to this Section 2.1(b)(i), the contents thereof and each such Revolving Lender's share of any borrowing to be made pursuant thereto.

(ii) Minimum Amounts. Each Eurodollar Loan or Base Rate Loan that is a Revolving Loan shall be in a minimum aggregate principal amount of \$10,000,000 and integral multiples of \$1,000,000 in excess thereof (or the remaining amount of the Revolving Committed Amount, if less).

(iii) Advances. Each Revolving Lender will make its Revolving Commitment Percentage of each Revolving Loan borrowing available to the Administrative Agent for the account of the Borrower as specified in Section 3.15(a), or in such other manner as the Administrative Agent may specify in writing, by 1:00 P.M. (New York City time) on the date specified in the applicable Notice of Borrowing in Dollars and in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent in accordance with the Borrower's reasonable instructions and in like funds as received by the Administrative Agent.

(c) Repayment. The principal amount of all Revolving Loans shall be due and payable in full on the Revolving Loan Maturity Date, unless accelerated sooner pursuant to Section 9.2.

(d) Interest. Subject to the provisions of Section 3.1,



(i) Base Rate Loans. During such periods as Revolving Loans shall be comprised in whole or in part of Base Rate Loans, such Base Rate Loans shall bear interest at a per annum rate equal to the Adjusted Base Rate.

(ii) Eurodollar Loans. During such periods as Revolving Loans shall be comprised in whole or in part of Eurodollar Loans, such Eurodollar Loans shall bear interest at a per annum rate equal to the Adjusted Eurodollar Rate.

Interest on Revolving Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein).

(e) Revolving Notes. If requested by a Revolving Lender, and upon surrender to the Administrative Agent of any note issued to such Lender under the Original Credit Facility, the Revolving Loans made by such Revolving Lender shall be evidenced by a duly executed promissory note of the Borrower to such Revolving Lender in an original principal amount equal to such Revolving Lender's Revolving Commitment Percentage of the Revolving Committed Amount and in substantially the form of Exhibit 2.1(e).

## 2.2. LETTER OF CREDIT SUBFACILITY.

(a) Issuance. Subject to the terms and conditions hereof and of the LOC Documents, if any, and any other terms and conditions which the relevant Issuing Lender may reasonably require and in reliance upon the representations and warranties set forth herein, each Issuing Lender agrees to issue, and each Revolving Lender severally agrees to participate in the issuance by such Issuing Lender of Letters of Credit in Dollars from time to time from the Restatement Effective Date until the Revolving Loan Maturity Date as the Borrower may request, in a form acceptable to the relevant Issuing Lender; provided, however, that (i) the LOC Obligations outstanding shall not at any time exceed ONE HUNDRED FIFTY MILLION DOLLARS (\$150,000,000) (the "LOC Committed Amount"), (ii) LOC Obligations with respect to trade or commercial Letters of Credit shall not at any time exceed Ten Million Dollars (\$10,000,000), (iii) with regard to the Lenders collectively, the aggregate principal amount of the Obligations outstanding shall not exceed the lesser of (A) the Aggregate Committed Amount and (B) the Borrowing Base; provided, further, (iv) with regard to each Revolving Lender individually, the amount of such Revolving Lender's Revolving Commitment Percentage of the Revolving Obligations outstanding shall not exceed such Revolving Lender's Revolving Commitment Percentage of the Revolving Committed Amount. No Letter of Credit shall (x) have an original expiry date more than one year from the date of issuance or (y) as originally issued or as extended, have an expiry date extending beyond a date five Business Days prior to the Revolving Loan Maturity Date. Each Letter of Credit shall comply with the related LOC Documents. The issuance and expiry dates of each Letter of Credit shall be a Business Day.

(b) Notice and Reports. The request for the issuance of a Letter of Credit shall be submitted by the Borrower to the relevant Issuing Lender at least three (3) Business Days prior to the requested date of issuance. Each Issuing Lender will, at least quarterly and more frequently upon request, disseminate to the Administrative Agent and each of the

Revolving Lenders a detailed report specifying the Letters of Credit issued by such Issuing Lender which are then outstanding and any activity with respect thereto which may have occurred since the date of the prior report, and including therein, among other things, the beneficiary, the face amount and the expiry date, as well as any payment or expirations which may have occurred. Each Issuing Lender will notify the Administrative Agent of the issuance of any Letter of Credit by such Issuing Lender prior to such issuance as well as each payment under each such Letter of Credit at the time of such payment.

(c) Participation. Each Revolving Lender, upon issuance of a Letter of Credit by an Issuing Lender, shall be deemed to have purchased without recourse a Participation Interest from such Issuing Lender in such Letter of Credit and the obligations arising thereunder and any collateral relating thereto, in each case in an amount equal to its pro rata share of the obligations under such Letter of Credit (based on the respective Revolving Commitment Percentages of the Revolving Lenders) and shall absolutely, unconditionally and irrevocably assume and be obligated to pay to such Issuing Lender and discharge when due, its pro rata share of the obligations arising under such Letter of Credit. Without limiting the scope and nature of each Revolving Lender's Participation Interest in any Letter of Credit, to the extent that relevant Issuing Lender has not been reimbursed as required hereunder or under any such Letter of Credit, each such Revolving Lender shall pay to such Issuing Lender its pro rata share of such unreimbursed drawing in same day funds on the day of notification by such Issuing Lender of an unreimbursed drawing pursuant to the provisions of subsection (d) below. The obligation of each Revolving Lender to so reimburse the Issuing Lenders shall be absolute and unconditional and shall not be affected by the occurrence of a Default, an Event of Default or any other occurrence or event. Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrower to reimburse the relevant Issuing Lender under any Letter of Credit, together with interest as hereinafter provided.

(d) Reimbursement. In the event of any drawing under any Letter of Credit, the relevant Issuing Lender will promptly notify the Borrower. Unless the Borrower shall immediately notify such Issuing Lender that the Borrower intends to otherwise reimburse such Issuing Lender for such drawing, the Borrower shall be deemed to have requested that the Revolving Lenders make a Revolving Loan in the amount of the drawing as provided in subsection (e) below on the related Letter of Credit, the proceeds of which will be used to satisfy the related reimbursement obligations. The Borrower promises to reimburse the relevant Issuing Lender on the day of drawing under any Letter of Credit (either with the proceeds of a Revolving Loan obtained hereunder or otherwise) in same day funds. If the Borrower shall fail to reimburse the relevant Issuing Lender as provided hereinabove, the unreimbursed amount of such drawing shall bear interest at a per annum rate equal to the Adjusted Base Rate plus 2%. The Borrower's reimbursement obligations hereunder shall be absolute and unconditional under all circumstances irrespective of any rights of setoff, counterclaim or defense to payment the Borrower may claim or have against the relevant Issuing Lender, the Administrative Agent, the Revolving Lenders, the beneficiary of the Letter of Credit drawn upon or any other Person, including without limitation any defense based on any failure of the Borrower or any other Credit Party to receive consideration or the legality, validity, regularity or

unenforceability of the Letter of Credit. The relevant Issuing Lender will promptly notify the other Revolving Lenders of the amount of any unreimbursed drawing and each Revolving Lender shall promptly pay to the Administrative Agent for the account of the Issuing Lender in Dollars and in immediately available funds, the amount of such Revolving Lender's pro rata share of such unreimbursed drawing. Such payment shall be made on the day such notice is received by such Revolving Lender from the relevant Issuing Lender if such notice is received at or before 1:00 P.M. (New York City time) otherwise such payment shall be made at or before 12:00 Noon (New York City time) on the Business Day next succeeding the day such notice is received. If such Revolving Lender does not pay such amount to such Issuing Lender in full upon such request, such Revolving Lender shall, on demand, pay to the Administrative Agent for the account of such Issuing Lender interest on the unpaid amount during the period from the date of such drawing until such Revolving Lender pays such amount to such Issuing Lender in full at a rate per annum equal to, if paid within two (2) Business Days of the date that such Revolving Lender is required to make payments of such amount pursuant to the preceding sentence, the Federal Funds Rate and thereafter at a rate equal to the Base Rate. Each Revolving Lender's obligation to make such payment to the relevant Issuing Lender, and the right of such Issuing Lender to receive the same, shall be absolute and unconditional, shall not be affected by any circumstance whatsoever and without regard to the termination of this Credit Agreement or the Commitments hereunder, the existence of a Default or Event of Default or the acceleration of the obligations of the Borrower hereunder and shall be made without any offset, abatement, withholding or reduction whatsoever. Simultaneously with the making of each such payment by a Revolving Lender to the relevant Issuing Lender, such Revolving Lender shall, automatically and without any further action on the part of such Issuing Lender or such Revolving Lender, acquire a Participation Interest in an amount equal to such payment (excluding the portion of such payment constituting interest owing to the Issuing Lender) in the related unreimbursed drawing portion of the LOC Obligation and in the interest thereon and in the related LOC Documents, and shall have a claim against the Borrower with respect thereto.

(e) Repayment with Revolving Loans. On any day on which the Borrower shall have requested, or been deemed to have requested, a Revolving Loan advance to reimburse a drawing under a Letter of Credit, the Administrative Agent shall give notice to the Revolving Lenders that a Revolving Loan has been requested or deemed requested by the Borrower to be made in connection with a drawing under a Letter of Credit, in which case a Revolving Loan advance comprised of Base Rate Loans (or Eurodollar Loans to the extent the Borrower has complied with the procedures of Section 2.1(b)(i) with respect thereto) shall be immediately made to the Borrower by all Revolving Lenders (notwithstanding any termination of the Commitments pursuant to Section 9.2) pro rata based on the respective Revolving Commitment Percentages of the Revolving Lenders (determined before giving effect to any termination of the Commitments pursuant to Section 9.2) and the proceeds thereof shall be paid directly to the Issuing Lender for application to the respective LOC Obligations. Each such Revolving Lender hereby irrevocably agrees to make its pro rata share of each such Revolving Loan immediately upon any such request or deemed request in the amount, in the manner and on the date specified in the preceding sentence notwithstanding (i) the amount of such borrowing

may not comply with the minimum amount for advances of Revolving Loans otherwise required hereunder, (ii) whether any conditions specified in Section 5.2 are then satisfied, (iii) whether a Default or an Event of Default then exists, (iv) failure for any such request or deemed request for a Revolving Loan to be made by the time otherwise required hereunder, (v) whether the date of such borrowing is a date on which Revolving Loans are otherwise permitted to be made hereunder or (vi) any termination of the Commitments relating thereto immediately prior to or contemporaneously with such borrowing. In the event that any Revolving Loan cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code with respect to the Borrower or any other Credit Party), then each such Revolving Lender hereby agrees that it shall forthwith purchase (as of the date such borrowing would otherwise have occurred, but adjusted for any payments received from the Borrower on or after such date and prior to such purchase) from the Issuing Lender such Participation Interests in the outstanding LOC Obligations as shall be necessary to cause each such Revolving Lender to share in such LOC Obligations ratably (based upon the respective Revolving Commitment Percentages of the Revolving Lenders (determined before giving effect to any termination of the Commitments pursuant to Section 9.2)), provided that at the time any purchase of Participation Interests pursuant to this sentence is actually made, the purchasing Revolving Lender shall be required to pay to the relevant Issuing Lender, to the extent not paid to such Issuing Lender by the Borrower in accordance with the terms of subsection (d) above, interest on the principal amount of Participation Interests purchased for each day from and including the day upon which such borrowing would otherwise have occurred to but excluding the date of payment for such Participation Interests, at the rate equal to, if paid within two (2) Business Days of the date of the Revolving Loan advance, the Federal Funds Rate, and thereafter at a rate equal to the Base Rate.

(f) Designation of Credit Parties as Account Parties.

Notwithstanding anything to the contrary set forth in this Credit Agreement, including without limitation Section 2.2(a), a Letter of Credit issued hereunder may contain a statement to the effect that such Letter of Credit is issued for the account of a Credit Party other than the Borrower, provided that notwithstanding such statement, the Borrower shall be the actual account party for all purposes of this Credit Agreement for such Letter of Credit and such statement shall not affect the Borrower's reimbursement obligations hereunder with respect to such Letter of Credit.

(g) Renewal, Extension. The renewal or extension of any Letter of Credit shall, for purposes hereof, be treated in all respects the same as the issuance of a new Letter of Credit hereunder.

(h) Indemnification; Nature of Issuing Lender's Duties.

(i) In addition to its other obligations under this Section 2.2, the Borrower hereby agrees to pay, and protect, indemnify and save each Revolving Lender harmless from and against, any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable attorneys' fees) that such Revolving Lender may incur or be subject to as a consequence, direct or

indirect, of (A) the issuance of any Letter of Credit or (B) the failure of such Revolving Lender to honor a drawing under a Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority (all such acts or omissions, herein called "Government Acts").

(ii) As between the Borrower and the Revolving Lenders (including the relevant Issuing Lender), the Borrower shall assume all risks of the acts, omissions or misuse of any Letter of Credit by the beneficiary thereof. No Revolving Lender (including the relevant Issuing Lender) shall be responsible: (A) for the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (B) for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, that may prove to be invalid or ineffective for any reason; (C) for errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (D) for any loss or delay in the transmission or otherwise of any document required in order to make a drawing under a Letter of Credit or of the proceeds thereof; and (E) for any consequences arising from causes beyond the control of such Revolving Lender, including, without limitation, any Government Acts. None of the above shall affect, impair, or prevent the vesting of any Issuing Lender's rights or powers hereunder.

(iii) In furtherance and extension and not in limitation of the specific provisions hereinabove set forth, any action taken or omitted by any Revolving Lender (including the relevant Issuing Lender), under or in connection with any Letter of Credit or the related certificates, if taken or omitted in good faith, shall not put such Revolving Lender under any resulting liability to the Borrower or any other Credit Party. It is the intention of the parties that this Credit Agreement shall be construed and applied to protect and indemnify each Revolving Lender (including each Issuing Lender) against any and all risks involved in the issuance of the Letters of Credit, all of which risks are hereby assumed by the Borrower (on behalf of itself and each of the other Credit Parties), including, without limitation, any and all Government Acts. No Revolving Lender (including the relevant Issuing Lender) shall, in any way, be liable for any failure by such Revolving Lender or anyone else to pay any drawing under any Letter of Credit as a result of any Government Acts or any other cause beyond the control of such Revolving Lender.

(iv) Nothing in this subsection (h) is intended to limit the reimbursement obligations of the Borrower contained in subsection (d) above. The obligations of the Borrower under this subsection (h) shall survive the termination of this Credit Agreement. No act or omission of any current or prior beneficiary of a Letter of Credit shall in any way affect or impair the rights of the Revolving Lenders

(including the Issuing Lenders) to enforce any right, power or benefit under this Credit Agreement.

(v) Notwithstanding anything to the contrary contained in this subsection (h), the Borrower shall have no obligation to indemnify any Revolving Lender (including any Issuing Lender) in respect of any liability incurred by such Revolving Lender (A) arising solely out of the gross negligence or willful misconduct of such Revolving Lender, as determined by a court of competent jurisdiction, or (B) caused by such Revolving Lender's failure to pay under any Letter of Credit after presentation to it of a request strictly complying with the terms and conditions of such Letter of Credit, as determined by a court of competent jurisdiction, unless such payment is prohibited by any law, regulation, court order or decree.

(i) Responsibility of Issuing Lender. It is expressly understood and agreed that the obligations of each Issuing Lender hereunder to the Revolving Lenders are only those expressly set forth in this Credit Agreement and that each Issuing Lender shall be entitled to assume that the conditions precedent set forth in Section 5.2 have been satisfied unless it shall have acquired actual knowledge that any such condition precedent has not been satisfied; provided, however, that nothing set forth in this Section 2.2 shall be deemed to prejudice the right of any Revolving Lender to recover from the relevant Issuing Lender any amounts made available by such Revolving Lender to such Issuing Lender pursuant to this Section 2.2 in the event that it is determined by a court of competent jurisdiction that the payment with respect to a Letter of Credit constituted gross negligence or willful misconduct on the part of the Issuing Lender.

(j) Conflict with LOC Documents. In the event of any conflict between this Credit Agreement and any LOC Document (including any letter of credit application), this Credit Agreement shall control.

### 2.3. SWINGLINE LOAN SUBFACILITY.

(a) Swingline Commitment. Subject to the terms and conditions hereof, the Swingline Lender, in its individual capacity, agrees to make certain revolving credit loans to the Borrower (each a "Swingline Loan" and, collectively, the "Swingline Loans") from time to time from the Restatement Effective Date until the Revolving Loan Maturity Date for the purposes hereinafter set forth; provided, however, (i) the aggregate amount of Swingline Loans outstanding at any time shall not exceed TWENTY FIVE MILLION DOLLARS (\$25,000,000.00) (the "Swingline Committed Amount"), and (ii) with regard to the Lenders collectively, the aggregate principal amount of the Obligations outstanding shall not exceed the lesser of (x) the Aggregate Committed Amount and (y) the Borrowing Base. Swingline Loans hereunder shall be made in accordance with the provisions of this Section 2.3, and may be repaid and reborrowed in accordance with the provisions hereof.

(b) Swingline Loan Advances.

(i) Notices; Disbursement. Whenever the Borrower desires a Swingline Loan advance hereunder it shall give written notice (or telephone notice promptly confirmed in writing) to the Swingline Lender not later than 11:00 A.M. (New York City time) on the Business Day of the requested Swingline Loan advance. Each such notice shall be irrevocable and shall specify (A) that a Swingline Loan advance is requested, (B) the date of the requested Swingline Loan advance (which shall be a Business Day) and (C) the principal amount of the Swingline Loan advance requested. Each Swingline Loan shall be made as a Base Rate Loan and shall have such maturity date as the Swingline Lender and the Borrower shall agree upon receipt by the Swingline Lender of any such notice from the Borrower. The Swingline Lender shall initiate the transfer of funds representing the Swingline Loan advance to the Borrower by 3:00 P.M. (New York City time) on the Business Day of the requested borrowing.

(ii) Minimum Amounts. Each Swingline Loan advance shall be in a minimum principal amount of \$1,000,000 and in integral multiples of \$1,000,000 in excess thereof.

(iii) Repayment of Swingline Loans. The principal amount of all Swingline Loans shall be due and payable on the Revolving Loan Maturity Date. The Swingline Lender may, at any time, in its sole discretion, by written notice to the Borrower and the Revolving Lenders, demand repayment of its Swingline Loans by way of a Revolving Loan advance, in which case the Borrower shall be deemed to have requested a Revolving Loan advance comprised solely of Base Rate Loans in the amount of such Swingline Loans; provided, however, that any such demand shall be deemed to have been given one Business Day prior to the Revolving Loan Maturity Date and on the date of the occurrence of any Event of Default described in Section 9.1 and upon acceleration of the indebtedness hereunder and the exercise of remedies in accordance with the provisions of Section 9.2. Each Revolving Lender hereby irrevocably agrees to make its pro rata share of each such Revolving Loan in the amount, in the manner and on the date specified in the preceding sentence notwithstanding (I) the amount of such borrowing may not comply with the minimum amount for advances of Revolving Loans otherwise required hereunder, (II) whether any conditions specified in Section 5.2 are then satisfied, (III) whether a Default or an Event of Default then exists, (IV) failure of any such request or deemed request for a Revolving Loan to be made by the time otherwise required hereunder, (V) whether the date of such borrowing is a date on which Revolving Loans are otherwise permitted to be made hereunder or (VI) any termination of the Commitments relating thereto immediately prior to or contemporaneously with such borrowing. In the event that any Revolving Loan cannot for any reason be made on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code with respect to the Borrower or any other Credit Party), then each Revolving Lender hereby agrees that it shall forthwith purchase (as of the date such borrowing would otherwise have occurred, but adjusted for any payments received from the Borrower on or after such date and prior to such purchase) from the Swingline Lender such participations in the

outstanding Swingline Loans ratably based upon its Revolving Commitment Percentage of the Revolving Committed Amount (determined before giving effect to any termination of the Commitments pursuant to Section 3.4), provided that (A) all interest payable on the Swingline Loans shall be for the account of the Swingline Lender until the date as of which the respective participation is purchased and (B) at the time of any purchase of participations pursuant to this sentence is actually made, the purchasing Revolving Lender shall be required to pay to the Swingline Lender, to the extent not paid to the Swingline Lender by the Borrower in accordance with the terms of subsection (c) below, interest on the principal amount of participation purchased for each day from and including the day upon which such borrowing would otherwise have occurred to but excluding the date of payment for such participation, at the rate equal to the Federal Funds Rate.

(c) Interest on Swingline Loans. Subject to the provisions of Section 3.1, each Swingline Loan shall bear interest at per annum rate equal to the Adjusted Base Rate. Interest on Swingline Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein).

(d) Swingline Note. If requested by the Swingline Lender, and upon surrender to the Administrative Agent of any note issued to such Lender under the Original Credit Facility, the Swingline Loans shall be evidenced by a duly executed promissory note of the Borrower to the Swingline Lender in substantially the form of Exhibit 2.3(d).

#### 2.4. TERM LOAN.

(a) Term Commitment. Without extinguishing the rights of the Original Term Lenders to receive payment for interest accrued on the Term Loans prior to the Restatement Effective Date, each Term Loan made on the Original Closing Date pursuant to Section 2.4 of the Original Credit Agreement (a "Term Loan" and collectively with the Term Loans of each other Term Lender, the "Term Loans") (less any regularly-scheduled Principal Amortization Payments under the Original Credit Agreement made prior to the Restatement Effective Date) shall be deemed to be outstanding as a Term Loan hereunder from and after the Restatement Effective Date. The Term Loans may consist of Base Rate Loans or Eurodollar Loans, or a combination thereof, as the Borrower may request; provided, however, that no more than six Eurodollar Loans shall be outstanding under this Section 2.4 at any time (it being understood that, for purposes hereof, Eurodollar Loans with different Interest Periods shall be considered as separate Eurodollar Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new Eurodollar Loan with a single Interest Period). Amounts repaid on the Term Loans may not be reborrowed. For the avoidance of doubt, the Term Loans were initially made to the Borrower on the Original Closing Date and have remained outstanding without interruption (subject to any regularly-scheduled Principal Amortization Payments under the Original Credit Agreement) through and including the Restatement Effective Date, notwithstanding the amendment and restatement of the Original Credit Agreement pursuant to this Credit Agreement.



(b) Repayment of Term Loans. The principal amount of the Term Loans outstanding as of the Restatement Effective Date shall be repaid in fourteen (14) consecutive quarterly installments as follows unless accelerated sooner pursuant to Section 9.2:

PRINCIPAL AMORTIZATION PAYMENT DATES	TERM LOAN PRINCIPAL AMORTIZATION PAYMENT
September 30, 1999	\$ 625,000
December 31, 1999	\$ 625,000
March 31, 2000	\$ 625,000
June 30, 2000	\$ 625,000
September 30, 2000	\$ 625,000
December 31, 2000	\$ 625,000
March 31, 2001	\$ 625,000
June 30, 2001	\$ 625,000
September 30, 2001	\$ 625,000
December 31, 2001	\$ 625,000
March 31, 2002	\$ 625,000
June 30, 2002	\$ 625,000
September 30, 2002	\$ 625,000
December 31, 2002	\$240,625,000
Total	\$248,750,000

(c) Interest. Subject to the provisions of Section 3.1, Eurodollar Loans comprising all or a part of the Term Loans shall bear interest at a per annum rate equal to the Eurodollar Rate plus 4.00% and Base Rate Loans comprising all or part of the Term Loans shall bear interest at a per annum rate equal to the Base Rate plus 2.50%; provided, however, (i) if the Borrower shall have a Senior Debt Rating by S&P greater than or equal to BBB- and a Senior Debt Rating by Moody's greater than or equal to Baa3, the Term Loans shall bear interest at a per annum rate equal to the Eurodollar Rate plus 3.75% (in the case of Eurodollar Loans) or the Base Rate plus 2.25% (in the case of Base Rate Loans). Interest in respect of Term Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein).

(d) Term Notes. If requested by a Term Lender, and upon surrender to the Administrative Agent of any note issued to such Lender under the Original Credit Facility, the Term Loan made by such Term Lender shall be evidenced by a duly executed promissory note of the Borrower to such Term Lender in an original principal amount equal to the principal amount of such Term Loan outstanding on the Original Closing Date, substantially in the form of Exhibit 2.4(d).

#### 2.5. TRANCHE C TERM LOAN.

(a) Tranche C Term Commitment. Subject to the terms and conditions hereof and in reliance upon the representations and warranties set forth herein each Tranche C Term

Lender severally agrees to make available to the Borrower on the Restatement Effective Date a term loan in Dollars (a "Tranche C Term Loan" and collectively with the Tranche C Term Loans of each other Tranche C Term Lender, the "Tranche C Term Loans") in an amount equal to the Tranche C Term Loan Commitment of such Tranche C Term Lender and in an aggregate principal amount for all Tranche C Term Lenders equal to the Tranche C Term Loan Committed Amount; provided, however, that with regard to the Lenders collectively, the sum of the aggregate principal amount of the Obligations outstanding shall not exceed the lesser of (A) the Aggregate Committed Amount and (B) the Borrowing Base. The Tranche C Term Loans may initially consist only of Base Rate Loans. Subsequent to the Restatement Effective Date, Tranche C Term Loans may be converted to Eurodollar Loans pursuant to Section 3.2 as the Borrower may request; provided, however, that no more than six Tranche C Term Loans that are Eurodollar Loans shall be outstanding at any time (it being understood that, for purposes hereof, Eurodollar Loans with different Interest Periods shall be considered as separate Eurodollar Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new Eurodollar Loan with a single Interest Period). Amounts repaid on the Tranche C Term Loans may not be reborrowed.

(b) Borrowing Procedures. The entire amount of the Tranche C Term Loans shall be made in a single borrowing on the Restatement Effective Date. The Borrower shall submit an appropriate Notice of Borrowing to the Administrative Agent not later than 11:00 A.M. (New York City time) on the Business Day prior to the Restatement Effective Date, which Notice of Borrowing shall be irrevocable and shall specify that the funding of the Tranche C Term Loans is requested. Each Tranche C Term Lender shall make its Tranche C Term Loan Commitment Percentage of the Tranche C Term Loan available to the Administrative Agent for the account of the Borrower at the office of the Administrative Agent specified in Schedule 2.1(a), or at such other office as the Administrative Agent may designate in writing, by 1:00 P.M. (New York City time) on the Restatement Effective Date in Dollars and in funds immediately available to the Administrative Agent.

(c) Minimum Amounts. Eurodollar Loans having the same Interest Period and Base Rate Loans that comprise parts of the Tranche C Term Loan shall be in an aggregate principal amount that is not less than \$10,000,000 and integral multiples of \$1,000,000 (or the then remaining principal balance of the Tranche C Term Loans, if less).

(d) Repayment of Tranche C Term Loans. The principal amount of the Tranche C Term Loans shall be repaid in fourteen (14) consecutive quarterly installments as follows unless accelerated sooner pursuant to Section 9.2:

PRINCIPAL AMORTIZATION PAYMENT DATES	TRANCHE C TERM LOAN PRINCIPAL AMORTIZATION PAYMENT
September 30, 1999	\$ 875,000
December 31, 1999	\$ 875,000
March 31, 2000	\$ 875,000
June 30, 2000	\$ 875,000
September 30, 2000	\$ 875,000
December 31, 2000	\$ 875,000
March 31, 2001	\$ 875,000
June 30, 2001	\$ 875,000
September 30, 2001	\$ 875,000
December 31, 2001	\$ 875,000
March 31, 2002	\$ 875,000
June 30, 2002	\$ 875,000
September 30, 2002	\$ 875,000
December 31, 2002	\$338,625,000
Total	\$350,000,000

(e) Interest. Subject to the provisions of Section 3.1, Eurodollar Loans comprising all or a part of the Tranche C Term Loans shall bear interest at a per annum rate equal to the Eurodollar Rate plus 4.00% and Base Rate Loans comprising all or part of the Tranche C Term Loans shall bear interest at a per annum rate equal to the Base Rate plus 2.50%; provided, however, (i) if the Borrower shall have a Senior Debt Rating by S&P greater than or equal to BBB- and a Senior Debt Rating by Moody's greater than or equal to Baa3, the Tranche C Term Loans shall bear interest at a per annum rate equal to the Eurodollar Rate plus 3.75% (in the case of Eurodollar Loans) or the Base Rate plus 2.25% (in the case of Base Rate Loans). Interest in respect of Tranche C Term Loans shall be payable in arrears on each applicable Interest Payment Date (or at such other times as may be specified herein).

(f) Tranche C Term Notes. If requested by a Tranche C Term Lender, the portion of the Tranche C Term Loan made by such Tranche C Term Lender shall be evidenced by a duly executed promissory note of the Borrower to such Tranche C Term Lender in an original principal amount equal to the original principal amount of such Tranche C Term Lender's Tranche C Commitment Percentage of the Tranche C Term Loan, and substantially in the form of Exhibit 2.5(f).

### SECTION 3.

#### OTHER PROVISIONS RELATING TO CREDIT FACILITIES

##### 3.1. DEFAULT RATE.

Upon the occurrence, and during the continuance, of an Event of Default, the principal of and, to the extent permitted by law, interest on the Loans and any other amounts owing hereunder or under the other Credit Documents shall bear interest, payable on demand, at a per annum rate 2% greater than the rate which would otherwise be applicable (or if no rate is applicable, whether in respect of interest, fees or other amounts, then the Adjusted Base Rate plus 2%).

## 3.2. EXTENSION AND CONVERSION.

The Borrower shall have the option, on any Business Day, to extend existing Loans into a subsequent permissible Interest Period or to convert Revolving Loans, Term Loans or Tranche C Term Loans, as the case may be, to Revolving Loans, Term Loans or Tranche C Term Loans, respectively, of another interest rate type; provided, however, that (i) except as provided in Section 3.8, Eurodollar Loans may be converted into Base Rate Loans or extended as Eurodollar Loans for new Interest Periods only on the last day of the Interest Period applicable thereto, (ii) no Loans may be converted into, or continued as, Eurodollar Loans if a Default or Event of Default is in existence and the Aggregate Required Lenders or the Administrative Agent shall have determined that such conversion or continuation is inappropriate, (iii) Loans extended as, or converted into, Eurodollar Loans shall be subject to the terms of the definition of "Interest Period" set forth in Section 1.1 and shall be in such minimum amounts as provided in, with respect to the Revolving Loans, Section 2.1(b)(ii), with respect to the Term Loans, Section 2.4(c) or with respect to the Tranche C Term Loans, Section 2.5(c), (iv) no more than 10 Eurodollar Loans shall be outstanding under this Credit Agreement at any time (it being understood that, for purposes hereof, Eurodollar Loans with different Interest Periods shall be considered as separate Eurodollar Loans, even if they begin on the same date, although borrowings, extensions and conversions may, in accordance with the provisions hereof, be combined at the end of existing Interest Periods to constitute a new Eurodollar Loan with a single Interest Period) and (v) any request for extension or conversion of a Eurodollar Loan which shall fail to specify an Interest Period shall be deemed to be a request for an Interest Period of one month. Each such extension or conversion shall be effected by the Borrower by giving a Notice of Extension/Conversion (or telephonic notice promptly confirmed in writing) to the office of the Administrative Agent specified in specified in Schedule 2.1(a), or at such other office as the Administrative Agent may designate in writing, prior to 11:00 A.M. (New York City time) on the Business Day of, in the case of the conversion of a Eurodollar Loan into a Base Rate Loan, and on the third Business Day prior to, in the case of the extension of a Eurodollar Loan as, or conversion of a Base Rate Loan into, a Eurodollar Loan, the date of the proposed extension or conversion, specifying the date of the proposed extension or conversion, the Loans to be so extended or converted, the types of Loans into which such Loans are to be converted and, if appropriate, the applicable Interest Periods with respect thereto. Each request for extension or conversion shall be irrevocable. In the event the Borrower fails to request extension or conversion of any Eurodollar Loan in accordance with this Section, or any such conversion or extension is not permitted or required by this Section, then such Eurodollar Loan shall be automatically converted into a Base Rate Loan at the end of the Interest Period applicable thereto. The Administrative Agent shall give each affected Lender notice as promptly as practicable of any such proposed extension or conversion affecting any Loan.

## 3.3. PREPAYMENTS.

(a) Voluntary Prepayments. The Borrower shall have the right to prepay any Loans in whole or in part from time to time as it may select; provided, however, that (i) each partial prepayment of Loans shall be in a minimum principal amount of \$10,000,000 and integral multiples of \$5,000,000 (provided that Revolving Loans that are Base Rate Loans may be prepaid in minimum principal amounts of \$1,000,000 and integral multiples of \$100,000) and (ii) any voluntary prepayment of the Term Loans and/or Tranche C Term Loans shall be subject to the prepayment penalty provisions of Section 3.3(c). Subject to the foregoing terms, amounts prepaid under this Section 3.3(a) shall be

applied as the Borrower may elect; provided that if the Borrower elects to make a voluntary prepayment with respect to the Term Loans or the Tranche C Term Loans, the Borrower shall be required to make a pro rata voluntary prepayment (and corresponding permanent reduction in the Revolving Committed Amount) with respect to the Revolving Loans. Any amounts so prepaid shall be applied, in the case of the Term Loans and the Tranche C Term Loans, in the inverse order of maturity thereof, and in the case of all Loans, first to Base Rate Loans and then to Eurodollar Loans in direct order of Interest Period maturities. All prepayments under this Section 3.3(a) shall be subject to Section 3.12 and all prepayments of Term Loans and Tranche C Term Loans shall be subject to Section 3.3(c), but otherwise prepayments shall be made without premium or penalty.

(b) Mandatory Prepayments.

(i) Committed Amounts. If at any time, (A) the sum of the aggregate principal amount of the Obligations outstanding shall exceed the lesser of (x) the Aggregate Committed Amount and (y) the Borrowing Base, (B) the amount of LOC Obligations outstanding shall exceed the LOC Committed Amount or (C) the amount of Swingline Loans outstanding shall exceed the Swingline Committed Amount, the Borrower shall immediately make payment on the Revolving Loans, the Swingline Loans and/or to a cash collateral account (any such account into which cash collateral is deposited by the Borrower, a "cash collateral account") in respect of the LOC Obligations, in an amount sufficient to eliminate the deficiency; provided, however, to the extent payment on the Revolving Loans and/or to a cash collateral account in respect of the LOC Obligations is not sufficient to eliminate such deficiency, the Borrower shall make payment on the Term Loans in an amount sufficient to eliminate the deficiency and a corresponding permanent reduction in the Revolving Committed Amount. The Borrower hereby grants to the Administrative Agent, for the ratable benefit of the Secured Parties, a continuing security interest in all amounts at any time on deposit in any and all cash collateral accounts to secure all LOC Obligations from time to time outstanding and all other Credit Party Obligations hereunder.

(ii) Asset Disposition; Etc. Immediately upon receipt by any Consolidated Party of proceeds from any Asset Disposition or repayment of the Agecroft Note, the Borrower shall prepay the Loans in an aggregate amount equal to the Net Cash Proceeds of the related Asset Disposition or repayment (such prepayment to be applied as set forth in clause (iii) below).

Notwithstanding the foregoing, the Borrower shall not be required to make a prepayment pursuant to this Section 3.3(b)(ii) with respect to (A) up to \$42,000,000 of Net Cash Proceeds from the sale of the Polk County, Florida, correctional facility, (B) up to \$25,000,000 per annum of Net Cash Proceeds from any Asset Dispositions and (C) any amounts received in repayment of the Agecroft Note; provided, that, in the case of (A), (B) and (C) above, the Borrower advises the Administrative Agent at the time the Net Cash Proceeds from such Asset Dispositions or repayment are received that it intends to reinvest such Net Cash Proceeds into replacement assets (including pursuant to any acquisition)

within 360 days after such Asset Disposition or repayment and such Net Cash Proceeds are applied to repay the Revolving Loans (or, if no Revolving Loans are outstanding, to provide cash collateral for the Credit Party Obligations by deposit in a cash collateral account) until such time as such reinvestment occurs (or such 360 day period expires); provided, however, if such Net Cash Proceeds are not so reinvested within such 360 day period, the Borrower shall be obligated to apply such Net Cash Proceeds to the prepayment of the Loans at the end of such 360 day period in accordance with the terms of Section 3.3(b)(iii).

(iii) Application of Mandatory Prepayments. All amounts required to be paid pursuant to Section 3.3(b)(ii) shall be applied ratably to the Revolving Obligations, the Term Loans and the Tranche C Term Loans in accordance with the respective outstanding amounts thereof as follows: (A) to the Revolving Obligations (first to Revolving Loans and second to Swingline Loans and (after all Revolving Loans and Swingline Loans have been repaid) then to a cash collateral account to secure LOC Obligations) (with a corresponding reduction in the Revolving Committed Amount in an amount equal to all amounts applied to the Revolving Obligations pursuant to this Section (b)(iii)) and (B) to the Term Loans and the Tranche C Term Loans, in the inverse order of maturity thereof, allocated ratably between the Term Loans and the Tranche C Term Loans in accordance with the respective outstanding amounts thereof. One or more holders of the Term Loans or the Tranche C Term Loans may decline to accept a mandatory prepayment under Section 3.3(b)(ii) to the extent there are sufficient Revolving Loans or Term Loans, as applicable, outstanding to be paid with such prepayment. In the event one or more holders of the Term Loans declines such a prepayment, such declined prepayments shall be split evenly, with fifty percent (50%) of such declined prepayment allocated toward a prepayment of the Revolving Loans (with a corresponding reduction in the Revolving Committed Amount in an amount equal to the amount prepaid pursuant to such prepayment) and fifty percent (50%) of such declined prepayment being returned to the Borrower. In the event one or more holders of the Tranche C Term Loans declines such a prepayment, such declined prepayments shall be split as follows: twenty-five percent (25%) of such declined prepayment shall be allocated toward a prepayment of the Revolving Loans (with a corresponding reduction in the Revolving Committed Amount in an amount equal to the amount prepaid pursuant to such prepayment), twenty-five percent (25%) of such declined prepayment shall be allocated toward a prepayment of the Term Loans (subject to the right of the holders of the Term Loans to decline such prepayment as provided above), and fifty percent (50%) of such declined prepayment shall be returned to the Borrower; provided that, in no event shall the Borrower receive greater than fifty percent (50%) of the aggregate declined portions of any prepayment (with any excess being allocated toward a prepayment of the Revolving Loans (with a corresponding reduction in the Revolving Committed Amount in an amount equal to the amount prepaid pursuant to such prepayment)). Within the parameters of the applications set forth above, prepayments shall be applied first to Base Rate Loans and then to Eurodollar Loans in direct order of Interest Period maturities. All prepayments under this Section 3.3(b) shall be subject to Section 3.12.

(c) Prepayment Penalty. In the event the Borrower voluntarily elects to prepay the Term Loan and/or the Tranche C Term Loan within one year of the Original Closing Date as permitted by Section 3.3(a), the Borrower shall be obligated to pay a prepayment fee equal to two percent (2.0%) of the principal amount prepaid. In the event the Borrower voluntarily elects to prepay the Term Loan and/or the Tranche C Term Loan between December 31, 1999 and December 31, 2000 as permitted by Section 3.3(a), the Borrower shall be obligated to pay a prepayment fee equal to one percent (1.0%) of the principal amount prepaid. After two years from the Original Closing Date, the Borrower may prepay the Term Loan and/or the Tranche C Term Loan without a prepayment penalty or fee.

#### 3.4. TERMINATION AND REDUCTION OF REVOLVING COMMITTED AMOUNT.

The Borrower may from time to time permanently reduce or terminate the Revolving Committed Amount in whole or in part (in minimum aggregate amounts of \$10,000,000 or in integral multiples of \$5,000,000 in excess thereof (or, if less, the full remaining amount of the then applicable Revolving Committed Amount)) upon five Business Days' prior written notice to the Administrative Agent; provided, that, (i) no such termination or reduction shall be made which would cause the sum of the aggregate outstanding principal amount of the Obligations to exceed the lesser of (A) the Aggregate Committed Amount and (B) the Borrowing Base, unless, concurrently with such termination or reduction, the Loans are repaid to the extent necessary to eliminate such excess and (ii) no such termination or reduction shall be made which would cause the sum of the aggregate outstanding principal amount of the Revolving Obligations to exceed the Revolving Committed Amount. The Administrative Agent shall promptly notify each affected Lender of receipt by the Administrative Agent of any notice from the Borrower pursuant to this Section 3.4.

#### 3.5. FEES.

(a) [Intentionally omitted].

(b) Unused Fee. In consideration of the Revolving Commitments of the Revolving Lenders hereunder, the Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a fee (the "Unused Fee") on the Unused Revolving Committed Amount computed at a per annum rate for each day during the applicable Unused Fee Calculation Period (hereinafter defined) equal to the Applicable Percentage in effect from time to time. The Unused Fee shall begin accruing on the Restatement Effective Date and shall be due and payable in arrears on the last business day of each March, June, September and December (and any date that the Revolving Committed Amount is reduced as provided in Section 3.4 and the Revolving Loan Maturity Date) for the immediately preceding quarter (or portion thereof) (each such quarter or portion thereof for which the Unused Fee is payable hereunder being herein referred to as an "Unused Fee Calculation Period"), beginning with the first of such dates to occur after the Restatement Effective Date. For purposes of computation of the Unused Fee, the Swingline Loans shall not be counted toward or considered usage under the Revolving Loan Facility.

(c) Letter of Credit Fees.

(i) Letter of Credit Issuance Fee. In consideration of the issuance of standby or any other performance related Letters of Credit hereunder, the Borrower promises to pay to the Administrative Agent for the account of each Revolving Lender a fee (the "Standby Letter of Credit Fee") on such Revolving Lender's Revolving Commitment Percentage of the average daily maximum amount available to be drawn under each such standby Letter of Credit computed at a per annum rate for each day from the date of issuance to the date of expiration equal to the Applicable Percentage for Eurodollar Loans. The Standby Letter of Credit Fee will be payable quarterly in arrears on the last Business Day of each March, June, September and December for the immediately preceding quarter (or a portion thereof).

(ii) Trade Letter of Credit Fee. In consideration of the issuance of trade Letters of Credit hereunder, the Borrower promises to pay to the Administrative Agent for the account of each Revolving Lender a fee (the "Trade Letter of Credit Fee") on such Revolving Lender's Revolving Commitment Percentage of the amount of each drawing under any such trade Letter of Credit equal to .125%. The Trade Letter of Credit Fee will be payable on each date of drawing under a trade Letter of Credit.

(iii) Issuing Lender Fees. In addition to the Standby Letter of Credit Fee payable pursuant to clause (i) above and the Trade Letter of Credit Fee payable pursuant to clause (ii) above, the Borrower promises to pay to the Issuing Lender for its own account without sharing by the other Revolving Lenders (A) a letter of credit fronting fee of one-eighth percent (1/8%) per annum on the average daily maximum amount available to be drawn under outstanding Letters of Credit payable quarterly in arrears with the Standby Letter of Credit Fee and the Trade Letter of Credit Fee, and (B) customary charges from time to time of the Issuing Lender with respect to the issuance, amendment, transfer, administration, cancellation and conversion of, and drawings under, such Letters of Credit (collectively, the "Issuing Lender Fees").

(d) Administrative Fees. The Borrower agrees to pay to the Administrative Agent, for its own account, an administrative fee in an amount previously agreed between the Borrower and the Administrative Agent (the "Administrative Agent's Fees"), on the Restatement Effective Date and annually in advance prior to the date on which all Commitments under this Credit Agreement have terminated and no Credit Party Obligations are outstanding.

(e) Other Fees. The Borrower agrees to pay to LCPI, in immediately available funds on the Restatement Effective Date, the other fees referred to in the Commitment Letter (and related Fee Letter), each dated as of April 26, 1999, and as amended, among the Borrower, LCPI and LBI and as further agreed among the Borrower, LCPI and LBI.



### 3.6. CAPITAL ADEQUACY.

If any Lender has determined, after the date hereof, that the adoption or the becoming effective of, or any change in, or any change by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof in the interpretation or administration of, any applicable law, rule or regulation regarding capital adequacy, or compliance by such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Lender's capital or assets as a consequence of its commitments or obligations hereunder to a level below that which such Lender could have achieved but for such adoption, effectiveness, change or compliance (taking into consideration such Lender's policies with respect to capital adequacy), then, upon notice from such Lender to the Borrower, the Borrower shall be obligated to pay to such Lender such additional amount or amounts as will compensate such Lender for such reduction. Each determination by any such Lender of amounts owing under this Section shall, absent manifest error, be conclusive and binding on the parties hereto.

### 3.7. LIMITATION ON EURODOLLAR LOANS.

If on or prior to the first day of any Interest Period for any Eurodollar Loan:

(a) the Administrative Agent determines (which determination shall be conclusive) that by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period; or

(b) the Required Lenders determine (which determination shall be conclusive) and notify the Administrative Agent that the Eurodollar Rate will not adequately and fairly reflect the cost to the Lenders of funding Eurodollar Loans for such Interest Period;

then the Administrative Agent shall give the Borrower prompt notice thereof, and so long as such condition remains in effect, the Lenders shall be under no obligation to make additional Eurodollar Loans, continue Eurodollar Loans, or to convert Base Rate Loans into Eurodollar Loans and the Borrower shall, on the last day(s) of the then current Interest Period(s) for the outstanding Eurodollar Loans, either prepay such Eurodollar Loans or convert such Eurodollar Loans into Base Rate Loans in accordance with the terms of this Credit Agreement.

### 3.7A LIMITATION ON TRANCHE C EURODOLLAR LOANS.

If on or prior to the first day of any Interest Period for any Eurodollar Loan the Required Tranche C Lenders determine (which determination shall be conclusive) and notify the Administrative Agent that the Eurodollar Rate will not adequately and fairly reflect the cost to the Tranche C Lenders of funding Eurodollar Loans to be held by such Tranche C Lenders during such Interest Period, then the Administrative Agent shall give the Borrower prompt notice thereof, and so long as such condition remains in effect, the Tranche C Lenders shall be under no obligation to make additional Eurodollar Loans, continue Eurodollar Loans, or to convert Base Rate Loans into Eurodollar Loans and the Borrower shall, on the last day(s) of the then current Interest Period(s) for the outstanding Eurodollar Loans, either prepay such Eurodollar Loans or convert such Eurodollar Loans into Base Rate Loans in accordance with the terms of this Credit Agreement.

## 3.8. ILLEGALITY.

Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof occurring after the Closing Date shall make it unlawful for any Lender to make or maintain Eurodollar Loans as contemplated by this Credit Agreement, (a) such Lender shall promptly give written notice of such circumstances to the Borrower and the Administrative Agent (which notice shall be withdrawn whenever such circumstances no longer exist), (b) the commitment of such Lender hereunder to make Eurodollar Loans, continue Eurodollar Loans as such and convert a Base Rate Loan to Eurodollar Loans, shall forthwith be canceled and, until such time as it shall no longer be unlawful for such Lender to make or maintain Eurodollar Loans, such Lender shall then have a commitment only to make a Base Rate Loan when a Eurodollar Loan is requested and (c) such Lender's Loans then outstanding as Eurodollar Loans, if any, shall be converted automatically to Base Rate Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a Eurodollar Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 3.13.

## 3.9. REQUIREMENTS OF LAW.

If, after the date hereof, the adoption of any applicable law, rule, or regulation, or any change in any applicable law, rule, or regulation, or any change in the interpretation or administration thereof by any Governmental Authority, central bank, or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender (or its Applicable Lending Office) with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank, or comparable agency:

(i) shall subject such Lender (or its Applicable Lending Office) to any tax, duty, or other charge with respect to any Eurodollar Loans, its Notes, or its obligation to make Eurodollar Loans, or change the basis of taxation of any amounts payable to such Lender (or its Applicable Lending Office) under this Credit Agreement or its Notes in respect of any Eurodollar Loans (other than taxes imposed on the overall net income of such Lender by the jurisdiction in which such Lender has its principal office or such Applicable Lending Office);

(ii) shall impose, modify, or deem applicable any reserve, special deposit, assessment, or similar requirement (other than the Eurodollar Reserve Requirement utilized in the determination of the Adjusted Eurodollar Rate) relating to any extensions of credit or other assets of, or any deposits with or other liabilities or commitments of, such Lender (or its Applicable Lending Office), including the Commitment of such Lender hereunder; or

(iii) shall impose on such Lender (or its Applicable Lending Office) or the London interbank market any other condition affecting this Credit Agreement or its Notes or any of such extensions of credit or liabilities or commitments;

and the result of any of the foregoing is to increase the cost to such Lender (or its Applicable Lending Office) of making, converting into, continuing, or maintaining any Eurodollar Loans or to reduce any sum received or receivable by such Lender (or its Applicable Lending Office) under this Credit Agreement or its Notes with respect to any Eurodollar Loans, then the Borrower shall pay to such Lender on demand such amount or amounts as will compensate such Lender for such increased cost or reduction. If any Lender requests compensation by the Borrower under this Section 3.9, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurodollar Loans, or to convert Base Rate Loans into Eurodollar Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.10 shall be applicable); provided that such suspension shall not affect the right of such Lender to receive the compensation so requested. Each Lender shall promptly notify the Borrower and the Administrative Agent of any event of which it has knowledge, occurring after the date hereof, which will entitle such Lender to compensation pursuant to this Section 3.9 and will designate a different Applicable Lending Office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the judgment of such Lender, be otherwise disadvantageous to it. Any Lender claiming compensation under this Section 3.9 shall furnish to the Borrower and the Administrative Agent a statement setting forth the additional amount or amounts to be paid to it hereunder which shall be conclusive in the absence of manifest error. In determining such amount, such Lender may use any reasonable averaging and attribution methods.

### 3.10. TREATMENT OF AFFECTED LOANS.

If the obligation of any Lender to make any Eurodollar Loan or to continue, or to convert Base Rate Loans into, Eurodollar Loans shall be suspended pursuant to Section 3.8 or 3.9 hereof, such Lender's Eurodollar Loans shall be automatically converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for such Eurodollar Loans (or, in the case of a conversion required by Section 3.8 hereof, on such earlier date as such Lender may specify to the Borrower with a copy to the Administrative Agent) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 3.8 or 3.9 hereof that gave rise to such conversion no longer exist:

(a) to the extent that such Lender's Eurodollar Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's Eurodollar Loans shall be applied instead to its Base Rate Loans; and

(b) all Loans that would otherwise be made or continued by such Lender as Eurodollar Loans shall be made or continued instead as Base Rate Loans, and all Base Rate Loans of such Lender that would otherwise be converted into Eurodollar Loans shall remain as Base Rate Loans.

If such Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.8 or 3.9 hereof that gave rise to the conversion of such Lender's Eurodollar Loans pursuant to this Section 3.10 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurodollar Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be

automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurodollar Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Eurodollar Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Commitments.

### 3.11. TAXES.

(a) Any and all payments by any Credit Party to or for the account of any Lender or the Administrative Agent hereunder or under any other Credit Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto, excluding, in the case of each Lender and the Administrative Agent, taxes imposed on its income, and franchise taxes imposed on it, by the jurisdiction under the laws of which such Lender (or its Applicable Lending Office) or the Administrative Agent (as the case may be) is organized or any political subdivision thereof (all such non-excluded taxes, duties, levies, imposts, deductions, charges, withholdings, and liabilities being hereinafter referred to as "Taxes"). If any Credit Party shall be required by law to deduct any Taxes from or in respect of any sum payable under this Credit Agreement or any other Credit Document to any Lender or the Administrative Agent, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.11) such Lender or the Administrative Agent receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Credit Party shall make such deductions, (iii) such Credit Party shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law, and (iv) such Credit Party shall furnish to the Administrative Agent, at its address referred to in Section 11.1, the original or a certified copy of a receipt evidencing payment thereof.

(b) In addition, the Borrower agrees to pay any and all present or future stamp or documentary taxes and any other excise or property taxes or charges or similar levies which arise from any payment made under this Credit Agreement or any other Credit Document or from the execution or delivery of, or otherwise with respect to, this Credit Agreement or any other Credit Document (hereinafter referred to as "Other Taxes").

(c) The Borrower agrees to indemnify each Lender and the Administrative Agent for the full amount of Taxes and Other Taxes (including, without limitation, any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section 3.11) paid by such Lender or the Administrative Agent (as the case may be) and any liability (including penalties, interest, and expenses) arising therefrom or with respect thereto.

(d) Each Lender that is not a United States person under Section 7701(a)(30) of the Code (a "Non-U.S. Lender"), on or prior to the date of its execution and delivery of this Credit Agreement in the case of each Lender listed on the signature pages hereof and on or prior to the date on which it becomes a Lender in the case of each other Lender, and from time to time thereafter if requested in writing by the Borrower or the Administrative

Agent (but only so long as such Lender remains lawfully able to do so), shall provide the Borrower and the Administrative Agent with (i) Internal Revenue Service Form 1001 or 4224, as appropriate, or any successor form prescribed by the Internal Revenue Service, certifying that such Lender is entitled to benefits under an income tax treaty to which the United States is a party which reduces the rate of withholding tax on payments of interest or certifying that the income receivable pursuant to this Credit Agreement is effectively connected with the conduct of a trade or business in the United States or (ii) with respect to any Non-U.S. Lender that is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code claiming exemption from U.S. withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest," a statement substantially in the form of Exhibit 3.11(d) or a Form W-8 certifying, in the case of (i) or (ii) above, that such Lender is entitled to an exemption from or a reduced rate of tax on payments pursuant to this Credit Agreement or any of the other Credit Documents.

(e) For any period with respect to which a Lender has failed to provide the Borrower and the Administrative Agent with the appropriate form pursuant to Section 3.11(d) (unless such failure is due to a change in treaty, law, or regulation occurring subsequent to the date on which a form originally was required to be provided), such Lender shall not be entitled to indemnification under Section 3.11(a) or 3.11(b) with respect to Taxes imposed by the United States; provided, however, that should a Lender, which is otherwise exempt from or subject to a reduced rate of withholding tax, become subject to Taxes because of its failure to deliver a form required hereunder, the Borrower shall take such steps as such Lender shall reasonably request to assist such Lender to recover such Taxes.

(f) If any Credit Party is required to pay additional amounts to or for the account of any Lender pursuant to this Section 3.11, then such Lender will agree to use reasonable efforts to change the jurisdiction of its Applicable Lending Office so as to eliminate or reduce any such additional payment which may thereafter accrue if such change, in the judgment of such Lender, is not otherwise disadvantageous to such Lender.

(g) Within thirty (30) days after the date of any payment of Taxes, the applicable Credit Party shall furnish to the Administrative Agent the original or a certified copy of a receipt evidencing such payment.

(h) Without prejudice to the survival of any other agreement of the Credit Parties hereunder, the agreements and obligations of the Credit Parties contained in this Section 3.11 shall survive the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder.

### 3.12. COMPENSATION.

Upon the request of any Lender, the Borrower shall pay to such Lender such amount or amounts as shall be sufficient (in the reasonable opinion of such Lender) to compensate it for any loss, cost, or expense (including loss of anticipated profits) incurred by it as a result of:

(a) any payment, prepayment, or conversion of a Eurodollar Loan for any reason (including, without limitation, the acceleration of the Loans pursuant to Section 9.2) on a date other than the last day of the Interest Period for such Loan; or

(b) any failure by the Borrower for any reason (including, without limitation, the failure of any condition precedent specified in Section 5 to be satisfied) to borrow, convert, continue, or prepay a Eurodollar Loan on the date for such borrowing, conversion, continuation, or prepayment specified in the relevant notice of borrowing, prepayment, continuation, or conversion under this Credit Agreement.

With respect to Eurodollar Loans, such indemnification may include an amount equal to the excess, if any, of (a) the amount of interest which would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of the applicable Interest Period (or, in the case of a failure to borrow, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Eurodollar Loans provided for herein (excluding, however, the Applicable Percentage included therein, if any) over (b) the amount of interest (as reasonably determined by such Lender) which would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank Eurodollar market. The covenants of the Borrower set forth in this Section 3.12 shall survive the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder.

### 3.13. PRO RATA TREATMENT.

Except to the extent otherwise provided herein:

(a) Loans. Each Revolving Loan, each payment or (subject to the terms of Section 3.3) prepayment of principal of any Revolving Loan (other than Swingline Loans) or reimbursement obligations arising from drawings under Letters of Credit, each payment of interest on the Revolving Loans or reimbursement obligations arising from drawings under Letters of Credit, each payment of Unused Fees, each payment of the Standby Letter of Credit Fee, each payment of the Trade Letter of Credit Fee, each reduction in Revolving Commitments and LOC Commitments and each conversion or extension of any Revolving Loan, shall be allocated pro rata among the Revolving Lenders in accordance with the respective principal amounts of their outstanding Revolving Loans or Swingline Loans and Participation Interests. With respect to the Term Loan, each payment or prepayment of principal on the Term Loan, each payment of interest thereon, and each conversion or extension of any Loan comprising the Term Loan, shall be allocated pro rata among the Term Lenders in accordance with the respective principal amounts of their outstanding Term Loan and Participation Interests therein.

(b) Advances. No Lender shall be responsible for the failure or delay by any other Lender in its obligation to make its ratable share of a borrowing hereunder; provided, however, that the failure of any Lender to fulfill its obligations hereunder shall not relieve any other Lender of its obligations hereunder. Unless the Administrative Agent shall have been notified in writing by any Lender prior to the date of any requested borrowing

that such Lender does not intend to make available to the Administrative Agent its ratable share of such borrowing to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on the date of such borrowing, and the Administrative Agent in reliance upon such assumption, may (in its sole discretion but without any obligation to do so) make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent, the Administrative Agent shall be able to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent will promptly notify the Borrower, and the Borrower shall immediately pay such corresponding amount to the Administrative Agent. The Administrative Agent shall also be entitled to recover from the Lender or the Borrower, as the case may be, interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower to the date such corresponding amount is recovered by the Administrative Agent at a per annum rate equal to (i) from the Borrower at the applicable rate for the applicable borrowing pursuant to the Notice of Borrowing and (ii) from a Lender at the Federal Funds Rate.

### 3.13A TRANCHE C PRO RATA TREATMENT.

With respect to the Tranche C Term Loans, each payment or prepayment of principal on the Tranche C Term Loans, each payment of interest thereon and each conversion or extension of any Loan comprising the Tranche C Term Loans, shall be allocated pro rata among the Tranche C Term Lenders in accordance with the respective principal amounts of their outstanding Tranche C Term Loans and Participation Interests therein.

### 3.14. SHARING OF PAYMENTS.

The Lenders agree among themselves that, in the event that any Lender shall obtain payment in respect of any Loan, LOC Obligations or any other obligation owing to such Lender under this Credit Agreement through the exercise of a right of setoff, banker's lien or counterclaim, or pursuant to a secured claim under Section 506 of Title 11 of the United States Code or other security or interest arising from, or in lieu of, such secured claim, received by such Lender under any applicable bankruptcy, insolvency or other similar law or otherwise, or by any other means, in excess of its pro rata share of such payment as provided for in this Credit Agreement, such Lender shall promptly purchase from the other Lenders a Participation Interest in such Loans, LOC Obligations and other obligations in such amounts, and make such other adjustments from time to time, as shall be equitable to the end that all Lenders share such payment in accordance with their respective ratable shares as provided for in this Credit Agreement. The Lenders further agree among themselves that if payment to a Lender obtained by such Lender through the exercise of a right of setoff, banker's lien, counterclaim or other event as aforesaid shall be rescinded or must otherwise be restored, each Lender which shall have shared the benefit of such payment shall, by repurchase of a Participation Interest theretofore sold, return its share of that benefit (together with its share of any accrued interest payable with respect thereto) to each Lender whose payment shall have been rescinded or otherwise restored. The Borrower agrees that any Lender so purchasing such a Participation Interest may, to the

fullest extent permitted by law, exercise all rights of payment, including setoff, banker's lien or counterclaim, with respect to such Participation Interest as fully as if such Lender were a holder of such Loan, LOC Obligations or other obligation in the amount of such Participation Interest. Except as otherwise expressly provided in this Credit Agreement, if any Lender or the Administrative Agent shall fail to remit to the Administrative Agent or any other Lender an amount payable by such Lender or the Administrative Agent to the Administrative Agent or such other Lender pursuant to this Credit Agreement on the date when such amount is due, such payments shall be made together with interest thereon for each date from the date such amount is due until the date such amount is paid to the Administrative Agent or such other Lender at a rate per annum equal to the Federal Funds Rate. If under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this Section 3.14 applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders under this Section 3.14 to share in the benefits of any recovery on such secured claim.

### 3.15. PAYMENTS, COMPUTATIONS, ETC.

(a) Except as otherwise specifically provided herein, all payments hereunder shall be made to the Administrative Agent in Dollars in immediately available funds, without setoff, deduction, counterclaim or withholding of any kind, at the Administrative Agent's office specified in Schedule 2.1(a) not later than 2:00 P.M. (Charlotte, North Carolina time) on the date when due. Payments received after such time shall be deemed to have been received on the next succeeding Business Day. The Administrative Agent may (but shall not be obligated to) debit the amount of any such payment which is not made by such time to any ordinary deposit account of the Borrower or any other Credit Party maintained with the Administrative Agent (with notice to the Borrower or such other Credit Party). The Borrower shall, at the time it makes any payment under this Credit Agreement, specify to the Administrative Agent the Loans, LOC Obligations, Fees, interest or other amounts payable by the Borrower hereunder to which such payment is to be applied (and in the event that it fails so to specify, or if such application would be inconsistent with the terms hereof, the Administrative Agent shall distribute such payment to the Lenders in such manner as the Administrative Agent may determine to be appropriate in respect of obligations owing by the Borrower hereunder, subject to the terms of Section 3.13(a)). The Administrative Agent will distribute such payments to such Lenders, if any such payment is received prior to 12:00 Noon (Charlotte, North Carolina time) on a Business Day in like funds as received prior to the end of such Business Day and otherwise the Administrative Agent will distribute such payment to such Lenders on the next succeeding Business Day. Whenever any payment hereunder shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day (subject to accrual of interest and Fees for the period of such extension), except that in the case of Eurodollar Loans, if the extension would cause the payment to be made in the next following calendar month, then such payment shall instead be made on the next preceding Business Day. Except as expressly provided otherwise herein, all computations of interest and fees shall be made on the basis of actual number of days elapsed over a year of 360 days, except with respect to computation of interest on Base Rate Loans which (unless the Base Rate is determined by reference to the Federal Funds Rate) shall be calculated based on a year of 365 or 366



days, as appropriate. Interest shall accrue from and include the date of borrowing, but exclude the date of payment.

(b) Allocation of Payments After Event of Default.

Notwithstanding any other provisions of this Credit Agreement to the contrary, after the occurrence and during the continuance of an Event of Default, all amounts collected or received by the Administrative Agent or any Lender on account of the Credit Party Obligations or any other amounts outstanding under any of the Credit Documents or in respect of the Collateral shall be paid over or delivered as follows:

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including without limitation reasonable attorneys' fees) of the Administrative Agent in connection with enforcing the rights of the Lenders under the Credit Documents and any protective advances made by the Administrative Agent with respect to the Collateral under or pursuant to the terms of the Collateral Documents;

SECOND, to payment of any fees owed to the Administrative Agent;

THIRD, to the payment of all reasonable out-of-pocket costs and expenses (including without limitation, reasonable attorneys' fees) of each of the Lenders in connection with enforcing its rights under the Credit Documents or otherwise with respect to the Credit Party Obligations owing to such Lender;

FOURTH, to the payment of all of the Credit Party Obligations consisting of accrued fees and interest;

FIFTH, to the payment of the outstanding principal amount of the Credit Party Obligations (including the payment or cash collateralization of the outstanding LOC Obligations);

SIXTH, to all other Credit Party Obligations and other obligations which shall have become due and payable under the Credit Documents or otherwise and not repaid pursuant to clauses "FIRST" through "FIFTH" above; and

SEVENTH, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; (ii) each of the Lenders shall receive an amount equal to its pro rata share (based on the proportion that the then outstanding Loans and LOC Obligations held by such Lender bears to the aggregate then outstanding Loans and LOC Obligations) of amounts available to be applied pursuant to clauses "THIRD", "FOURTH", "FIFTH" and "SIXTH" above; and (iii) to the extent that any amounts available for distribution pursuant to clause "FIFTH" above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be held by the Administrative Agent in a cash collateral account and applied (A) first, to reimburse the Issuing Lender from time to time for any drawings under such Letters of Credit and (B) then, following the expiration of all Letters of

Credit, to all other obligations of the types described in clauses "FIFTH" and "SIXTH" above in the manner provided in this Section 3.15(b).

### 3.16. EVIDENCE OF DEBT.

(a) Each Lender shall maintain an account or accounts evidencing each Loan made by such Lender to the Borrower from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Credit Agreement. Each Lender will make reasonable efforts to maintain the accuracy of its account or accounts and to promptly update its account or accounts from time to time, as necessary.

(b) The Administrative Agent shall maintain the Register pursuant to Section 11.3(c), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount, type and Interest Period of each such Loan hereunder, (ii) the amount of any principal or interest due and payable or to become due and payable to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from or for the account of any Credit Party and each Lender's share thereof. The Administrative Agent will make reasonable efforts to maintain the accuracy of the subaccounts referred to in the preceding sentence and to promptly update such subaccounts from time to time, as necessary.

(c) The entries made in the accounts, Register and subaccounts maintained pursuant to subsection (b) of this Section 3.16 (and, if consistent with the entries of the Administrative Agent, subsection (a)) shall be prima facie evidence of the existence and amounts of the obligations of the Credit Parties therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to maintain any such account, such Register or such subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of the Credit Parties to repay the Credit Party obligations owing to such Lender.

## SECTION 4.

### GUARANTY

#### 4.1. THE GUARANTY.

The Guarantors hereby jointly and severally guarantee to each Secured Party, as primary obligor and not as surety, the prompt payment of the Credit Party Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) strictly in accordance with the terms thereof. The Guarantors hereby further agree that if any of the Credit Party Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise), the Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Credit Party Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) in accordance with the terms of such extension or renewal.

Notwithstanding any provision to the contrary contained herein or in any other of the Credit Documents or Hedging Agreements, the obligations of each Guarantor hereunder shall be limited to an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance under Section 548 of the Bankruptcy Code or any comparable provisions of any applicable state law.

#### 4.2. OBLIGATIONS UNCONDITIONAL.

The obligations of the Guarantors under Section 4.1 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Credit Documents or Hedging Agreements, or any other agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any Guarantor or other guarantee of or security for any of the Credit Party Obligations, and, to the fullest extent permitted by applicable law, irrespective of any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 4.2 that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against the Borrower or any other Guarantor for amounts paid under this Section 4 until such time as the Secured Parties have been paid in full, all Commitments under this Credit Agreement have been terminated and no Person or Governmental Authority shall have any right to request any return or reimbursement of funds from the Secured Parties in connection with monies received under the Credit Documents or Hedging Agreements. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder which shall remain absolute and unconditional as described above:

(a) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Credit Party Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of any of the Credit Documents, any Hedging Agreement or any other agreement or instrument referred to in the Credit Documents or Hedging Agreements shall be done or omitted;

(c) the maturity of any of the Credit Party Obligations shall be accelerated, or any of the Credit Party Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Credit Documents, any Hedging Agreement or any other agreement or instrument referred to in the Credit Documents or Hedging Agreements shall be waived or any other guarantee of any of the Credit Party Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(d) any Lien granted to, or in favor of, the Administrative Agent or any Secured Party as security for any of the Credit Party Obligations shall fail to attach or be perfected;

(e) any of the Credit Party Obligations shall be determined to be void or voidable (including, without limitation, for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including, without limitation, any creditor of any Guarantor); or

(f) the occurrence of any Bankruptcy Event with respect to any Consolidated Party.

With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any other Secured Party exhaust any right, power or remedy or proceed against any Person under any of the Credit Documents, any Hedging Agreement or any other agreement or instrument referred to in the Credit Documents or Hedging Agreements, or against any other Person under any other guarantee of, or security for, any of the Credit Party Obligations.

#### 4.3. REINSTATEMENT.

The obligations of the Guarantors under this Section 4 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Credit Party Obligations is rescinded or must be otherwise restored by any holder of any of the Credit Party Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Guarantor agrees that it will indemnify the Administrative Agent and each other Secured Party on demand for all reasonable costs and expenses (including, without limitation, fees and expenses of counsel) incurred by the Administrative Agent or such other Secured Party in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

#### 4.4. CERTAIN ADDITIONAL WAIVERS.

Each Guarantor agrees that such Guarantor shall have no right of recourse to security for the Credit Party Obligations, except through the exercise of rights of subrogation pursuant to Section 4.2 and through the exercise of rights of contribution pursuant to Section 4.6.

#### 4.5. REMEDIES.

The Guarantors agree that, to the fullest extent permitted by law, as between the Guarantors, on the one hand, and the Administrative Agent and the other Secured Parties, on the other hand, the Credit Party Obligations may be declared to be forthwith due and payable as provided in Section 9.2 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 9.2) for purposes of Section 4.1 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Credit Party Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Credit Party Obligations being deemed to have become automatically due and payable), the Credit Party Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 4.1. The Guarantors acknowledge and agree that their obligations hereunder are secured

in accordance with the terms of the Security Agreement and the other Collateral Documents and that the Secured Parties may exercise their remedies thereunder in accordance with the terms thereof.

#### 4.6. RIGHTS OF CONTRIBUTION.

The Guarantors hereby agree as among themselves that, if any Guarantor shall make an Excess Payment (as defined below), such Guarantor shall have a right of contribution from each other Guarantor in an amount equal to such other Guarantor's Contribution Share (as defined below) of such Excess Payment. The payment obligations of any Guarantor under this Section 4.6 shall be subordinate and subject in right of payment to the prior payment in full to the Administrative Agent and the other Secured Parties of the Guaranteed Obligations, and none of the Guarantors shall exercise any right or remedy under this Section 4.6 against any other Guarantor until payment and satisfaction in full of all of such Guaranteed Obligations. For purposes of this Section 4.6, (a) "Guaranteed Obligations" shall mean any obligations arising under the other provisions of this Section 4; (b) "Excess Payment" shall mean the amount paid by any Guarantor in excess of its Pro Rata Share of any Guaranteed Obligations; (c) "Pro Rata Share" shall mean, for any Guarantor in respect of any payment of Guaranteed Obligations, the ratio (expressed as a percentage) as of the date of such payment of Guaranteed Obligations of (i) the amount by which the aggregate present fair salable value of all of its assets and properties exceeds the amount of all debts and liabilities of such Guarantor (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder) to (ii) the amount by which the aggregate present fair salable value of all assets and other properties of all of the Credit Parties exceeds the amount of all of the debts and liabilities (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of the Credit Parties hereunder) of the Credit Parties; provided, however, that, for purposes of calculating the Pro Rata Shares of the Guarantors in respect of any payment of Guaranteed Obligations, any Guarantor that became a Guarantor subsequent to the date of any such payment shall be deemed to have been a Guarantor on the date of such payment and the financial information for such Guarantor as of the date such Guarantor became a Guarantor shall be utilized for such Guarantor in connection with such payment; and (d) "Contribution Share" shall mean, for any Guarantor in respect of any Excess Payment made by any other Guarantor, the ratio (expressed as a percentage) as of the date of such Excess Payment of (i) the amount by which the aggregate present fair salable value of all of its assets and properties exceeds the amount of all debts and liabilities of such Guarantor (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder) to (ii) the amount by which the aggregate present fair salable value of all assets and other properties of the Credit Parties other than the maker of such Excess Payment exceeds the amount of all of the debts and liabilities (including contingent, subordinated, unmatured, and unliquidated liabilities, but excluding the obligations of the Credit Parties) of the Credit Parties other than the maker of such Excess Payment; provided, however, that, for purposes of calculating the Contribution Shares of the Guarantors in respect of any Excess Payment, any Guarantor that became a Guarantor subsequent to the date of any such Excess Payment shall be deemed to have been a Guarantor on the date of such Excess Payment and the financial information for such Guarantor as of the date such Guarantor became a Guarantor shall be utilized for such Guarantor in connection with such Excess Payment. This Section 4.6 shall not be deemed to affect any right of subrogation, indemnity, reimbursement or contribution that

any Guarantor may have under applicable law against the Borrower in respect of any payment of Guaranteed Obligations.

4.7. GUARANTEE OF PAYMENT; CONTINUING GUARANTEE.

The guarantee in this Section 4 is a guaranty of payment and not of collection, is a continuing guarantee, and shall apply to all Credit Party Obligations whenever arising.

SECTION 5.

CONDITIONS

5.1. CONDITIONS TO EFFECTIVENESS.

The effectiveness of this amendment and restatement of the Original Credit Agreement is subject to satisfaction of each of the following conditions:

(a) Executed Credit Documents. Receipt by the Administrative Agent of: (i) this Credit Agreement, duly executed by the Borrower, the Subsidiary Guarantors, the Amending Lenders, the Tranche C Term Lenders, the Administrative Agent, the Documentation Agent, the Syndication Agent, Co-Agent and the Lead Arranger, (ii) any Notes requested by the applicable Lender (against return of any notes issued to such Lender under the Original Credit Agreement), duly executed by the Borrower, (iii) the Security Agreement, duly executed by each Credit Party and the Administrative Agent, (iv) the Pledge Agreement, duly executed by each Credit Party and the Administrative Agent and (v) all other Credit Documents, duly executed by the parties thereto, each in form and substance acceptable to the Administrative Agent.

(b) Corporate Documents. Receipt by the Administrative Agent of the following:

(i) Charter Documents. Copies of the articles or certificates of incorporation or other charter documents of each Credit Party certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its incorporation and certified by a secretary or assistant secretary of such Credit Party to be true and correct as of the Restatement Effective Date.

(ii) Bylaws. A copy of the bylaws of each Credit Party certified by a secretary or assistant secretary of such Credit Party to be true and correct as of the Restatement Effective Date.

(iii) Resolutions. Copies of resolutions of the Board of Directors of each Credit Party approving and adopting the Credit Documents to which it is a party, the transactions contemplated therein and authorizing execution and delivery thereof, certified by a secretary or assistant secretary of such Credit Party to be true and correct and in force and effect as of the Restatement Effective Date.

(iv) Good Standing. Copies of certificates of good standing, existence or its equivalent with respect to each Credit Party certified as of a recent date by the

appropriate Governmental Authorities of the state or other jurisdiction of incorporation and each other jurisdiction in which the failure to so qualify and be in good standing could have a Material Adverse Effect.

(v) Incumbency. An incumbency certificate of each Credit Party certified by a secretary or assistant secretary to be true and correct as of the Restatement Effective Date.

(vi) Mergers; Name Change. Evidence from the applicable Governmental Authorities as to (a) the due and proper merger with and into the Borrower of those Subsidiary Guarantors party to the Original Credit Agreement on the Original Closing Date which are not party to this Credit Agreement and (b) the due and proper name change of the Borrower from "Prison Realty Corporation" to "Prison Realty Trust, Inc."

(c) Financial Forecasts. The Administrative Agent shall have received detailed financial forecasts for the Borrower, Management Opco, Service Company A and Service Company B for the fiscal periods 1999-2003, including income statements, balance sheets and cash flow statements, in each case based on (and including) reasonable operating and accounting assumptions and otherwise in form and substance reasonably satisfactory to the Administrative Agent.

(d) Opinions of Counsel. The Administrative Agent shall have received legal opinions from (i) Simpson Thacher & Bartlett, (ii) Miles & Stockbridge, (iii) Stokes & Bartholomew and (iv) North Carolina counsel, each in form and substance reasonably satisfactory to the Administrative Agent, dated the Restatement Effective Date and addressed to each of the Administrative Agent, the Documentation Agent, the Syndication Agent, the Co-Agent, the Lead Arranger and each of the Lenders.

(e) Personal Property Collateral. The Administrative Agent shall have received (either from the Borrower or from the Original Administrative Agent, as appropriate):

(i) duly-executed UCC financing statement amendments and/or assignments with respect to all UCC-1 financing statements and fixture filings originally executed and delivered on the Original Closing Date by the Credit Parties under the Original Credit Agreement who are parties to this Credit Agreement and the Original Administrative Agent, as applicable, in each case reflecting the assignment of such financing statements to the Administrative Agent by the Original Administrative Agent, reflecting the recent name change of the Borrower and, if necessary, reflecting the amendment and restatement of the Original Credit Agreement by this Credit Agreement, as well as any other instruments and documents in form and substance reasonably satisfactory to the Administrative Agent necessary or, in the opinion of the Administrative Agent, desirable to continue the perfection and priority of the Administrative Agent's (as assignee of the Original Administrative Agent) security interest in any Collateral granted by any Credit Party on the Original Closing Date pursuant to the Collateral Documents (as defined in the Original Credit Agreement).

(ii) all stock certificates evidencing the Capital Stock pledged to the Administrative Agent pursuant to the Pledge Agreement, together with duly executed in blank, undated stock powers attached thereto (unless, with respect to the pledged Capital Stock of any Foreign Subsidiary, such stock powers are deemed unnecessary by the Administrative Agent in its reasonable discretion under the law of the jurisdiction of incorporation of such Person);

(iii) such patent/trademark/copyright filings (or amendments thereto) as requested by the Administrative Agent in order to perfect or continue the perfection of the Administrative Agent's security interest in such Collateral after giving effect to this Credit Agreement;

(iv) all instruments and chattel paper in the possession of any of the Credit Parties or the Original Administrative Agent (including, without limitation, the Management Opco Note and the Agecroft Note), together with allonges or assignments as may be necessary or appropriate to perfect or continue the perfection of the Administrative Agent's security interest in such Collateral after giving effect to this Credit Agreement;

(v) duly executed consents as are necessary, in the Administrative Agent's reasonable judgment, to perfect or continue the perfection of the Administrative Agent's security interest in the Collateral after giving effect to this Credit Agreement;

(vi) in the case of any personal property Collateral located at a premises leased to a Credit Party, such estoppel letters, consents and waivers (or amendments to any of the foregoing) from the landlords on such real property as may be required by the Administrative Agent; and

(vii) duly-executed termination statements or other releases for any Liens (other than Permitted Liens) existing on the Restatement Effective Date.

(f) Real Property Collateral. The Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent:

(i) fully executed and notarized amendments or amendments and restatements of all mortgages, deeds of trust or deeds to secure debt granted in connection with the Original Credit Agreement or, in the Administrative Agent's sole discretion, mortgages, deeds of trust or deeds to secure debt in favor of the Administrative Agent (each such amendment, restatement, mortgage, deed of trust and deed to secure debt, a "Mortgage" and collectively as "Mortgages") for (a) the real property assets owned by the Borrower set forth on Schedule 5.1(f)(i) and (b) each leasehold estate of the Borrower set forth on Schedule 5.1(f)(i) (each of those real property assets and leasehold estates on Schedule 5.1(f)(i), an "Existing Property" and collectively, the "Existing Properties"), together with such UCC-1 financing statements (or UCC-3 amendments and/or assignments of financing statements



filed in connection with the Original Credit Agreement), as the Administrative Agent shall deem appropriate with respect to each such Existing Property;

(ii) (A) Endorsements (the "Title Endorsements") to all Mortgage Policies (as defined in the Original Credit Agreement) that were issued pursuant to the terms of the Original Credit Agreement, which Title Endorsements shall be issued by the title insurer that issued such Mortgage Policies and which shall specifically insure the priority of the lien of the Mortgages (as defined in the Original Credit Agreement) as amended by the Mortgages contemplated hereby, and (B) with respect to any Existing Property that was acquired after the date of the Original Credit agreement or that for any other reason does not have in place a "Mortgage Policy" (as defined in the Original Credit Agreement) in accordance with the terms of the Original Credit Agreement, ALTA or other appropriate form mortgagee title insurance policies (the "Mortgage Policies") issued by a title insurer satisfactory to the Administrative Agent (the "Title Insurance Company"), in an amount satisfactory to the Administrative Agent with respect to each Existing Property, assuring the Administrative Agent that the applicable Mortgages create valid and enforceable first priority mortgage liens on the respective Existing Properties, free and clear of all defects and encumbrances except Permitted Liens, which Title Endorsements or Mortgage Policies shall be in form and substance satisfactory to the Administrative Agent and contain such endorsements as shall be satisfactory to the Administrative Agent and for any other matters that the Administrative Agent may request, and providing affirmative insurance and such reinsurance as the Administrative Agent may request, all of the foregoing in form and substance reasonably satisfactory to the Administrative Agent;

(iii) maps or plats of a survey of the sites of the Existing Properties certified to the Administrative Agent and the Title Insurance Company in a manner reasonably satisfactory to them, dated a date satisfactory to the Administrative Agent and the Title Insurance Company by an independent professional licensed land surveyor reasonably satisfactory to the Administrative Agent and the Title Insurance Company, and otherwise in form and substance satisfactory to the Administrative Agent;

(iv) (A) an opinion of counsel (which counsel shall be satisfactory to the Administrative Agent) in the states of Tennessee, Arizona, California, Colorado, Oklahoma, Texas and North Carolina with respect to the enforceability of the Mortgages, standard remedies with respect thereto, the sufficiency of the form of UCC-1 financing statements or UCC-3 amendments and/or assignments to be recorded or filed in such state, the continued perfection and priority of the Liens evidenced thereby and such other matters as the Administrative Agent may request, in form and substance satisfactory to the Administrative Agent and (B) reliance letters in favor of the Administrative Agent, as agent for the Secured Parties, from counsel in the states of Florida, Georgia, Kansas, Kentucky, Minnesota, Montana, New Mexico, Nevada and Ohio with respect to the legal opinions delivered by such counsel in connection with the Original Credit Agreement;

(v) with respect to any Existing Property for which such a certification was not delivered pursuant to the Original Credit Agreement, certification from Bankers Hazard Determination Services or Borrower's land surveyor in a form reasonably satisfactory to the Administrative Agent or other evidence acceptable to the Administrative Agent that none of the improvements on the Existing Properties are located within any area designated by the Director of the Federal Emergency Management Agency as a "special flood hazard" area; and, regardless of any deliveries made pursuant to the Original Credit Agreement, if any improvements on the Existing Properties are located within a "special flood hazard" area, evidence of a flood insurance policy from a company and in an amount satisfactory to the Administrative Agent for the applicable portion of the premises, naming the Administrative Agent, for the benefit of the Secured Parties, as mortgagee, provided, that delivery of such certifications and flood insurance may be made within 90 days after the Restatement Effective Date.;

(g) Subordination. With respect to each of the Existing Properties owned by the Borrower and leased to Management Opco, the Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, an amended and restated subordination of lease agreement from Management Opco with respect to all such Existing Properties.

(h) Environmental Reports. Except for those Existing Properties identified on Schedule 7.19, for which environmental site assessment reports were previously delivered to the Original Administrative Agent, the Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, environmental site assessment reports and related documents with respect to all Existing Properties.

(i) Priority of Liens. The Administrative Agent shall have received such other satisfactory evidence as it may reasonably require that, after giving effect to this Credit Agreement, (i) the Administrative Agent, on behalf of the Secured Parties, holds a perfected, first priority Lien on all Collateral and (ii) none of the Collateral is subject to any other Liens other than Permitted Liens.

(j) Opening Borrowing Base. Receipt by the Administrative Agent of a Borrowing Base Certificate as of the Closing Date, substantially in the form of Exhibit 7.1(e), and certified by the chief financial officer of the Borrower to be true and correct as of the Restatement Effective Date.

(k) Evidence of Insurance. Receipt by the Administrative Agent of copies of insurance policies or certificates of insurance of the Consolidated Parties evidencing liability and casualty insurance meeting the requirements set forth in the Credit Documents, including, but not limited to, naming the Administrative Agent as sole loss payee on behalf of the Secured Parties and the Administrative Agent and the other Secured Parties as additional insureds, each as appropriate.

(l) Approval of Amendment. This Credit Agreement shall have been consented to in writing by the requisite lenders under the Original Credit Agreement.

(m) Senior Notes Documents. The Administrative Agent shall have received from the Borrower (and certified thereto by an Executive Officer of the Borrower as to authenticity) duly executed copies of each of the Senior Notes Documents.

(n) No Default. On the Restatement Effective Date, no Default or Event of Default shall have occurred and be continuing.

(o) Representations and Warranties True. On the Restatement Effective Date, the representations and warranties set forth in Section 6 and in the other Credit Documents shall be true and correct in all material respects as of such date (except for those which expressly relate to an earlier date).

(p) Officer's Certificates. The Administrative Agent shall have received a certificate or certificates executed by an Executive Officer of the Borrower as of the Restatement Effective Date stating that (A) each Credit Party is in compliance with all existing material financial obligations, (B) all material governmental, shareholder and third party consents and approvals, if any, with respect to the Credit Documents and the transactions contemplated thereby have been obtained, (C) no action, suit, investigation or proceeding is pending or, to the knowledge of the Borrower, threatened in any court or before any arbitrator or governmental instrumentality that purports to affect any Credit Party or any transaction contemplated by the Credit Documents, if such action, suit, investigation or proceeding could reasonably be expected to have a Material Adverse Effect, and (D) immediately after giving effect to this Credit Agreement, the other Credit Documents and all the transactions contemplated therein to occur on such date, (1) each of the Credit Parties is Solvent, (2) no Default or Event of Default exists, (3) all representations and warranties contained herein and in the other Credit Documents are true and correct in all material respects, and (4) the Credit Parties are in compliance with each of the financial covenants set forth in Section 7.11.

(q) Compliance Certificate. The Administrative Agent shall have received a certificate executed by the chief financial officer of the Borrower, demonstrating compliance with the financial covenants contained in Section 7.11 (based on the projections (and annualized, where appropriate) of the Borrower for the first fiscal quarter following the Restatement Effective Date).

(r) Fees and Expenses. Payment by the Credit Parties of all fees and expenses owed by them to the Lenders and the Administrative Agent.

(s) Other Collateral. The Administrative Agent shall have received (i) from the Original Administrative Agent and/or the Borrower, a full and complete set of closing documents in connection with the Original Credit Agreement and (ii) from the Original Administrative Agent, any other Collateral delivered to it in connection with the Original Credit Agreement.

(t) Other. Receipt by the Lenders of such other documents, instruments, agreements or information as reasonably requested by any Lender.

## 5.2. CONDITIONS TO ALL EXTENSIONS OF CREDIT.

The obligations of each Lender to make any Loan and of the Issuing Lender to issue or extend any Letter of Credit are subject to satisfaction of the following conditions in addition to satisfaction on the Restatement Effective Date of the conditions set forth in Section 5.1:

(a) The Borrower shall have delivered (i) to the Administrative Agent, in the case of any Revolving Loan or the Tranche C Term Loans, a Notice of Borrowing or (ii) to the relevant Issuing Lender, in the case of any Letter of Credit, an appropriate request for issuance in accordance with the provisions of Section 2.2(b);

(b) The representations and warranties set forth in Section 6 shall, subject to the limitations set forth therein, be true and correct in all material respects as of such date (except for those which expressly relate to an earlier date);

(c) There shall not have been commenced against any Consolidated Party an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or any case, proceeding or other action for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of its Property or for the winding up or liquidation of its affairs, and such involuntary case or other case, proceeding or other action shall remain undismissed, undischarged or unbonded;

(d) No Default or Event of Default shall exist and be continuing either prior to or after giving effect thereto;

(e) No circumstances, events or conditions shall have occurred since December 31, 1998, which would have a Material Adverse Effect; and

(f) Immediately after giving effect to the making of such Loan (and the application of the proceeds thereof) or to the issuance of such Letter of Credit, as the case may be, (i) the sum of the aggregate principal amount of outstanding Obligations shall not exceed the lesser of (A) the Aggregate Committed Amount and (B) the Borrowing Base and (ii) the LOC Obligations shall not exceed the LOC Committed Amount.

The delivery of each Notice of Borrowing, each request for a Swingline Loan pursuant to Section 2.3(b) and each request for a Letter of Credit pursuant to Section 2.2(b) shall constitute a representation and warranty by the Credit Parties of the correctness as of the date of such delivery of the matters specified in subsections (b), (c), (d), (e) and (f) above.

## SECTION 6.

## REPRESENTATIONS AND WARRANTIES

The Credit Parties hereby represent to the Administrative Agent and each Lender that:

## 6.1. FINANCIAL CONDITION.

The financial statements delivered to the Lenders pursuant to Section 5.1(c) and Section 7.1(a) and (b), (i) have been prepared in accordance with GAAP and (ii) present fairly (on the basis disclosed in the footnotes to such financial statements) the consolidated financial condition, results of operations and cash flows of the Consolidated Parties and Unrestricted Subsidiaries as of such date and for such periods.

## 6.2. NO MATERIAL CHANGE.

Since December 31, 1998 (a) there has been no development or event relating to or affecting a Consolidated Party or Unrestricted Subsidiary which has had or could reasonably be expected to have a Material Adverse Effect and (b) except as otherwise permitted under this Credit Agreement, no dividends or other distributions have been declared, paid or made upon the Capital Stock in a Consolidated Party nor has any of the Capital Stock in a Consolidated Party been redeemed, retired, purchased or otherwise acquired for value.

## 6.3. ORGANIZATION AND GOOD STANDING.

Each of the Consolidated Parties and Unrestricted Subsidiaries (a) is duly organized, validly existing and is in good standing under the laws of the jurisdiction of its incorporation or organization, except, with respect to any Unrestricted Subsidiary, to the extent the failure to be so organized, existing or in good standing could not reasonably be expected to have a Material Adverse Effect, (b) has the corporate or other necessary power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, except, with respect to any Unrestricted Subsidiary, to the extent the failure to have such power, authority or right could not reasonably be expected to have a Material Adverse Effect and (c) is duly qualified as a foreign entity and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, other than in such jurisdictions where the failure to be so qualified and in good standing could have a Material Adverse Effect. Furthermore, the Borrower has conducted its business so as to qualify as a REIT in 2000, and subsequent to qualifying as a REIT in 2000 the Borrower will maintain its status as a REIT.

## 6.4. POWER; AUTHORIZATION; ENFORCEABLE OBLIGATIONS.

Each of the Credit Parties has the corporate or other necessary power and authority, and the legal right, to make, deliver and perform the Credit Documents to which it is a party, and in the case of the Borrower, to obtain extensions of credit hereunder, and has taken all necessary corporate action to authorize the borrowings and other extensions of credit on the terms and conditions of this Credit Agreement and to authorize the execution, delivery and performance of the Credit Documents to which it is a party. No consent or authorization of, filing with, notice to or other similar act by or in respect of, any Governmental Authority or any other Person is required to be obtained or made by or on behalf of any Credit Party in connection with the borrowings or other extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of the Credit Documents to which such Credit Party is a party, except for filings to perfect the Liens created by the Collateral Documents, and except for consents,

authorizations, filings or notices which have been obtained or made. This Credit Agreement has been, and each other Credit Document to which any Credit Party is a party will be, duly executed and delivered on behalf of the Credit Parties. This Credit Agreement constitutes, and each other Credit Document to which any Credit Party is a party when executed and delivered will constitute, a legal, valid and binding obligation of such Credit Party enforceable against such party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law). The amendments of the Original Credit Agreement reflected herein have been validly approved as required under Section 11.6 of the Original Credit Agreement and such amendments are binding on the Lenders.

6.5. NO CONFLICTS.

Neither the execution and delivery of the Credit Documents, nor the consummation of the transactions contemplated therein, nor performance of and compliance with the terms and provisions thereof by such Credit Party will (a) violate or conflict with any provision of its articles or certificate of incorporation or bylaws or other organizational or governing documents of such Person, (b) violate, contravene or materially conflict with any Requirement of Law or any other law, regulation (including, without limitation, Regulation U or Regulation X), order, writ, judgment, injunction, decree or permit applicable to it, except for any violation, contravention or conflict which could not reasonably be expected to have a Material Adverse Effect, (c) violate, contravene or conflict with contractual provisions of, or cause an event of default under, any indenture, loan agreement, mortgage, deed of trust, contract or other agreement or instrument to which it is a party or by which it may be bound, except for any violation, contravention or conflict which could not reasonably be expected to have a Material Adverse Effect, or (d) result in or require the creation of any Lien (other than those contemplated in or created in connection with the Credit Documents) upon or with respect to its properties.

6.6. NO DEFAULT.

No Consolidated Party or Unrestricted Subsidiary is in default in any respect under any contract, lease, loan agreement, indenture, mortgage, security agreement or other agreement or obligation to which it is a party or by which any of its properties is bound which default could reasonably be expected to have a Material Adverse Effect.

6.7. OWNERSHIP.

Each Consolidated Party is the owner of, and has good and marketable title to, all of its respective material assets, and none of such assets is subject to any Lien other than Permitted Liens.

6.8. INDEBTEDNESS.

Except as otherwise permitted under Section 8.1, none of the Consolidated Parties or Unrestricted Subsidiaries have any Indebtedness.

## 6.9. LITIGATION.

Subject to Schedule 6.9, there are no actions, suits or legal, equitable, arbitration or administrative proceedings, pending or, to the knowledge of any Credit Party, threatened against any Consolidated Party or Unrestricted Subsidiary which could reasonably be expected to have a Material Adverse Effect.

## 6.10. TAXES.

Each Consolidated Party and Unrestricted Subsidiary has filed, or caused to be filed, all tax returns (federal, state, local and foreign) required to be filed and paid (a) all amounts of taxes shown thereon to be due (including interest and penalties), and (b) all other taxes, fees, assessments and other governmental charges (including mortgage recording taxes, documentary stamp taxes and intangibles taxes) owing by it, except for such taxes (i) which are not yet delinquent, (ii) that are being contested in good faith and by proper proceedings, and against which adequate reserves are being maintained in accordance with GAAP or (iii) that if unpaid could not reasonably be expected to have a Material Adverse Effect. No Credit Party is aware as of the Restatement Effective Date of any proposed tax assessments against it, any other Consolidated Party or any Unrestricted Subsidiary, except to the extent such tax assessment could not reasonably be expected to have a Material Adverse Effect.

## 6.11. COMPLIANCE WITH LAW.

Each Consolidated Party and Unrestricted Subsidiary is in compliance with all Requirements of Law and all other laws, rules, regulations, orders and decrees (including without limitation Environmental Laws) applicable to it, or to its properties, unless such failure to comply could not reasonably be expected to have a Material Adverse Effect.

## 6.12. ERISA.

(a) During the five-year period prior to the date on which this representation is made or deemed made: (i) no ERISA Event has occurred, and, to the best knowledge of the Credit Parties, no event or condition has occurred or exists as a result of which any ERISA Event could reasonably be expected to occur, with respect to any Plan; (ii) no "accumulated funding deficiency," as such term is defined in Section 302 of ERISA and Section 412 of the Code, whether or not waived, has occurred with respect to any Plan; (iii) each Plan has been maintained, operated, and funded in compliance with its own terms and in material compliance with the provisions of ERISA, the Code, and any other applicable federal or state laws; and (iv) no lien in favor of the PBGC or a Plan has arisen or is reasonably likely to arise on account of any Plan.

(b) The actuarial present value of all "benefit liabilities" (as defined in Section 4001(a)(16) of ERISA), whether or not vested, under each Single Employer Plan, as of the last annual valuation date prior to the date on which this representation is made or deemed made (determined, in each case, in accordance with Financial Accounting Standards Board Statement 87, utilizing the actuarial assumptions used in such Plan's most recent actuarial valuation report), did not exceed as of such valuation date the fair market value of the assets of such Plan.

(c) Neither any Consolidated Party nor any ERISA Affiliate has incurred, or, to the best knowledge of the Credit Parties, could be reasonably expected to incur, any withdrawal liability under ERISA to any Multiemployer Plan or Multiple Employer Plan. Neither any Consolidated Party nor any ERISA Affiliate would become subject to any withdrawal liability under ERISA if any Consolidated Party or any ERISA Affiliate were to withdraw completely from all Multiemployer Plans and Multiple Employer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made. Neither any Consolidated Party nor any ERISA Affiliate has received any notification that any Multiemployer Plan is in reorganization (within the meaning of Section 4241 of ERISA), is insolvent (within the meaning of Section 4245 of ERISA), or has been terminated (within the meaning of Title IV of ERISA), and no Multiemployer Plan is, to the best knowledge of the Credit Parties, reasonably expected to be in reorganization, insolvent, or terminated.

(d) No prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code) or breach of fiduciary responsibility has occurred with respect to a Plan which has subjected or may subject any Consolidated Party or any ERISA Affiliate to any liability under Sections 406, 409, 502(i), or 502(l) of ERISA or Section 4975 of the Code, or under any agreement or other instrument pursuant to which any Consolidated Party or any ERISA Affiliate has agreed or is required to indemnify any Person against any such liability.

(e) Neither any Consolidated Party nor any ERISA Affiliates has any material liability with respect to "expected post-retirement benefit obligations" within the meaning of the Financial Accounting Standards Board Statement 106. Each Plan which is a welfare plan (as defined in Section 3(1) of ERISA) to which Sections 601-609 of ERISA and Section 4980B of the Code apply has been administered in compliance in all material respects of such sections.

(f) Neither the execution and delivery of this Credit Agreement nor the consummation of the financing transactions contemplated thereunder will involve any transaction which is subject to the prohibitions of Sections 404, 406 or 407 of ERISA or in connection with which a tax could be imposed pursuant to Section 4975 of the Code. The representation by the Credit Parties in the preceding sentence is made in reliance upon and subject to the accuracy of the Lenders' representation in Section 11.15 with respect to their source of funds and is subject, in the event that the source of the funds used by the Lenders in connection with this transaction is an insurance company's general asset account, to the application of Prohibited Transaction Class Exemption 95-60, 60 Fed. Reg. 35,925 (1995), compliance with the regulations issued under Section 401(c)(1)(A) of ERISA, or the issuance of any other prohibited transaction exemption or similar relief, to the effect that assets in an insurance company's general asset account do not constitute assets of an "employee benefit plan" within the meaning of Section 3(3) of ERISA of a "plan" within the meaning of Section 4975(e)(1) of the Code.

#### 6.13. SUBSIDIARIES.

Set forth on Schedule 6.13 is a complete and accurate list as of the Restatement Effective Date of all Restricted Subsidiaries of each Consolidated Party and all Unrestricted Subsidiaries



of each Consolidated Party (listed separately). The information on Schedule 6.13 includes jurisdiction of incorporation, the number of shares of each class of Capital Stock outstanding, the number and percentage of outstanding shares of each class owned (directly or indirectly) by such Consolidated Party or Unrestricted Subsidiary, and the number and effect, if exercised, of all outstanding options, warrants, rights of conversion or purchase and all other similar rights with respect thereto. The outstanding Capital Stock of all such Subsidiaries is validly issued, fully paid and non-assessable and is owned by each such Consolidated Party or Unrestricted Subsidiary, directly or indirectly, free and clear of all Liens (other than those arising under or contemplated in connection with the Credit Documents and Liens on the Capital Stock of Unrestricted Subsidiaries permitted under clause (xi) of the definition of Permitted Liens). Other than as set forth in Schedule 6.13, no Consolidated Party or Unrestricted Subsidiary has outstanding any securities convertible into or exchangeable for its Capital Stock nor does any such Person have outstanding any rights to subscribe for or to purchase or any options for the purchase of, or any agreements providing for the issuance (contingent or otherwise) of, or any calls, commitments or claims of any character relating to its Capital Stock.

6.14. GOVERNMENTAL REGULATIONS, ETC.

(a) No part of the Letters of Credit or proceeds of the Loans will be used, directly or indirectly, for the purpose of purchasing or carrying any "margin stock" within the meaning of Regulation U, or for the purpose of purchasing or carrying or trading in any securities. If requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form U-1 referred to in Regulation U. No indebtedness being reduced or retired out of the proceeds of the Loans was or will be incurred for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U or any "margin security" within the meaning of Regulation T. "Margin stock" within the meaning of Regulation U does not constitute more than 25% of the value of the consolidated assets of the Consolidated Parties. None of the transactions contemplated by this Credit Agreement (including, without limitation, the direct or indirect use of the proceeds of the Loans) will violate or result in a violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or regulations issued pursuant thereto, or Regulation T, U or X.

(b) No Consolidated Party is subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act or the Investment Company Act of 1940, each as amended. In addition, no Consolidated Party is (i) an "investment company" registered or required to be registered under the Investment Company Act of 1940, as amended, and is not controlled by such a company, or (ii) a "holding company", or a "subsidiary company" of a "holding company", or an "affiliate" of a "holding company" or of a "subsidiary" of a "holding company", within the meaning of the Public Utility Holding Company Act of 1935, as amended.

(c) Each Consolidated Party has obtained and holds in full force and effect, all franchises, licenses, permits, certificates, authorizations, qualifications, accreditations, easements, rights of way and other rights, consents and approvals which are necessary for the ownership of its respective Property and to the conduct of its respective businesses as

presently conducted, and which failure to obtain or hold could not reasonably be expected to have a Material Adverse Effect.

(d) No Consolidated Party or Unrestricted Subsidiary is in violation of any applicable statute, regulation or ordinance of the United States of America, or of any state, city, town, municipality, county or any other jurisdiction, or of any agency thereof (including without limitation, environmental laws and regulations), which violation could reasonably be expected to have a Material Adverse Effect.

(e) Each Consolidated Party and Unrestricted Subsidiary is current with all material reports and documents, if any, required to be filed with any state or federal securities commission or similar agency and is in full compliance in all material respects with all applicable rules and regulations of such commissions, except to the extent such noncompliance could not reasonably be expected to have a Material Adverse Effect.

#### 6.15. PURPOSE OF LOANS AND LETTERS OF CREDIT.

The proceeds of the Loans hereunder shall be used solely by the Borrower (i) for working capital, (ii) to provide funds for the development and construction of correctional, justice and detention centers, (iii) for refinancing existing Indebtedness of the Borrower, (iv) to acquire Real Properties, (v) for general corporate purposes and (vi) to make dividend payments to its shareholders necessary to maintain its status as a REIT; provided, however, that proceeds of the Tranche C Term Loan shall be used only for the purposes set forth in clauses (iii) and (v) above, and for payment of the one-time special dividend in fiscal year 1999, as described in, and subject to, Section 8.7. The Letters of Credit shall be used only for or in connection with appeal bonds, reimbursement obligations arising in connection with surety and reclamation bonds, reinsurance, domestic or international trade transactions, bid or proposal bonds and obligations not otherwise aforementioned relating to transactions entered into by the applicable account party in the ordinary course of business, including credit enhancement for financing incurred by the Borrower in connection with the acquisition, construction and development of real property.

#### 6.16. ENVIRONMENTAL MATTERS.

(a) (i) Each of the facilities and properties owned, leased or operated by the Consolidated Parties and any Unrestricted Subsidiaries (the "Properties") and all operations at the Properties are in compliance with all applicable Environmental Laws, (ii) there is no violation of any Environmental Law with respect to the Properties or the businesses operated by the Consolidated Parties (the "Businesses"), and (iii) there are no conditions relating to the Businesses or Properties that, in the case of the foregoing clauses (i), (ii) and (iii) could reasonably be expected to have a Material Adverse Effect.

(b) None of the Properties contains, or has previously contained, any Materials of Environmental Concern at, on or under the Properties in amounts or concentrations that could reasonably be expected to have a Material Adverse Effect.

(c) No Consolidated Party or Unrestricted Subsidiary has received any written or verbal notice of, or inquiry from any Governmental Authority regarding, any violation, alleged violation, non-compliance, liability or potential liability regarding environmental

matters or compliance with Environmental Laws with regard to any of the Properties or the Businesses, nor does any Consolidated Party or Unrestricted Subsidiary have knowledge or reason to believe that any such notice will be received or is being threatened, if such violation, alleged violation, non-compliance, liability or potential liability could reasonably be expected to have a Material Adverse Effect.

(d) Materials of Environmental Concern have not been transported or disposed of from the Properties, or generated, treated, stored or disposed of at, on or under any of the Properties or any other location, in each case by or on behalf of any Consolidated Party or Unrestricted Subsidiary in a manner that could reasonably be expected to have a Material Adverse Effect.

(e) No judicial proceeding or governmental or administrative action is pending or, to the knowledge of any Credit Party, threatened, under any Environmental Law to which any Consolidated Party or Unrestricted Subsidiary is or will be named as a party, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Consolidated Parties, the Properties or the Businesses, except to the extent that each of the foregoing could not, individually or collectively, reasonably be expected to have a Material Adverse Effect

(f) There has been no release, or threat of release, of Materials of Environmental Concern at or from the Properties, or arising from or related to the operations (including, without limitation, disposal) of any Consolidated Party or Unrestricted Subsidiary in connection with the Properties or otherwise in connection with the Businesses, in a manner that could reasonably be expected to have a Material Adverse Effect.

#### 6.17. INTELLECTUAL PROPERTY.

Each Consolidated Party owns, or has the legal right to use, all trademarks, tradenames, copyrights, technology, know-how and processes (the "Intellectual Property") necessary for each of them to conduct its business as currently conducted except for those the failure to own or have such legal right to use could not reasonably be expected to have a Material Adverse Effect. Set forth on Schedule 6.17 is a list of all material Intellectual Property owned by each Consolidated Party or that any Consolidated Party has the right to use. Except as provided on Schedule 6.17, no claim has been asserted and is pending by any Person challenging or questioning the use of any such Intellectual Property or the validity or effectiveness of any such Intellectual Property, nor does any Credit Party know of any such claim, and to the Credit Parties' knowledge the use of such Intellectual Property by any Consolidated Party does not infringe on the rights of any Person, except for such claims and infringements that, in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

#### 6.18. SOLVENCY.

Each Credit Party is and, after consummation of the transactions contemplated by this Credit Agreement, will be Solvent.

## 6.19. INVESTMENTS.

All Investments of each Consolidated Party and Unrestricted Subsidiary are Permitted Investments or otherwise permitted under Section 8.6.

## 6.20. LOCATION OF COLLATERAL.

Set forth on Schedule 6.20(a) is a list of all Real Properties with street address, county and state where located. Set forth on Schedule 6.20(b) is a list of all locations where any material personal property of a Consolidated Party is located, including county and state where located. Set forth on Schedule 6.20(c) is the chief executive office and principal place of business of each Consolidated Party. Schedules 6.20(a), 6.20(b) and 6.20(c) may be updated from time to time by the Borrower by giving written notice to the Administrative Agent.

## 6.21. DISCLOSURE.

Neither this Credit Agreement nor any financial statements delivered to the Lenders nor any other document, certificate or statement furnished to the Lenders by or on behalf of any Consolidated Party or Unrestricted Subsidiary in connection with the transactions contemplated hereby (other than projections and pro forma financial information) contained as of the date such statement, information, document or certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements contained herein or therein not misleading. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

6.22. [Intentionally omitted.]

## 6.23. LABOR MATTERS.

There are no collective bargaining agreements or Multiemployer Plans covering the employees of a Consolidated Party as of the Restatement Effective Date and none of the Consolidated Parties has suffered any strikes, walkouts, work stoppages or other material labor difficulty within the last five years.

## 6.24. YEAR 2000 COMPLIANCE.

Each Credit Party has (i) initiated a review and assessment of all areas within its and each of its Subsidiaries' business and operations that could be adversely affected by the "Year 2000 Problem" (that is, the risk that computer applications used by such Credit Party or any of its Subsidiaries may be unable to recognize and perform properly date-sensitive functions involving certain dates prior to and any date after December 31, 1999), (ii) developed a plan and timeline for addressing the Year 2000 Problem on a timely basis, and (iii) to date, implemented that plan in accordance with the timetable. Based on the foregoing, each Credit Party believes that all computer applications that are material to its and any of its Subsidiaries' business and operations are reasonably expected on a timely basis to be able to perform properly date-sensitive functions for all dates before and after January 1, 2000 (that is, be "Year 2000 compliant"), except to the

extent that a failure to do so could not reasonably be expected to have Material Adverse Effect.

#### 6.25. FIRST PRIORITY LIEN.

Both before and after giving effect to the amendment of the Original Credit Agreement pursuant to this Credit Agreement, the Administrative Agent, on behalf of the Secured Parties, holds a first priority lien, subject to no other liens other than Permitted Liens, in the Collateral.

#### 6.26. LEASES.

Each of the leases entered into between a Credit Party and any lessee of real property owned by a Credit Party (a) has a minimum initial lease term of five years (except for leases entered into with a governmental entity) and (b) requires that the lessee remain solely responsible for all operations and other liabilities with respect to the applicable property. Furthermore, (i) eighty percent (80%) of all lease revenues of the Credit Parties are derived from leases with Management Opco and with lessees (other than Management Opco) having a senior unsecured non-credit enhanced long term debt rating of at least BBB+ (or higher) from S&P or Baa1 (or higher) from Moody's or if such ratings from S&P and Moody's are unavailable, an equivalent rating from Fitch or Duff & Phelps, (ii) at least ninety percent (90%) of all lease revenues of the Credit Parties are derived from leases with Management Opco and with lessees (other than Management Opco) having a senior unsecured non-credit enhanced long term debt rating of at least BBB- (or higher) from S&P or Baa3 (or higher) from Moody's or if such ratings from S&P and Moody's are unavailable, an equivalent rating from Fitch or Duff & Phelps, and (iii) at least ninety percent (90%) of all lease revenues of the Credit Parties are derived from triple net leases that are noncancelable by the lessee.

### SECTION 7.

#### AFFIRMATIVE COVENANTS

Each Credit Party hereby covenants and agrees that, so long as this Credit Agreement is in effect or any amounts payable hereunder or under any other Credit Document shall remain outstanding, and until all of the Commitments hereunder shall have terminated:

#### 7.1. INFORMATION COVENANTS.

The Credit Parties will furnish, or cause to be furnished, to the Administrative Agent and each of the Lenders:

(a) Annual Financial Statements. As soon as available, and in any event within 90 days after the close of each fiscal year of the Consolidated Parties, Management Opco, Service Company A, Service Company B and each Unrestricted Subsidiary of the Borrower, a consolidated balance sheet and income statement of the Consolidated Parties, Management Opco, Service Company A, Service Company B and each such Unrestricted Subsidiary, as of the end of such fiscal year, together with related consolidated statements of operations and retained earnings and of cash flows for such fiscal year, setting forth in comparative form consolidated figures for the preceding fiscal year, all such financial information described above to be in reasonable form and detail and audited by

independent certified public accountants of recognized national standing reasonably acceptable to the Administrative Agent and whose opinion shall be to the effect that such financial statements have been prepared in accordance with GAAP (except for changes with which such accountants concur) and shall not be limited as to the scope of the audit or qualified as to the status of the Consolidated Parties, Management Opco, Service Company A or Service Company B as a going concern.

(b) Quarterly Financial Statements. As soon as available, and in any event within 45 days after the close of each fiscal quarter of the Consolidated Parties, Management Opco, Service Company A, Service Company B and each Unrestricted Subsidiary (other than the fourth fiscal quarter, in which case 90 days after the end thereof) a consolidated balance sheet and income statement of the Consolidated Parties, Management Opco, Service Company A, Service Company B and each such Unrestricted Subsidiary, as of the end of such fiscal quarter, together with related consolidated statements of operations and retained earnings and of cash flows for such fiscal quarter, in each case setting forth in comparative form consolidated figures for the corresponding period of the preceding fiscal year, all such financial information described above to be in reasonable form and detail and reasonably acceptable to the Administrative Agent, and accompanied by a certificate of the chief financial officer of the Borrower to the effect that such quarterly financial statements fairly present in all material respects the financial condition of the Consolidated Parties, Management Opco, Service Company A, Service Company B and the Unrestricted Subsidiaries, as applicable, and have been prepared in accordance with GAAP, subject to changes resulting from audit and normal year-end audit adjustments.

(c) Officer's Certificate. At the time of delivery of the financial statements provided for in Sections 7.1(a) and 7.1(b) above, a certificate of the chief financial officer of the Borrower substantially in the form of Exhibit 7.1(c), (i) demonstrating compliance with the financial covenants contained in Section 7.11 by calculation thereof as of the end of each such fiscal period, (ii) stating that no Default or Event of Default exists, or if any Default or Event of Default does exist, specifying the nature and extent thereof and what action the Credit Parties propose to take with respect thereto and (iii) stating that such person has reviewed Sections 8.1, 8.5 and 8.6 and detailing the Borrower's compliance therewith.

(d) Annual Business Plan and Budgets. At least 30 days prior to the end of each fiscal year of the Borrower, beginning with the fiscal year ending December 31, 1999, an annual business plan and budget of the Consolidated Parties and each of Management Opco, Service Company A and Service Company B, in each case containing, among other things, pro forma financial statements for the next fiscal year.

(e) Borrowing Base Certificates. Within 15 days after the end of each fiscal quarter of the Consolidated Parties (or more frequently if elected by the Borrower), a Borrowing Base Certificate as of the end of the immediately preceding fiscal quarter, substantially in the form of Exhibit 7.1(e) and certified by the chief financial officer of the Borrower to be true and correct as of the date thereof.

(f) Auditor's Reports. Promptly upon receipt thereof, a copy of any other report or "management letter" submitted by independent accountants to any Consolidated Party or Unrestricted Subsidiary or any of Management Opco, Service Company A or Service Company B, in each case in connection with any annual, interim or special audit of the books of such Consolidated Party or Unrestricted Subsidiary or of Management Opco, Service Company A or Service Company B, as applicable

(g) Reports. Promptly upon transmission or receipt thereof, (i) copies of any filings and registrations with, and reports to or from, the Securities and Exchange Commission, or any successor agency, and copies of all financial statements, proxy statements, notices and reports as any Consolidated Party, Unrestricted Subsidiary, Management Opco, Service Company A or Service Company B shall send to its shareholders or to a holder of any Indebtedness owed by any Consolidated Party or Unrestricted Subsidiary or Management Opco, Service Company A or Service Company B, as applicable, in each case in its capacity as such a holder and (ii) upon the request of the Administrative Agent, all reports and written information to and from the United States Environmental Protection Agency, or any state or local agency responsible for environmental matters, the United States Occupational Health and Safety Administration, or any state or local agency responsible for health and safety matters, or any successor agencies or authorities concerning environmental, health or safety matters.

(h) Notices. Upon obtaining knowledge thereof, the Credit Parties will give written notice to the Administrative Agent immediately of (i) the occurrence of an event or condition consisting of a Default or Event of Default, specifying the nature and existence thereof and what action the Credit Parties propose to take with respect thereto and (ii) the occurrence of any of the following with respect to any Consolidated Party or Unrestricted Subsidiary (A) the pendency or commencement of any litigation, arbitral or governmental proceeding against such Person which could reasonably be expected to have a Material Adverse Effect, (B) the institution of any proceedings against such Person with respect to, or the receipt of notice by such Person of potential liability or responsibility for violation, or alleged violation of any federal, state or local law, rule or regulation, including but not limited to, Environmental Laws, the violation of which could reasonably be expected to have a Material Adverse Effect, or (C) any notice or determination concerning the imposition of any withdrawal liability by a Multiemployer Plan against such Person or any ERISA Affiliate, the determination that a Multiemployer Plan is, or is expected to be, in reorganization within the meaning of Title IV of ERISA or the termination of any Plan.

(i) ERISA. Upon obtaining knowledge thereof, the Credit Parties will give written notice to the Administrative Agent promptly (and in any event within five business days) of: (i) of any event or condition, including, but not limited to, any Reportable Event, that constitutes, or might reasonably lead to, an ERISA Event; (ii) with respect to any Multiemployer Plan, the receipt of notice as prescribed in ERISA or otherwise of any withdrawal liability assessed against the Credit Parties or any ERISA Affiliates, or of a determination that any Multiemployer Plan is in reorganization or insolvent (both within the meaning of Title IV of ERISA); (iii) the failure to make full payment on or before the due date (including extensions) thereof of all amounts which any Consolidated Party or any ERISA Affiliate is required to contribute to each Plan pursuant to its terms and as required to meet the minimum funding standard set forth in ERISA and the Code with

respect thereto; or (iv) any change in the funding status of any Plan that could have a Material Adverse Effect, together with a description of any such event or condition or a copy of any such notice and a statement by the chief financial officer of the Borrower briefly setting forth the details regarding such event, condition, or notice, and the action, if any, which has been or is being taken or is proposed to be taken by the Credit Parties with respect thereto. Promptly upon request, the Credit Parties shall furnish the Administrative Agent and the Lenders with such additional information concerning any Plan as may be reasonably requested, including, but not limited to, copies of each annual report/return (Form 5500 series), as well as all schedules and attachments thereto required to be filed with the Department of Labor and/or the Internal Revenue Service pursuant to ERISA and the Code, respectively, for each "plan year" (within the meaning of Section 3(39) of ERISA).

(j) Environmental. Upon the reasonable written request of the Administrative Agent, the Credit Parties will furnish or cause to be furnished to the Administrative Agent, at the Credit Parties' expense, a report of an environmental assessment of reasonable scope, form and depth, (including, where appropriate, invasive soil or groundwater sampling) by a consultant reasonably acceptable to the Administrative Agent as to the nature and extent of the presence of any Materials of Environmental Concern on any Properties (as defined in Section 6.16) and as to the compliance by any Consolidated Party or Unrestricted Subsidiary with Environmental Laws at such Properties. If the Credit Parties fail to deliver such an environmental report within seventy-five (75) days after receipt of such written request then the Administrative Agent may arrange for same, and the Consolidated Parties hereby grant to the Administrative Agent and their representatives access to the Properties to reasonably undertake such an assessment (including, where appropriate, invasive soil or groundwater sampling). The reasonable cost of any assessment arranged for by the Administrative Agent pursuant to this provision will be payable by the Credit Parties on demand and added to the obligations secured by the Collateral Documents.

(k) Additional Patents and Trademarks. At the time of delivery of the financial statements and reports provided for in Section 7.1(a), the Credit Parties will deliver to the Administrative Agent, a report signed by the chief financial officer or treasurer of the Borrower setting forth (i) a list of registration numbers for all patents, trademarks, service marks, tradenames and copyrights awarded to any Consolidated Party since the last day of the immediately preceding fiscal year and (ii) a list of all patent applications, trademark applications, service mark applications, trade name applications and copyright applications submitted by any Consolidated Party since the last day of the immediately preceding fiscal year and the status of each such application, all in such form as shall be reasonably satisfactory to the Administrative Agent.

(l) Leases. At the time of delivery of the financial statements provided for in Sections 7.1(a) and (b) above, the Credit Parties will deliver to the Administrative Agent, copies of all new leases and/or modifications to existing leases for all of those Real Properties for which any Credit Party receives annual rent payments equal to or in excess of \$1,500,000, and at the time of delivery of the financial statements provided for in Section 7.1(a) above, copies of the annual financial statements of each lessee which (i) is



not a governmental entity or public company and (ii) accounts for at least five percent (5%) of the annual rent payments made to any Credit Party.

(m) Construction Budget. Within fifteen (15) days after the close of each fiscal quarter of the Borrower, the Borrower shall deliver to the Administrative Agent, a construction budget detailing the construction planned by the Borrower or its Subsidiaries with respect to each of the Real Properties for the succeeding fiscal year, together with information detailing the amount of expenditures of the Borrower and its Subsidiaries for construction year to date.

(n) Other Information. With reasonable promptness upon any such request, such other information regarding the business, properties or financial condition of any Consolidated Party as the Administrative Agent, the Required Lenders, the Required Tranche C Term Lenders or any Lender may reasonably request.

#### 7.2. PRESERVATION OF EXISTENCE AND FRANCHISES.

Except as a result of or in connection with a merger of a Subsidiary permitted under Section 8.4, each Credit Party will, and will cause each of its Restricted Subsidiaries to, do all things necessary to preserve and keep in full force and effect its existence, rights, franchises and authority. Subject to the provisions of Section 8.7, the Borrower will conduct its business so as to qualify as a REIT in 2000 and subsequent to qualifying as a REIT in 2000, will maintain its status as a REIT.

#### 7.3. BOOKS AND RECORDS.

Each Credit Party will, and will cause each of its Subsidiaries to, keep complete and accurate books and records of its transactions in accordance with good accounting practices on the basis of GAAP (including the establishment and maintenance of appropriate reserves).

#### 7.4. COMPLIANCE WITH LAW.

Each Credit Party will, and will cause each of its Subsidiaries to, comply with all laws, rules, regulations and orders, and all applicable restrictions imposed by all Governmental Authorities, applicable to it and its Property if noncompliance with any such law, rule, regulation, order or restriction could reasonably be expected to have a Material Adverse Effect.

#### 7.5. PAYMENT OF TAXES AND OTHER INDEBTEDNESS.

Each Credit Party will, and will cause each of its Subsidiaries to, pay and discharge (a) all taxes, assessments and governmental charges or levies imposed upon it, or upon its income or profits, or upon any of its properties, before they shall become delinquent, (b) all lawful claims (including claims for labor, materials and supplies) which, if unpaid, could reasonably be expected to give rise to a Lien upon any of its properties, and (c) except as prohibited hereunder, all of its other Indebtedness as it shall become due; provided, however, that no Consolidated Party or Unrestricted Subsidiary shall be required to pay any such tax, assessment, charge, levy, claim or Indebtedness which is being contested in good faith by appropriate proceedings and as to which adequate reserves therefor have been established in accordance with GAAP, unless the

failure to make any such payment (i) could reasonably be expected to give rise to an immediate right to foreclose on a Lien securing such amounts or (ii) could reasonably be expected to have a Material Adverse Effect.

#### 7.6. INSURANCE.

(a) Each Credit Party will, and will cause each of its Subsidiaries to, at all times maintain in full force and effect insurance (including worker's compensation insurance, liability insurance, casualty insurance and business interruption insurance) in such amounts, covering such risks and liabilities and with such deductibles or self-insurance retentions as are in accordance with normal industry practice (or as otherwise required by the Collateral Documents). The Administrative Agent shall be named as loss payee or mortgagee, as its interest may appear, and/or additional insured (along with the other Secured Parties) with respect to any such insurance providing general liability coverage or coverage in respect of any Collateral, and each provider of any such insurance shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to the Administrative Agent, that it will give the Administrative Agent thirty (30) days prior written notice before any such policy or policies shall be altered or canceled, and that no act or default of any Consolidated Party or any other Person shall affect the rights of the Administrative Agent or the other Secured Parties under such policy or policies. The present insurance coverage of the Consolidated Parties is outlined as to carrier, policy number, expiration date, type and amount on Schedule 7.6.

(b) In case of any material loss, damage to or destruction of any material item of the Collateral of any Credit Party, such Credit Party shall promptly give written notice thereof to the Administrative Agent generally describing the nature and extent of such damage or destruction. In case of any loss, damage to or destruction any material portion of the Collateral of any Credit Party, such Credit Party, whether or not the insurance proceeds, if any, received on account of such damage or destruction shall be sufficient for that purpose, at such Credit Party's cost and expense, will promptly repair or replace the Collateral of such Credit Party so lost, damaged or destroyed. In the event a Credit Party shall receive any insurance proceeds as a result of any loss, damage or destruction with respect to the Collateral, such Credit Party will immediately pay over such proceeds to the Administrative Agent, as cash collateral for the Credit Party Obligations. The Administrative Agent agrees to release such insurance proceeds to such Credit Party for replacement or restoration of the portion of the Collateral of such Credit Party lost, damaged or destroyed if, but only if, (A) the value of the Borrowing Base Properties (not including the value of any Borrowing Base Property that was a part of the Collateral that was lost, damaged or destroyed) exceeds the lesser of (i) the Revolving Committed Amount and (ii) the Borrowing Base, (B) within 30 days from the date the Administrative Agent receives such insurance proceeds, the Administrative Agent has received written application for such release from such Credit Party, together with evidence reasonably satisfactory to it that the Collateral lost, damaged or destroyed has been or will be replaced or restored to its condition immediately prior to the loss, destruction or other event giving rise to the payment of such insurance proceeds and (C) on the date of such release no Default or Event of Default exists. If the conditions in the preceding sentence are not met, the Administrative Agent shall, on the first Business Day subsequent to the

date 30 days after it received such insurance proceeds, apply such insurance proceeds as a mandatory prepayment of the Credit Party Obligations for application in accordance with the terms of Section 3.3(b). All insurance proceeds shall be subject to the security interest of the Administrative Agent, for the benefit of the Secured Parties, under the Collateral Documents.

7.7. MAINTENANCE OF PROPERTY.

Each Credit Party will, and will cause each of its Restricted Subsidiaries to, maintain and preserve its properties and equipment material to the conduct of its business in good repair, working order and condition, normal wear and tear and casualty and condemnation excepted, and will make, or cause to be made, to such properties and equipment from time to time all repairs, renewals, replacements, extensions, additions, betterments and improvements thereto as may be needed or proper, to the extent and in the manner customary for companies in similar businesses.

7.8. PERFORMANCE OF OBLIGATIONS.

Each Credit Party will, and will cause each of its Subsidiaries to, perform in all material respects all of its obligations under the terms of all material agreements, indentures, mortgages, security agreements or other debt instruments to which it is a party or by which it is bound (including, without limitation, the Agecroft Transaction Documents); provided, however, that no Credit Party nor any of their respective Subsidiaries shall be required to perform any such obligation which is being contested in good faith by appropriate proceedings and as to which adequate reserves therefor have been established in accordance with GAAP, unless the failure to perform such obligation (i) could reasonably be expected to give rise to an immediate right to foreclose on a Lien securing such obligation or (ii) could reasonably be expected to have a Material Adverse Effect. The Borrower will at all times ensure that Agecroft complies with the Agecroft Charter.

7.9. USE OF PROCEEDS.

The Borrower will use the proceeds of the Loans and will use the Letters of Credit solely for the purposes set forth in Section 6.15.

7.10. AUDITS/INSPECTIONS.

Upon reasonable notice and during normal business hours, each Credit Party will, and will cause each of its Subsidiaries to, permit representatives appointed by the Administrative Agent, including, without limitation, independent accountants, agents, attorneys, and appraisers to visit and inspect its property, including its books and records, its accounts receivable and inventory, its facilities and its other business assets, and to make photocopies or photographs thereof and to write down and record any information such representative obtains and shall permit the Administrative Agent or its representatives to investigate and verify the accuracy of information provided to the Lenders and to discuss all such matters with the officers, employees and representatives of such Person. The Credit Parties agree that the Administrative Agent, and its representatives, may conduct an annual audit of the Collateral, at the expense of the Credit Parties.

## 7.11. FINANCIAL COVENANTS.

(i) Debt Service Coverage Ratio. The Debt Service Coverage Ratio, as of the last day of each fiscal quarter of the Consolidated Parties, shall be greater than or equal to 2.0 to 1.0.

(ii) Interest Coverage Ratio. The Interest Coverage Ratio, as of the last day of each fiscal quarter of the Consolidated Parties, shall be greater than or equal to 3.0 to 1.0.

(iii) Leverage Ratio. The Leverage Ratio, as of the last day of each fiscal quarter of the Consolidated Parties, shall be less than or equal to 3.5 to 1.0.

(iv) Total Indebtedness to Total Value. The ratio of Total Indebtedness to Total Value, as of the last day of each fiscal quarter of the Consolidated Parties, shall be less than or equal to 0.50 to 1.0.

(v) Net Worth. At all times Net Worth shall be greater than or equal to the sum of an amount equal to 95% of the Net Worth of the Borrower (based on the audited December 31, 1998 financial statements of the Borrower), increased on a cumulative basis as of the end of each fiscal quarter of the Borrower, commencing with the fiscal quarter ending March 31, 1999 by an amount equal to 85% of the Net Cash Proceeds from any Equity Issuance subsequent to the Original Closing Date less an amount equal to the dividends paid by the Borrower during the first twelve months subsequent to the Merger which are (i) based solely on the retained earnings of CCA prior to the Merger and (ii) required by the Borrower to be paid to maintain its status as a real estate investment trust; provided, however, notwithstanding the foregoing, at no time shall the Net Worth of the Borrower be less than \$1,200,000,000.

(vi) Non-Conforming Investments. The Consolidated Parties shall at no time have Non-Conforming Investments which in the aggregate constitute more than 5% of Total Assets.

(vii) Total Indebtedness to Total Capitalization. At all times the ratio of Total Indebtedness to Total Capitalization shall be equal to or less than .50 to 1.0.

## 7.12. ADDITIONAL CREDIT PARTIES.

As soon as practicable and in any event within 30 days after any Person becomes a Subsidiary (or ceases to be an Unrestricted Subsidiary (but remains a Subsidiary)) of any Credit Party, the Borrower shall provide the Administrative Agent with written notice thereof setting forth information in reasonable detail describing all of the assets of such Person and shall (a) if such Person is a Domestic Subsidiary (other than an Unrestricted Subsidiary) of a Credit Party, cause such Person to execute a Joinder Agreement in substantially the same form as Exhibit 7.12, (b) except to the extent set forth in Section 8.6(iii)(b) with respect to Unrestricted Subsidiaries, cause the following to be delivered to the Administrative Agent pursuant to an appropriate pledge agreement in form acceptable to the Administrative Agent: (i) 100% (or, if less, the full amount owned by such Credit Party) of the issued and outstanding shares of Capital Stock owned by such Credit Party of each Domestic Subsidiary of such Credit Party and (ii) 65% (or, if less, the full

amount owned by such Credit Party) of the issued and outstanding shares of each class of Capital Stock or other ownership interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) and 100% (or, if less, the full amount owned by such Credit Party) of the issued and outstanding shares of each class of Capital Stock or other ownership interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) owned by such Credit Party of each Foreign Subsidiary together with, in each case included in (i) or (ii) above, the certificates (or other agreements or instruments), if any, representing such shares, and all options and other rights, contractual or otherwise, with respect thereto, and undated stock powers signed in blank (unless, with respect to a Foreign Subsidiary, such stock powers are deemed unnecessary by the Administrative Agent in its reasonable discretion under the law of the jurisdiction of incorporation of such Person) and (c) cause such Person to deliver such other documentation as the Administrative Agent may reasonably request in connection with the foregoing, including, without limitation, appropriate UCC-1 financing statements, real estate title insurance policies, environmental reports, landlord's waivers, certified resolutions and other organizational and authorizing documents of such Person, and favorable opinions of counsel to such Person all in form, content and scope reasonably satisfactory to the Administrative Agent. Notwithstanding the foregoing, (i) for so long as such actions are prohibited under the Agecroft Transaction Documents, the provisions of this Section 7.12 shall not apply to Agecroft and Agecroft shall not be considered a "Credit Party" hereunder or under the other Credit Documents, (ii) until designated as an "Unrestricted Subsidiary" hereunder, Agecroft shall otherwise be deemed to be a "Restricted Subsidiary" and (iii) at all times, all of the requirements set forth in the definitions of "Unrestricted Subsidiary" and "Non-Recourse Debt" shall apply to Agecroft, regardless of whether it has been designated as an Unrestricted Subsidiary hereunder; provided that the Agecroft Transaction shall be permitted.

#### 7.13. ENVIRONMENTAL LAWS.

(a) The Consolidated Parties shall, and shall cause the Unrestricted Subsidiaries to, comply in all material respects with, and take reasonable actions to ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws and obtain and comply in all material respects with and maintain, and take reasonable actions to ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect;

(b) The Consolidated Parties shall, and shall cause the Unrestricted Subsidiaries to, conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and promptly comply in all material respects with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws except to the extent that the same are being contested in good faith by appropriate proceedings and the failure to do or the pendency of such proceedings would not reasonably be expected to have a Material Adverse Effect; and

(c) The Consolidated Parties shall defend, indemnify and hold harmless the Administrative Agent, the Documentation Agent, the Syndication Agent, the Co-Agent, the Lead Arranger and the Lenders (including, without limitation, any Issuing Lender), and their respective employees, agents, officers and directors, from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature known or unknown, contingent or otherwise, arising out of, or in any way relating to the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of the Borrower or any of its Subsidiaries or the Properties, or any orders, requirements or demands of Governmental Authorities related thereto, including, without limitation, reasonable attorney's and consultant's fees, investigation and laboratory fees, response costs, court costs and litigation expenses, except to the extent that any of the foregoing arise out of the gross negligence or willful misconduct of the party seeking indemnification therefor; provided that ----- the provisions of this subsection (c) shall apply to Agecroft only to the extent not prohibited by the Agecroft Charter. The agreements in this paragraph shall survive repayment of the Loans and all other amounts payable hereunder, and termination of the Commitments.

#### 7.14. COLLATERAL.

If, subsequent to the Restatement Effective Date, any Credit Party shall acquire (a) any real property having a book value in excess of \$500,000 or (b) any intellectual property, securities instruments, chattel paper or other personal property required to be delivered to the Administrative Agent as Collateral hereunder or under any of the Collateral Documents, the Borrower shall notify the Administrative Agent of same in each case as soon as practicable after the acquisition thereof. Each Credit Party shall take such action as requested by the Administrative Agent and at its own expense, to ensure that the Administrative Agent shall have a first priority perfected Lien in (i) all owned and developed real property of the Credit Parties (whether now owned or hereafter acquired) having a book value in excess of \$1,000,000, (ii) to the extent deemed to be material by the Administrative Agent and either the Required Lenders or the Aggregate Required Lenders in their sole discretion, all owned and undeveloped real property of the Credit Parties (whether now owned or hereafter acquired) and (iii) all personal property of the Credit Parties (whether now owned or hereafter acquired), subject in each case only to Permitted Liens. In addition, upon the request of the Administrative Agent, the Borrower will assist the Administrative Agent with such post-closing lien searches (conducted at the Borrower's expense) as the Administrative Agent shall deem necessary or desirable to confirm the perfection and priority of the Administrative Agent's Lien on the Collateral.

#### 7.15. LEASES.

The Credit Parties hereby agree that all leases entered into between the Credit Party and any lessee of real property owned by the Credit Party will (a) have a minimum initial lease term of five years (provided any leases entered into with a governmental entity may have a lease term of less than five years and be subject to other appropriate limitations satisfactory to the Required Lenders and the Required Tranche C Term Lenders) and (b) require that the lessee remain solely responsible for all operations and other liabilities with respect to the applicable property; provided, however, with respect to all leases having annual rent payments (whether at the inception of such lease or otherwise) in excess of \$1,500,000, such leases shall be provided to the

Administrative Agent in accordance with Section 7.1(k) and be satisfactory in form and substance to the Administrative Agent. The Credit Parties also agree that, at all times, (i) at least eighty percent (80%) of all lease revenues of the Credit Parties shall be derived from leases with Management Opco and with lessees other than Management Opco having a senior unsecured non-credit enhanced long term debt rating of at least BBB+ (or higher) from S&P or Baa1 (or higher) from Moody's (or if such ratings are unavailable from S&P and Moody's, an equivalent rating from either Fitch or Duff & Phelps), (ii) at least ninety percent (90%) of all lease revenues of the Credit Parties shall be derived from leases with Management Opco and with lessees other than Management Opco having a senior unsecured non-credit enhanced long term debt rating of at least BBB- (or higher) from S&P and Baa3 (or higher) from Moody's (or if such ratings are unavailable from S&P and Moody's, an equivalent rating from either Fitch or Duff & Phelps), and (iii) at least ninety percent (90%) of all lease revenues of the Credit Parties are derived from triple-net leases that are noncancelable by the lessee.

#### 7.16. YEAR 2000 COMPLIANCE.

Each Credit Party will promptly notify the Administrative Agent in the event such Credit Party discovers or determines that any computer application that is material to its or any of its Subsidiaries' business and operations will not be Year 2000 compliant, except to the extent that such failure could not reasonably be expected to have a Material Adverse Effect.

#### 7.17. APPRAISALS.

If the Administrative Agent, the Required Lenders or the Aggregate Required Lenders determine that applicable law or regulation requires that appraisals of each Real Property be prepared for the benefit of the Administrative Agent, the Credit Parties agree that the Administrative Agent may (after notice to and consultation with the Borrower) order appraisals of each Real Property (at the expense of the Credit Parties). Such appraisals shall (i) be performed by a qualified appraiser engaged by the Administrative Agent, (ii) indicate a fair market value for each such Real Property and otherwise be in form and substance satisfactory to the Administrative Agent and (iii) be delivered to the Administrative Agent within 120 days of such determination that such appraisals are necessary under applicable law or regulation. The Credit Parties further agree that if the Administrative Agent, the Required Lenders or the Aggregate Required Lenders make the determination that appraisals of each Real Property are required by applicable law or regulation, the Credit Parties shall, upon the purchase of a Real Property subsequent to the Restatement Effective Date, provide the Administrative Agent with a current appraisal of such Real Property (at the expense of the Credit Parties), which appraisals shall be prepared by a qualified appraiser engaged by the Administrative Agent, indicate a fair market value for each such Real Property and otherwise be in form and substance satisfactory to the Administrative Agent.

#### 7.18. HEDGING AGREEMENTS.

The Borrower shall, not later than August 16, 1999, enter into and maintain Hedging Agreements in a notional amount of at least \$325,000,000 and otherwise in form and substance acceptable to the Administrative Agent, all pursuant to a hedging strategy reasonably acceptable to any two of the Administrative Agent, the Syndication Agent and the Documentation Agent.

## SECTION 8.

## NEGATIVE COVENANTS

Each Credit Party hereby covenants and agrees that, so long as this Credit Agreement is in effect or any amounts payable hereunder or under any other Credit Document shall remain outstanding, and until all of the Commitments hereunder shall have terminated:

## 8.1. INDEBTEDNESS.

The Credit Parties will not permit any Consolidated Party or Unrestricted Subsidiary to contract, create, incur, assume or permit to exist any Indebtedness, except:

(a) Indebtedness arising under this Credit Agreement and the other Credit Documents;

(b) Indebtedness of the Borrower set forth in Schedule 8.1 (and renewals, refinancings and extensions thereof on terms and conditions no less favorable to the obligor than such existing Indebtedness);

(c) obligations of the Borrower in respect of Hedging Agreements entered into in order to manage existing or anticipated interest rate or exchange rate risks and not for speculative purposes;

(d) Indebtedness owing by a Credit Party to another Credit Party;

(e) unsecured Indebtedness of the Borrower provided that (i) no part of the principal part of such Indebtedness shall have a maturity date earlier than the final maturity of the Loans hereunder, (ii) after giving effect to the incurrence of any such Indebtedness on a pro forma basis, as if such incurrence of Indebtedness had occurred on the first day of the twelve month period ending on the last day of the Borrower's most recently completed fiscal quarter, the Borrower and its Subsidiaries would have been in compliance with all the financial covenants set forth in Section 7.11 and the Borrower shall have delivered to the Administrative Agent a certificate of its chief financial officer to such effect setting forth in reasonable detail the computations necessary to determine such compliance and (iii) at the time of the issuance of such Indebtedness and after giving effect thereto, no Default or Event of Default shall exist or be continuing;

(f) purchase money Indebtedness of the Borrower not exceeding \$1,000,000 in aggregate principal amount at any time outstanding;

(g) Indebtedness of any Unrestricted Subsidiary consisting entirely of Non-Recourse Debt; provided, however, that (i) the aggregate amount of all such Indebtedness that may be incurred or be owing by all Unrestricted Subsidiaries may not at any time exceed twenty percent (20%) of Total Value and (ii) if any such Indebtedness ceases to be Non-Recourse Debt of such Unrestricted Subsidiary, such event shall be deemed to constitute an incurrence of Indebtedness by a Restricted Subsidiary of the Borrower that was not permitted by this Section 8.1(g);



(h) Indebtedness of the Borrower in respect of the Senior Notes and the unsecured guarantee by any Subsidiary of the Borrower that is a Subsidiary Guarantor hereunder of the Borrower's obligations under (i) the Senior Notes (pursuant to the Senior Notes Indenture as in effect on the Restatement Effective Date) and (ii) the Permitted Unsecured Debt; provided that such guarantee is not senior to the Guarantee Obligations of such Subsidiary Guarantor hereunder;

(i) Indebtedness of a Restricted Subsidiary of the Borrower that is a Credit Party incurred and outstanding on the date on which such Restricted Subsidiary was acquired by the Company (provided that such Indebtedness shall not be incurred (i) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Restricted Subsidiary became a Restricted Subsidiary or was otherwise acquired by the Borrower or (ii) otherwise in connection with, or in contemplation of, such acquisition) and as to which the Borrower and its other Restricted Subsidiaries are not obligated to become liable for such Indebtedness;

(j) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries in respect of workers' compensation claims, self-insurance obligations, performance, proposal, completion, surety and similar bonds and completion guarantees provided by the Borrower or a Restricted Subsidiary of the Borrower in the ordinary course of business; provided that the underlying obligation to perform is that of the Borrower and its Restricted Subsidiaries and not that of the Company's Unrestricted Subsidiaries or any other Person; and

(k) prior to Agecroft's designation as an Unrestricted Subsidiary hereunder, Indebtedness owing by Agecroft to the Borrower pursuant to the Agecroft Note.

#### 8.2. LIENS.

The Credit Parties will not permit any Consolidated Party or Unrestricted Subsidiary to contract, create, incur, assume or permit to exist any Lien with respect to any of its Property, whether now owned or after acquired, except for Permitted Liens.

#### 8.3. NATURE OF BUSINESS.

The Credit Parties will not permit any Consolidated Party or any other Subsidiary to substantively alter the character or conduct of the business conducted by such Person as of the Original Closing Date. Specifically, neither the Borrower nor any Subsidiary of the Borrower shall engage in any business other than the ownership of correctional, justice and/or detention facilities (which may include secured charter schools) that are managed by the lessees of the Borrower or such Subsidiary, as the case may be (or agent of any such lessee in the event any lessee is a governmental entity).

#### 8.4. CONSOLIDATION, MERGER, DISSOLUTION, ETC.

The Credit Parties will not permit any Consolidated Party to enter into any transaction of merger or consolidation or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution); provided that, notwithstanding the foregoing provisions of this Section 8.4, (a) the

Borrower may merge or consolidate with any of its Restricted Subsidiaries provided that (i) the Borrower shall be the continuing or surviving corporation, (ii) the Credit Parties shall cause to be executed and delivered such documents, instruments and certificates as the Administrative Agent may request in order to maintain the perfection and priority of the Administrative Agent's liens on the assets of the Credit Parties as required by Section 7.14 after giving effect to such transaction and (iii) after giving effect to such transaction, no Default or Event of Default exists, (b) any Credit Party other than the Borrower may merge or consolidate with any other Credit Party other than the Borrower provided that (i) the Credit Parties shall cause to be executed and delivered such documents, instruments and certificates as the Administrative Agent may request in order to maintain the perfection and priority of the Administrative Agent's liens on the assets of the Credit Parties as required by Section 7.14 after giving effect to such transaction and (ii) after giving effect to such transaction, no Default or Event of Default exists, (c) any Consolidated Party which is not a Credit Party may be merged or consolidated with or into any Credit Party provided that (i) such Credit Party shall be the continuing or surviving corporation, (ii) the Credit Parties shall cause to be executed and delivered such documents, instruments and certificates as the Administrative Agent may request in order to maintain the perfection and priority of the Administrative Agent's liens on the assets of the Credit Parties as required by Section 7.14 after giving effect to such transaction and (iii) after giving effect to such transaction, no Default or Event of Default exists, and (d) any Consolidated Party which is not a Credit Party may be merged or consolidated with or into any other Consolidated Party which is not a Credit Party provided that, after giving effect to such transaction, no Default or Event of Default exists.

#### 8.5. ASSET DISPOSITIONS.

The Credit Parties will not permit any Consolidated Party to make any Asset Disposition (including, without limitation, any Sale and Leaseback Transaction) unless no later than the date of consummation of such Asset Disposition, the Administrative Agent shall have received a certificate of an officer of the Borrower briefly describing the assets sold or otherwise disposed of, and setting forth the net book value of such assets, and the aggregate consideration and Net Cash Proceeds received for such assets in connection with such Asset Disposition, and the Credit Parties shall on the date of the consummation of such Asset Disposition, apply (or cause to be applied) an amount equal to the Net Cash Proceeds of such Asset Disposition to prepay the Loans (and to cash collateralize the LOC Obligations) in accordance with the terms of Section 3.3(b)(ii) and (iii) (except as expressly provided therein).

Notwithstanding the foregoing, the Borrower agrees that it shall not sell a Borrowing Base Property unless each of the following conditions is satisfied: (i) no Default or Event of Default exists, (ii) such Borrowing Base Property is sold pursuant to the terms and conditions of an arms length contract and on terms reasonably satisfactory to the Administrative Agent, (iii) either (a) the Borrower replaces such Borrowing Base Property with a substitute Borrowing Base Property acceptable to the Lenders or (b) the Obligations outstanding shall not exceed the lesser of the Aggregate Committed Amount and the Borrowing Base after giving effect to such disposition and (iv) after giving effect to such disposition, on a pro forma basis as if such disposition had occurred on the first day of the twelve month period ending on the last day of the Borrower's most recently completed fiscal quarter, the Consolidated Parties would have been in compliance with all the financial covenants set forth in Section 7.11.

## 8.6. INVESTMENTS.

The Credit Parties will not permit any Consolidated Party to make Investments in or to any Person, except for (i) Permitted Investments, (ii) so long as no Event of Default has occurred and is continuing, Investments not otherwise prohibited under this Credit Agreement (other than in Unrestricted Subsidiaries) in an amount not to exceed \$3,000,000 in any fiscal year of the Borrower and \$15,000,000 in the aggregate, and (iii) so long as no Event of Default has occurred and is continuing, Investments in Unrestricted Subsidiaries; provided that, with respect to this clause (iii), (a) the aggregate amount of all Investments by the Credit Parties in Unrestricted Subsidiaries may not exceed at any time the lesser of (A) ten percent (10%) of Consolidated Net Worth and (B) the sum of (1) \$25,000,000, plus (2) cumulative retained earnings (but not less than zero) of the Borrower for periods after the Restatement Effective Date, plus (3) the Net Cash Proceeds of any Equity Issuance (other than any Equity Issuance the proceeds of which are used to satisfy the requirements of clause (ii)(B) in the proviso to Section 8.7(c)) consummated after the Restatement Effective Date and (b) the provisions of Section 7.12(b) are complied with (unless at the time of such Investment in such Unrestricted Subsidiary compliance with Section 7.12(b) is prohibited by any financing arrangements of such Unrestricted Subsidiary and such prohibition was not created in contemplation of the requirements of such Section 7.12(b)).

## 8.7. RESTRICTED PAYMENTS.

The Credit Parties will not permit any Consolidated Party to, directly or indirectly, declare, order, make or set apart any sum for or pay any Restricted Payment, except (a) to make dividends payable solely in the same class of Capital Stock of such Person, (b) to make dividends or other distributions payable to the Borrower (directly or indirectly through Subsidiaries), (c) the Borrower may make a one-time dividend payment (currently estimated by the Borrower to be approximately \$180,000,000, but in no event to exceed \$225,000,000 less the aggregate amount of all distributions made in fiscal year 1999 in excess of ninety-five percent (95%) of real estate investment trust taxable income (determined without regard to the deduction for dividends paid and excluding any net capital gain), as described in Section 857(a)(1)(A)(i) of the Code (which distributions the Borrower currently expects to equal approximately \$45,000,000)) in fiscal year 1999 based solely on the retained earnings of CCA prior to the Merger necessary to maintain the Borrower's status as a REIT if, but only if, the Borrower is able to provide the Administrative Agent prior to the time such dividend is declared with evidence (in form and substance satisfactory to the Administrative Agent) indicating (i) that the Borrower has sufficient cash or availability under this Credit Agreement to make such dividend payment at the time such payment is required) and (ii) that the Borrower shall have liquidity of at least \$75 million (which liquidity may include any amounts available to be drawn under the Credit Agreement) after giving effect to such one-time dividend payment; provided, however, that (i) no such one-time dividend shall be paid in cash unless and until Management Opco has received at least \$25,000,000 in cash proceeds (which proceeds must not be used to make a prepayment and corresponding permanent commitment reduction under the Management Opco Credit Agreement) from the issuance by Management Opco of any combination of Capital Stock and subordinated debt (which debt must be permitted to be issued under the Management Opco Credit Agreement) to one or more independent third-party investors (other than the investors referred to in clause (ii) below), all on terms approved by Management Opco's Board of Directors (ii) no such one-time

dividend in excess of \$31,000,000 shall be paid in cash unless and until (A) the condition set forth in clause (i) above is met and (B) the Borrower has received at least \$100,000,000 in cash proceeds from the issuance by the Borrower of any combination of Capital Stock to one or more independent third-party investors whose investment entitles them to, and results in their, representation on the Board of Directors of the Borrower, all on terms approved by the Borrower's independent directors, (d) so long as no Default or Event of Default exists or would result therefrom, the Borrower may make distributions on common or preferred stock in an aggregate amount not to exceed during any calendar year ninety five percent (95%) of Funds from Operations attributable to such calendar year period; provided, however, the Borrower may pay dividends or distributions that exceed the amount permitted by the preceding clause (d) if (i) such larger distribution is required in order for the Borrower to maintain its status as a REIT and (ii) no Default or Event of Default exists or would result therefrom and (e) the Borrower may repurchase Equity Interests of the Borrower to the extent such repurchases are deemed to occur upon the exercise of stock options if such Equity Interests represent a portion of the exercise price thereof.

#### 8.8. PREPAYMENTS OF INDEBTEDNESS, ETC.

The Credit Parties will not permit any Consolidated Party to (a) after the issuance thereof, amend, modify or refinance (or permit the amendment, modification or refinancing of) any other Indebtedness if such amendment, modification or refinancing would add or change any terms in a manner adverse to the issuer of such Indebtedness, or shorten the final maturity or average life to maturity or require any payment to be made sooner than originally scheduled or increase the interest rate applicable thereto or change any subordination provision thereof; provided that the restrictions of this clause (a) shall not apply to any Indebtedness to the extent (i) such Indebtedness, as so amended or modified, or (ii) the Indebtedness refinancing such Indebtedness, as applicable, in each case could be incurred under Section 8.1(e) hereof at the time of such amendment, modification or refinancing, (b) except in connection with a refinancing of Indebtedness permitted under clause (a) hereof, make (or give any notice with respect thereto) any voluntary or optional payment or prepayment or redemption or acquisition for value of (including without limitation, by way of depositing money or securities with the trustee with respect thereto before due for the purpose of paying when due) any other Indebtedness (other than Indebtedness owed to the Borrower), or (c) except in connection with a refinancing of Indebtedness permitted under clause (a) hereof, refund or exchange (except as provided in clause (a) above) any other Indebtedness (or offer to do so).

#### 8.9. TRANSACTIONS WITH AFFILIATES.

Except for transactions permitted under Section 8.15, the Credit Parties will not permit any Consolidated Party to enter into or permit to exist any transaction or series of transactions with or for the benefit of any officer, director, shareholder, Unrestricted Subsidiary or Affiliate of such Person other than (i) normal compensation and reimbursement of expenses of officers and directors and (ii) except as otherwise specifically limited in this Credit Agreement, other transactions which are entered into in the ordinary course of such Person's business on terms and conditions substantially as favorable to such Person as would be obtainable by it in a comparable arms-length transaction with a Person other than an officer, director, shareholder, Unrestricted Subsidiary or Affiliate.

**8.10. FISCAL YEAR; ORGANIZATIONAL DOCUMENTS.**

The Credit Parties will not permit any Consolidated Party to (a) change its fiscal year without the prior written consent of the Required Lenders and the Required Tranche C Term Lenders or (b) amend, modify or change its articles of incorporation (or corporate charter or other similar organizational document) or bylaws (or other similar document) in any manner that would reasonably be likely to adversely affect the Lenders.

**8.11. LIMITATION ON RESTRICTED ACTIONS.**

The Credit Parties will not permit any Consolidated Party to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any such Person to (a) pay dividends or make any other distributions to any Credit Party on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, (b) pay any Indebtedness or other obligation owed to any Credit Party, (c) make loans or advances to any Credit Party, (d) sell, lease or transfer any of its properties or assets to any Credit Party, or (e) act as a Guarantor and pledge its assets pursuant to the Credit Documents or any renewals, refinancings, exchanges, refundings or extension thereof, except (in respect of any of the matters referred to in clauses (a)-(d) above) for such encumbrances or restrictions existing under or by reason of (i) this Credit Agreement and the other Credit Documents, (ii) applicable law, (iii) the Senior Notes Documents, (iv) the Permitted Unsecured Debt Documents and (v) the Agecroft Transaction Documents.

**8.12. OWNERSHIP OF SUBSIDIARIES.**

Notwithstanding any other provisions of this Credit Agreement to the contrary, the Credit Parties will not permit (A) any Consolidated Party to (i) permit any Person (other than the Borrower or any Wholly-Owned Subsidiary of the Borrower) to own any Capital Stock of any Restricted Subsidiary of the Borrower (provided that no Capital Stock of any Restricted Subsidiary of the Borrower may be owned by an Unrestricted Subsidiary) or (ii) permit any Restricted Subsidiary of the Borrower to issue Capital Stock (except to the Borrower or to a Wholly-Owned Subsidiary of the Borrower; provided that no Capital Stock of any Restricted Subsidiary of the Borrower may be owned by an Unrestricted Subsidiary), in each case except to qualify directors where required by applicable law or to satisfy other requirements of applicable law with respect to the ownership of Capital Stock of Foreign Subsidiaries and (iii) notwithstanding anything to the contrary contained in clause (ii) above, permit any Subsidiary of the Borrower to issue any shares of preferred Capital Stock or (B) any Person other than the Borrower or its Restricted Subsidiaries to own any Capital Stock of any Unrestricted Subsidiary; provided that the provisions of this clause (B) shall not apply to any Capital Stock of an Unrestricted Subsidiary owned by a governmental or quasi-governmental entity in a partnership, joint-venture or other cooperative arrangement with the Borrower or any of its Restricted Subsidiaries.

**8.13. SALE LEASEBACKS.**

The Credit Parties will not permit any Consolidated Party to, directly or indirectly, become or remain liable as lessee or as guarantor or other surety with respect to any lease,

whether an Operating Lease or a Capital Lease, of any Property (whether real, personal or mixed), whether now owned or hereafter acquired, (a) which such Consolidated Party has sold or transferred or is to sell or transfer to a Person which is not a Consolidated Party or (b) which such Consolidated Party intends to use for substantially the same purpose as any other Property which has been sold or is to be sold or transferred by such Consolidated Party to another Person which is not a Consolidated Party in connection with such lease.

8.14. NO FURTHER NEGATIVE PLEDGES.

The Credit Parties will not permit any Consolidated Party to enter into, assume or become subject to any agreement prohibiting or otherwise restricting the creation or assumption of any Lien upon its properties or assets, whether now owned or hereafter acquired, or requiring the grant of any security for such obligation if security is given for some other obligation, except pursuant to (1) provided the provisions thereof do not prohibit the Liens created under the Loan Documents, (a) the Senior Notes Documents and the Permitted Unsecured Debt Documents and any refinancing of any thereof otherwise permitted under this Credit Agreement that, with respect to the matters referred to in this Section 8.14, contain provisions no more restrictive on the Borrower and its Subsidiaries than the Indebtedness being refinanced and (b) the Agecroft Transaction Documents, and (2) this Credit Agreement and the other Credit Documents.

8.15. TRANSACTIONS WITH CCA ENTITIES.

Notwithstanding the provisions of Section 8.9, the Credit Parties will not permit any Consolidated Party to make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make, amend or modify any transaction, contract, agreement, understanding, loan, advance or guarantee with, any CCA Entity (each, a "CCA Entity Transaction"), unless: (a) such CCA Entity Transaction is on terms that are no less favorable to such Credit Party or the relevant Consolidated Party than those that would have been obtained in a comparable transaction by the Credit Party or such Consolidated Party with an unrelated Person and (b) prior to the consummation of any CCA Entity Transaction or series of related CCA Entity Transactions involving aggregate consideration in excess of \$5,000,000, the Aggregate Required Lenders shall have consented in writing to such CCA Entity Transaction or CCA Entity Transactions; provided, however, that the following transactions shall be deemed not to be CCA Entity Transactions: (i) amendments to any agreements with Management Opco that do not increase the total payments to be due to Management Opco thereunder by more than \$5,000,000 in the aggregate for all such amended agreements, (ii) other amendments to lease agreements or management contracts that do not alter the rent provisions or economic terms of such agreements (including providing for any rent deferrals), (iii) payments or transactions pursuant to Existing CCA Entity Agreements and (iv) any new arrangement with respect to properties not under lease with any of the CCA Entities as of the Restatement Effective Date entered into by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business, which is fair to the Borrower and its Restricted Subsidiaries in the reasonable opinion of a majority of the disinterested members of the Board of Directors of the Borrower. For the avoidance of doubt, the term "CCA Entity Transaction" shall include, without limitation, any amendment or modification of any of the Existing CCA Entity Agreements.

## 8.16. SPECULATIVE TRANSACTIONS.

The Credit Parties will not permit any Consolidated Party to enter into any speculative hedging or similar transaction (such as a forward equity purchase agreement).

## SECTION 9.

## EVENTS OF DEFAULT

## 9.1. EVENTS OF DEFAULT.

An Event of Default shall exist upon the occurrence of any of the following specified events (each an "Event of Default"):

(a) Payment. Any Credit Party shall

(i) default in the payment when due of any principal of any of the Loans or of any reimbursement obligations arising from drawings under Letters of Credit, or

(ii) default, and such default shall continue for three (3) or more Business Days, in the payment when due of any interest on the Loans or on any reimbursement obligations arising from drawings under Letters of Credit, or of any Fees or other amounts owing hereunder, under any of the other Credit Documents or in connection herewith or therewith; or

(b) Representations. Any representation, warranty or statement made or deemed to be made by any Credit Party herein, in any of the other Credit Documents, or in any statement or certificate delivered or required to be delivered pursuant hereto or thereto shall prove untrue in any material respect on the date as of which it was deemed to have been made; or

(c) Covenants. Any Credit Party shall

(i) default in the due performance or observance of any term, covenant or agreement contained in Sections 7.2, 7.4, 7.9, 7.11, 7.12, 7.14, 7.15, 7.16, 7.17, 7.18 or 8.1 through 8.15, inclusive;

(ii) default in the due performance or observance of any term, covenant or agreement contained in Sections 7.1(a), (b), (c), (e) or (l) and such default shall continue unremedied for a period of at least 5 days after the earlier of a responsible officer of a Credit Party becoming aware of such default or notice thereof by the Administrative Agent; or

(iii) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in subsections (a), (b), (c)(i) or (c)(ii) of this Section 9.1) contained in this Credit Agreement and such default shall continue unremedied for a period of at least 30 days after the earlier of a

responsible officer of a Credit Party becoming aware of such default or notice thereof by the Administrative Agent; or

(d) Other Credit Documents. (i) Any Credit Party shall default in the due performance or observance of any term, covenant or agreement in any of the other Credit Documents (subject to applicable grace or cure periods, if any), or (ii) except as a result of or in connection with a merger of a Subsidiary permitted under Section 8.4, any Credit Document shall fail to be in full force and effect or to give the Administrative Agent and/or the Lenders the Liens, rights, powers and privileges purported to be created thereby, or any Credit Party shall so state in writing; or

(e) Guaranties. Except as the result of or in connection with a merger of a Subsidiary permitted under Section 8.4, the guaranty given by any Guarantor hereunder (including any Additional Credit Party) or any provision thereof shall cease to be in full force and effect, or any Guarantor (including any Additional Credit Party) hereunder or any Person acting by or on behalf of such Guarantor shall deny or disaffirm such Guarantor's obligations under such guaranty, or any Guarantor shall default in the due performance or observance of any term, covenant or agreement on its part to be performed or observed pursuant to any guaranty; or

(f) Bankruptcy, etc. Any Bankruptcy Event shall occur with respect to any Consolidated Party; or

(g) Defaults under Other Agreements. With respect to any Indebtedness (other than Indebtedness outstanding under this Credit Agreement) in excess of \$1,000,000 in the aggregate for the Consolidated Parties taken as a whole, (A)(1) any Consolidated Party shall default in any payment (beyond the applicable grace period with respect thereto, if any) with respect to any such Indebtedness, or (2) a default in the observance or performance relating to such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event or condition shall occur and continue or condition exist, the effect of which default or other event or condition is to cause, or permit the holder or holders of such Indebtedness (or trustee or agent on behalf of such holders) to cause (determined without regard to whether any notice or lapse of time is required), any such Indebtedness to become due prior to its stated maturity; or (B) any such Indebtedness shall be declared due and payable, or required to be prepaid other than by a regularly scheduled required prepayment, prior to the stated maturity thereof; or

(h) Judgments. One or more judgments or decrees shall be entered against one or more of the Consolidated Parties involving a liability of \$1,000,000 or more in the aggregate (to the extent not paid or fully covered by insurance provided by a carrier who has acknowledged coverage and has the ability to perform) and any such judgments or decrees shall not have been vacated, discharged or stayed or bonded pending appeal within 30 days from the entry thereof; or

(i) ERISA. Any of the following events or conditions shall occur, if such event or condition could reasonably be expected to have a Material Adverse Effect: (i) any "accumulated funding deficiency," as such term is defined in Section 302 of ERISA and



Section 412 of the Code, whether or not waived, shall exist with respect to any Plan, or any lien shall arise on the assets of any Consolidated Party or any ERISA Affiliate in favor of the PBGC or a Plan; (ii) an ERISA Event shall occur with respect to a Single Employer Plan, which is, in the reasonable opinion of the Administrative Agent, likely to result in the termination of such Plan for purposes of Title IV of ERISA; (iii) an ERISA Event shall occur with respect to a Multiemployer Plan or Multiple Employer Plan, which is, in the reasonable opinion of the Administrative Agent, likely to result in (A) the termination of such Plan for purposes of Title IV of ERISA, or (B) any Consolidated Party or any ERISA Affiliate incurring any liability in connection with a withdrawal from, reorganization of (within the meaning of Section 4241 of ERISA), or insolvency or (within the meaning of Section 4245 of ERISA) such Plan; or (iv) any prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code) or breach of fiduciary responsibility shall occur which may subject any Consolidated Party or any ERISA Affiliate to any liability under Sections 406, 409, 502(i), or 502(l) of ERISA or Section 4975 of the Code, or under any agreement or other instrument pursuant to which any Consolidated Party or any ERISA Affiliate has agreed or is required to indemnify any person against any such liability;

(j) [Intentionally Omitted.]

(k) Management Opco Credit Agreement. There shall occur an Event of Default (as defined in the Management Opco Credit Agreement) under the Management Opco Credit Agreement;

(l) Lease Agreements. There shall occur (i) an event of default under the Master Lease (subject to applicable grace or cure periods, if any), (ii) any payment default (beyond any applicable grace period) under any lease agreement (not including the Master Lease) between the Borrower and Management Opco (each such lease agreement (including the Master Lease), a "Lease Agreement") or (iii) any shortening or limitation on the term of any Lease Agreement if, after giving effect thereto, such Lease Agreement would not comply with Section 7.15;

(m) License Agreements. Any of the Opco License Agreement, the Service Company A License Agreement or the Service Company B License Agreement shall be terminated or canceled; or

(n) Ownership. There shall occur a Change of Control.

(o) Amendments. Management Opco shall (a) enter into any amendment of the Management Opco Credit Agreement which would (i) reduce the committed amount of financing available under the Management Opco Credit Agreement, (ii) decrease or shorten the maturity date of the loans under the Management Opco Credit Agreement, (iii) increase the rate at which interest is payable on the loans under the Management Opco Credit Agreement, (iv) cause the financial covenants in the Management Opco Credit Agreement to be more restrictive with respect to Management Opco than those financial covenants in effect as of the Closing Date, or (b) refinance the indebtedness under the Management Opco Credit Agreement on terms and conditions less favorable to

Management Opco or the Borrower than such existing indebtedness under the Management Opco Credit Agreement.

9.2. ACCELERATION; REMEDIES.

Upon the occurrence of an Event of Default, and at any time thereafter unless and until such Event of Default has been waived by the requisite Lenders (pursuant to the voting requirements of Section 11.6) or cured to the satisfaction of the requisite Lenders (pursuant to the voting procedures in Section 11.6 and Section 11.6A, as applicable), the Administrative Agent shall, upon the request and direction of the Required Lenders or the Aggregate Required Lenders, by written notice to the Credit Parties, take one or more of the following actions:

(a) Termination of Commitments. Declare the Commitments terminated whereupon the Commitments shall be immediately terminated.

(b) Acceleration. Declare the unpaid principal of and any accrued interest in respect of all Loans, any reimbursement obligations arising from drawings under Letters of Credit and any and all other indebtedness or obligations of any and every kind owing by the Credit Parties to the Administrative Agent and/or any of the other Secured Parties hereunder to be due whereupon the same shall be immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Credit Parties.

(c) Cash Collateral. Direct the Credit Parties to pay (and the Credit Parties agree that upon receipt of such notice, or upon the occurrence of an Event of Default under Section 9.1(f), they will immediately pay) to the Administrative Agent additional cash, to be held by the Administrative Agent, for the benefit of the Revolving Lenders, in a cash collateral account as additional security for the LOC Obligations in respect of subsequent drawings under all then outstanding Letters of Credit in an amount equal to the maximum aggregate amount which may be drawn under all Letters of Credits then outstanding.

(d) Enforcement of Rights. Enforce any and all rights and interests created and existing under the Credit Documents including, without limitation, all rights and remedies existing under the Collateral Documents, all rights and remedies against a Guarantor and all rights of set-off.

Notwithstanding the foregoing, if an Event of Default specified in Section 9.1(f) shall occur with respect to the Borrower, then the Commitments shall automatically terminate and all Loans, all reimbursement obligations arising from drawings under Letters of Credit, all accrued interest in respect thereof, all accrued and unpaid Fees and other indebtedness or obligations owing to the Administrative Agent and/or any of the other Secured Parties hereunder automatically shall immediately become due and payable without the giving of any notice or other action by the Administrative Agent or the other Secured Parties.

## SECTION 10.

## AGENCY PROVISIONS

## 10.1. APPOINTMENT, POWERS AND IMMUNITIES.

(a) Each Secured Party (other than the Administrative Agent) hereby irrevocably appoints and authorizes the Administrative Agent to act as its agent under this Credit Agreement and the other Credit Documents with such powers and discretion as are specifically delegated to the Administrative Agent by the terms of this Credit Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. The Administrative Agent (which term as used in this sentence and in Section 10.5 and the first sentence of Section 10.6 hereof shall include its Affiliates and its own and its Affiliates' officers, directors, employees, and agents): (a) shall not have any duties or responsibilities except those expressly set forth in this Credit Agreement and shall not be a trustee or fiduciary for any other Secured Party; (b) shall not be responsible to the other Secured Parties for any recital, statement, representation, or warranty (whether written or oral) made in or in connection with any Credit Document or any certificate or other document referred to or provided for in, or received by any of them under, any Credit Document, or for the value, validity, effectiveness, genuineness, enforceability, or sufficiency of any Credit Document, or any other document referred to or provided for therein or for any failure by any Credit Party or any other Person to perform any of its obligations thereunder; (c) shall not be responsible for or have any duty to ascertain, inquire into, or verify the performance or observance of any covenants or agreements by any Credit Party or the satisfaction of any condition or to inspect the property (including the books and records) of any Credit Party or any of its Subsidiaries or Affiliates; (d) shall not be required to initiate or conduct any litigation or collection proceedings under any Credit Document; and (e) shall not be responsible for any action taken or omitted to be taken by it under or in connection with any Credit Document, except for its own gross negligence or willful misconduct. The Administrative Agent may employ agents and attorneys-in-fact and shall not be responsible for the negligence or misconduct of any such agents or attorneys-in-fact selected by it with reasonable care. For the avoidance of doubt, LCPI is the successor Administrative Agent to the Original Administrative Agent as provided in Section 10.7 of the Original Credit Agreement and this Credit Agreement.

## 10.2. RELIANCE BY ADMINISTRATIVE AGENT.

The Administrative Agent shall be entitled to rely upon any certification, notice, instrument, writing, or other communication (including, without limitation, any thereof by telephone or telecopy) believed by it to be genuine and correct and to have been signed, sent or made by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel (including counsel for any Credit Party), independent accountants, and other experts selected by the Administrative Agent. The Administrative Agent may deem and treat the payee of any Note as the holder thereof for all purposes hereof unless and until the Administrative Agent receives and accepts an Assignment and Acceptance executed in accordance with Section 11.3(b) hereof. As to any matters not expressly provided for by this Credit Agreement, the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Required Lenders and/or the Aggregate Required Lenders and such instructions shall be binding on all of the Lenders; provided, however, that the Administrative Agent shall not be required to take any action that exposes the Administrative Agent to personal liability or that is contrary to any Credit Document or applicable law or unless it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking any such action.

### 10.3. DEFAULTS.

The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of a Default or Event of Default unless the Administrative Agent has received written notice from a Lender or a Credit Party specifying such Default or Event of Default and stating that such notice is a "Notice of Default". In the event that the Administrative Agent receives such a notice of the occurrence of a Default or Event of Default, the Administrative Agent shall give prompt notice thereof to the Lenders. The Administrative Agent shall (subject to Section 10.2 hereof) take such action with respect to such Default or Event of Default as shall reasonably be directed by the Required Lenders and/or the Aggregate Required Lenders, provided that, unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interest of the Lenders.

### 10.4. RIGHTS AS A LENDER.

With respect to its Commitment and the Loans made by it, LCPI (and any successor acting as Administrative Agent) in its capacity as a Lender hereunder shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not acting as the Administrative Agent, and the term "Lender" or "Lenders" shall, unless the context otherwise indicates, include the Administrative Agent in its individual capacity. LCPI (and any successor acting as Administrative Agent) and its Affiliates may (without having to account therefor to any Lender) accept deposits from, lend money to, make investments in, provide services to, and generally engage in any kind of lending, trust, or other business with any Credit Party or any of its Subsidiaries or Affiliates as if it were not acting as Administrative Agent, and LCPI (and any successor acting as Administrative Agent) and its Affiliates may accept fees and other consideration from any Credit Party or any of its Subsidiaries or Affiliates for services in connection with this Credit Agreement or otherwise without having to account for the same to the Lenders.

### 10.5. INDEMNIFICATION.

The Lenders agree to indemnify the Administrative Agent (to the extent not reimbursed under Section 11.5 hereof, but without limiting the obligations of the Credit Parties under such Section) ratably in accordance with their respective Commitments, for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including attorneys' fees), or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the Administrative Agent (including by any Lender) in any way relating to or arising out of any Credit Document or the transactions contemplated thereby or any action taken or omitted by the Administrative Agent under any Credit Document (including any of the foregoing arising from the negligence of the Administrative Agent); provided that no Lender shall be liable for any of the foregoing to the extent they arise from the gross negligence or willful misconduct of the Person to be indemnified. Without limitation of the foregoing, each Lender agrees to reimburse the Administrative Agent promptly upon demand for its ratable share

of any costs or expenses payable by the Credit Parties under Section 11.5, to the extent that the Administrative Agent is not promptly reimbursed for such costs and expenses by the Credit Parties. The agreements in this Section 10.5 shall survive the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder and shall be subject to the proviso in Section 1.4(b).

10.6. NON-RELIANCE ON AGENTS AND OTHER LENDERS.

Each Lender agrees that it has, independently and without reliance on the Administrative Agent, the Documentation Agent, the Syndication Agent, the Co-Agent, the Lead Arranger or any other Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis of the Credit Parties and their Subsidiaries and decision to enter into this Credit Agreement and that it will, independently and without reliance upon the Administrative Agent, the Documentation Agent, the Syndication Agent, the Co-Agent, the Lead Arranger or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under the Credit Documents. Except for notices, reports, and other documents and information expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the affairs, financial condition, or business of any Credit Party or any of its Subsidiaries or Affiliates that may come into the possession of the Administrative Agent or any of its Affiliates.

10.7. SUCCESSOR ADMINISTRATIVE AGENT.

(a) The Administrative Agent may resign at any time by giving notice thereof to the Lenders and the Credit Parties. Upon any such resignation, the Aggregate Required Lenders shall have the right to appoint a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Aggregate Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent's giving of notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent which shall be a commercial bank or financial organization organized under the laws of the United States of America or any state thereof having combined capital and surplus of at least \$100,000,000. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor, such successor shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges, and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Section 10 shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as Administrative Agent.

(b) Societe Generale, in its capacity as Documentation Agent, The Bank of Nova Scotia, in its capacity as Syndication Agent, SouthTrust Bank, N.A., in its capacity as Co-Agent, and Lehman Brothers Inc., in its capacity as Lead Arranger shall have no duties or responsibilities and shall incur no liability under this Credit Agreement or any of the other Credit Documents.

(c) The Aggregate Required Lenders may elect to remove LCPI, as Administrative Agent, in the event LCPI fails to maintain a Revolving Commitment in an amount equal to Ten Million Dollars (\$10,000,000); provided that such Aggregate Required Lenders shall have appointed a successor Administrative Agent.

## SECTION 11.

## MISCELLANEOUS

## 11.1. NOTICES.

Except as otherwise expressly provided herein, all notices and other communications shall be in writing and shall have been duly given and shall be effective (a) when delivered, (b) when transmitted via telecopy (or other facsimile device) to the number set out below or on Schedule 2.1(a), as applicable, (c) the Business Day following the day on which the same has been delivered prepaid to a reputable national overnight air courier service, or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties at the address, in the case of the Credit Parties and the Administrative Agent, set forth below, and, in the case of the Lenders, set forth on Schedule 2.1(a), or at such other address as such party may specify by written notice to the other parties hereto:

if to any Credit Party:

Prison Realty Trust, Inc.  
10 Burton Hills Boulevard, Suite 100  
Nashville, Tennessee 37215  
Attn: Doctor R. Crants  
Telephone: (615) 263-0200  
Telecopy: (615) 263-0212

if to the Administrative Agent:

Lehman Commercial Paper Inc.  
3 World Financial Center  
New York, New York 10285  
Attn: Michael O'Brien  
Telephone: (212) 526-0437  
Telecopy: (212) 526-7691

with a copy to:

Latham & Watkins  
885 Third Avenue  
New York, New York 10022  
Attn: Christopher R. Plaut  
Telephone: (212) 906-1262  
Telecopy: (212) 751-4864

### 11.2. RIGHT OF SET-OFF; ADJUSTMENTS.

Upon the occurrence and during the continuance of any Event of Default, each Lender (and each of its Affiliates) is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender (or any of its Affiliates) to or for the credit or the account of any Credit Party against any and all of the obligations of such Person now or hereafter existing under this Credit Agreement, under the Notes, under any other Credit Document or otherwise, irrespective of whether such Lender shall have made any demand hereunder or thereunder and although such obligations may be unmatured. Each Lender agrees promptly to notify any affected Credit Party after any such set-off and application made by such Lender; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Lender under this Section 11.2 are in addition to other rights and remedies (including, without limitation, other rights of set-off) that such Lender may have.

### 11.3. BENEFIT OF AGREEMENT.

(a) This Credit Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; provided that none of the Credit Parties may assign or transfer any of its interests and obligations without prior written consent of the Lenders; provided further that the rights of each Lender to transfer, assign or grant participations in its rights and/or obligations hereunder shall be limited as set forth in this Section 11.3.

(b) Each Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Credit Agreement (including, without limitation, all or a portion of its Loans, its Notes, and its Commitment); provided, however, that

(i) each such assignment shall be to an Eligible Assignee;

(ii) except in the case of an assignment to another Lender or an assignment of all of a Lender's rights and obligations under this Credit Agreement, any such partial assignment shall be in an amount at least equal to \$5,000,000 (or, if less, the remaining amount of the Commitment being assigned by such Lender) or an integral multiple of \$1,000,000 in excess thereof;

(iii) each such assignment by a Lender shall be of a constant, and not varying, percentage of all of its rights and obligations under this Credit Agreement and the Notes; and

(iv) the parties to such assignment shall execute and deliver to the Administrative Agent for its acceptance an Assignment and Acceptance in the form of Exhibit 11.3(b) hereto, together with any Note subject to such assignment and a processing fee of \$3,500 (except that no processing fee shall be payable (y) in connection with an assignment of the Term Loan by or to Lehman Commercial Paper Inc. or any Affiliate thereof or (z) with respect to any assignment of the Term Loan, in the case of an Assignee that is already a Term Lender or is an

Affiliate of a Term Lender or a Person under common management with a Term Lender).

Upon execution, delivery, acceptance and recording (as provided in paragraph (c) below) of such Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of such assignment, have the obligations, rights, and benefits of a Lender hereunder and the assigning Lender shall, to the extent of such assignment, relinquish its rights and be released from its obligations under this Credit Agreement. Upon the consummation of any assignment pursuant to this Section 11.3(b), the assignor, the Administrative Agent and the Credit Parties shall make appropriate arrangements so that, if required, new Notes are issued to the assignor and the assignee. If the assignee is not a United States person under Section 7701(a)(30) of the Code, it shall deliver to the Credit Parties and the Administrative Agent certification as to exemption from deduction or withholding of Taxes in accordance with Section 3.11.

(c) The Administrative Agent shall, on behalf of the Borrower, maintain at its address referred to in Section 11.1 a copy of each Assignment and Acceptance delivered to and accepted by it and a register for the recordation of the names and addresses of the Lenders and the Commitment of, and principal amount of the Loans owing to, each Lender from time to time (the "Register"). The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Credit Parties, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Credit Agreement. Any assignment of any Loan, whether or not evidenced by a Note, shall be effective only upon appropriate entries with respect thereto being made in the Register (and each Note shall expressly so provide). The Register shall be available for inspection by the Credit Parties or any Lender at any reasonable time and from time to time upon reasonable prior notice.

(d) Upon its receipt of an Assignment and Acceptance executed by the parties thereto, together with any Note subject to such assignment and payment of the processing fee, the Administrative Agent shall, if such Assignment and Acceptance has been completed and is in substantially the form of Exhibit 11.3(b) hereto, (i) accept such Assignment and Acceptance, (ii) record the information contained therein in the Register and (iii) give prompt notice thereof to the parties thereto.

(e) Each Lender may sell participations to one or more Persons in all or a portion of its rights, obligations or rights and obligations under this Credit Agreement (including all or a portion of its Commitment or its Loans); provided, however, that (i) such Lender's obligations under this Credit Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the participant shall be entitled to the benefit of the yield protection provisions contained in Sections 3.7 through 3.12, inclusive, and the right of set-off contained in Section 11.2, and (iv) the Credit Parties shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Credit Agreement, and such Lender shall retain the sole right to enforce the obligations of the Credit Parties relating to the Credit Party Obligations owing to such Lender and to approve any amendment, modification, or waiver of any provision of this



Credit Agreement (other than amendments, modifications, or waivers decreasing the amount of principal of or the rate at which interest is payable on such Loans or Notes, extending any scheduled principal payment date or date fixed for the payment of interest on such Loans or Notes, or extending its Commitment).

(f) Notwithstanding any other provision set forth in this Credit Agreement, any Lender may at any time assign and pledge all or any portion of its Loans and its Notes to any Federal Reserve Bank as collateral security pursuant to Regulation A and any Operating Circular issued by such Federal Reserve Bank, and any Term Lender may otherwise create security interests in any Term Loan or Term Note in accordance with applicable law. No such assignment shall release the assigning Lender from its obligations hereunder.

(g) Any Lender may furnish any information concerning the Consolidated Parties in the possession of such Lender from time to time to assignees and participants (including prospective assignees and participants), subject, however, to the provisions of Section 11.14 hereof.

#### 11.3A TRANCHE C ASSIGNMENTS AND PLEDGES.

(a) No processing fee shall be payable to the Administrative Agent (y) in connection with an assignment of the Tranche C Term Loan by or to Lehman Commercial Paper Inc. or any Affiliate thereof or (z) with respect to any assignment of the Tranche C Term Loan, in the case of an Assignee that is already a Tranche C Term Lender or is an Affiliate of a Tranche C Term Lender or a Person under common management with a Tranche C Term Lender or a fund advised by the same investment advisor as a Tranche C Term Lender (or an Affiliate thereof).

(b) Any Tranche C Term Lender may create security interests in any Tranche C Term Loan or Tranche C Term Note in accordance with applicable law.

#### 11.4. NO WAIVER; REMEDIES CUMULATIVE.

No failure or delay on the part of the Administrative Agent or any other Secured Party in exercising any right, power or privilege hereunder or under any other Credit Document and no course of dealing between the Administrative Agent or any other Secured Party and any of the Credit Parties shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Credit Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights and remedies provided herein are cumulative and not exclusive of any rights or remedies which the Administrative Agent or any other Secured Party would otherwise have. No notice to or demand on any Credit Party in any case shall entitle the Credit Parties to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Administrative Agent or the other Secured Parties to any other or further action in any circumstances without notice or demand.

**11.5. EXPENSES; INDEMNIFICATION.**

(a) The Credit Parties jointly and severally agree to pay on demand all costs and expenses of the Administrative Agent in connection with the syndication, preparation, execution, delivery, administration, modification, and amendment of this Credit Agreement, the other Credit Documents, and the other documents to be delivered hereunder, including, without limitation, the reasonable fees and expenses of counsel for the Administrative Agent with respect thereto and with respect to advising the Administrative Agent as to its rights and responsibilities under the Credit Documents. The Credit Parties further jointly and severally agree to pay on demand all costs and expenses of the Administrative Agent and the Lenders, if any (including, without limitation, reasonable attorneys' fees and expenses), in connection with the enforcement (whether through negotiations, legal proceedings, or otherwise) of the Credit Documents and the other documents to be delivered hereunder.

(b) The Credit Parties jointly and severally agree to indemnify and hold harmless the Administrative Agent and each Lender and each of their Affiliates and their respective officers, directors, employees, agents, and advisors (each, an "Indemnified Party") from and against any and all claims, damages, losses, liabilities, costs, and expenses (including, without limitation, reasonable attorneys' fees) that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including, without limitation, in connection with any investigation, litigation, or proceeding or preparation of defense in connection therewith) the Credit Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Loans (including any of the foregoing arising from the negligence of the Indemnified Party), except to the extent such claim, damage, loss, liability, cost, or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 11.5 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any of the Credit Parties, their respective directors, shareholders or creditors or an Indemnified Party or any other Person or any Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. The Credit Parties agree not to assert any claim against the Administrative Agent, any Lender, any of their Affiliates, or any of their respective directors, officers, employees, attorneys, agents, and advisors, on any theory of liability, for special, indirect, consequential, or punitive damages arising out of or otherwise relating to the Credit Documents, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Loans.

(c) Without prejudice to the survival of any other agreement of the Credit Parties hereunder, the agreements and obligations of the Credit Parties contained in this Section 11.5 shall survive the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder.

**11.6. AMENDMENTS, WAIVERS AND CONSENTS.**

Neither this Credit Agreement nor any other Credit Document nor any of the terms hereof or thereof may be amended, changed, waived, discharged or terminated unless such amendment, change, waiver, discharge or termination is in writing entered into by, or approved in writing by, the Required Lenders and the Borrower, provided, however, that:

(i) without the consent of the Required Lenders and each other Lender affected thereby, neither this Credit Agreement nor any other Credit Document may be amended to

(a) extend the final maturity of any Loan or of any reimbursement obligation, or any portion thereof, arising from drawings under Letters of Credit,

(b) reduce the rate or extend the time of payment of interest (other than as a result of waiving the applicability of any post-default increase in interest rates) thereon or Fees hereunder,

(c) reduce or waive the principal amount of any Loan or of any reimbursement obligation, or any portion thereof, arising from drawings under Letters of Credit,

(d) increase the Commitment of a Lender over the amount thereof in effect (it being understood and agreed that a waiver of any Default or Event of Default or mandatory reduction in the Commitments shall not constitute a change in the terms of any Commitment of any Lender),

(e) release all or substantially all of the Collateral securing the Credit Party Obligations hereunder (provided that the Administrative Agent may, without consent from any other Lender, release any Collateral that is sold or transferred by a Credit Party in conformance with Section 8.5),

(f) release the Borrower or substantially all of the other Credit Parties from its or their obligations under the Credit Documents,

(g) amend, modify or waive any provision of this Section 11.6 or Section 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, 9.1(a), 11.2, 11.3, 11.5 or 11.9,

(h) reduce any percentage specified in, or otherwise modify, the definition of Required Lenders, or

(i) consent to the assignment or transfer by the Borrower of all or substantially all of the other Credit Parties of any of its or their rights and obligations under (or in respect of) the Credit Documents except as permitted thereby;

(ii) without the consent of the Administrative Agent, no provision of Section 10 may be amended;

(iii) without the consent of the Issuing Lender, no provision of Section 2.2 may be amended; and without the consent of the Swingline Lender, no provision of Section 2.3 may be amended; and

(iv) with the consent of the Borrower and either the Required Term Lenders or the Required Revolving Lenders, increase the rate of interest applicable to the Loans

(such increase to be in an equal amount for the Term Loans and the Revolving Loans).

Notwithstanding the fact that the consent of all the Lenders is required in certain circumstances as set forth above, (x) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersedes the unanimous consent provisions set forth herein and (y) the Required Lenders may consent to allow a Credit Party to use cash collateral in the context of a bankruptcy or insolvency proceeding.

11.6A TRANCHE C AMENDMENTS, WAIVERS AND CONSENTS.

Neither this Credit Agreement nor any other Credit Document nor any of the terms hereof or thereof may be amended, changed, waived, discharged or terminated unless such amendment, change, waiver, discharge or termination is in writing entered into by, or approved in writing by, the Required Tranche C Term Lenders, provided, however, that:

(i) without the consent of the Required Tranche C Term Lenders and each other Tranche C Term Lender affected thereby, neither this Credit Agreement nor any other Credit Document may be amended to

(a) extend the final maturity of any Tranche C Term Loan,

(b) reduce the rate or extend the time of payment of interest in respect of Tranche C Term Loans (other than as a result of waiving the applicability of any post-default increase in interest rates) thereon or Fees with respect to Tranche C Term Loan Commitments hereunder,

(c) reduce or waive the principal amount of any Tranche C Term Loan,

(d) increase the Tranche C Term Loan Commitment of a Lender over the amount thereof in effect (it being understood and agreed that a waiver of any Default or Event of Default or mandatory reduction in the Commitments shall not constitute such an increase in the Commitment of any Lender),

(e) release all or substantially all of the Collateral securing the Credit Party Obligations hereunder (provided that the Administrative Agent may, without consent from any other Lender, release any Collateral that is sold or transferred by a Credit Party in conformance with Section 8.5),

(f) release the Borrower or substantially all of the other Credit Parties from its or their obligations under the Credit Documents,

(g) amend, modify or waive any provision of this Section 11.6A or Section 3.6, 3.7, 3.7A, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 3.13A, 3.14, 3.15, 9.1(a), 11.2, 11.3, 11.3A, 11.5 or 11.9,

(h) reduce any percentage specified in, or otherwise modify, the definition of Required Tranche C Term Lenders, or

(i) consent to the assignment or transfer by the Borrower or all or substantially all of the other Credit Parties of any of its or their rights and obligations under (or in respect of) the Credit Documents except as permitted thereby;

(ii) with the consent of the Borrower, the Required Tranche C Term Lenders and either the Required Term Lenders or the Required Revolving Lenders, this Credit Agreement may be amended to increase the rate of interest applicable to the Loans (such increase to be in an equal amount for the Term Loans, the Tranche C Term Loans and the Revolving Loans).

Notwithstanding the fact that the consent of all the Tranche C Term Lenders is required in certain circumstances as set forth above, (x) each Tranche C Term Lender is entitled to vote as such Tranche C Term Lender sees fit on any bankruptcy reorganization plan that affects the Tranche C Term Loans, and each Tranche C Term Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersedes the unanimous consent provisions set forth herein and (y) the Required Tranche C Term Lenders may consent to allow a Credit Party to use cash collateral in the context of a bankruptcy or insolvency proceeding, provided that the Required Lenders consent as well; provided that, the Required Lenders, on the one hand, and the Required Tranche C Term Lenders, on the other hand, each agree not to consent to such use of cash collateral without the affirmative consent of the other.

The definition of Aggregate Required Lenders may not be amended without the consent of all Lenders.

#### 11.7. COUNTERPARTS.

This Credit Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. It shall not be necessary in making proof of this Credit Agreement to produce or account for more than one such counterpart for each of the parties hereto. Delivery by facsimile by any of the parties hereto of an executed counterpart of this Credit Agreement shall be as effective as an original executed counterpart hereof and shall be deemed a representation that an original executed counterpart hereof will be delivered.

#### 11.8. HEADINGS.

The headings of the sections and subsections hereof are provided for convenience only and shall not in any way affect the meaning or construction of any provision of this Credit Agreement.

#### 11.9. SURVIVAL.

All indemnities set forth herein, including, without limitation, in Section 2.2(i), 3.11, 3.12, 10.5 or 11.5 shall survive the execution and delivery of this Credit Agreement, the making

of the Loans, the issuance of the Letters of Credit, the repayment of the Loans, LOC Obligations and other obligations under the Credit Documents and the termination of the Commitments hereunder, and all representations and warranties made by the Credit Parties herein shall survive delivery of the Notes and the making of the Loans hereunder.

11.10. GOVERNING LAW; SUBMISSION TO JURISDICTION; VENUE.

(a) THIS CREDIT AGREEMENT AND, UNLESS OTHERWISE EXPRESSLY PROVIDED THEREIN, THE OTHER CREDIT DOCUMENTS AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. Any legal action or proceeding with respect to this Credit Agreement or any other Credit Document may be brought in the courts of the State of New York in New York County, or of the United States for the Southern District of New York, and, by execution and delivery of this Credit Agreement, each of the Credit Parties hereby irrevocably accepts for itself and in respect of its property, generally and unconditionally, the nonexclusive jurisdiction of such courts. Each of the Credit Parties further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to it at the address set out for notices pursuant to Section 11.1, such service to become effective three (3) days after such mailing. Nothing herein shall affect the right of the Administrative Agent or any other Secured Party to serve process in any other manner permitted by law or to commence legal proceedings or to otherwise proceed against any Credit Party in any other jurisdiction.

(b) Each of the Credit Parties hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Credit Agreement or any other Credit Document brought in the courts referred to in subsection (a) above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

(c) TO THE EXTENT PERMITTED BY LAW, EACH OF THE ADMINISTRATIVE AGENT, THE DOCUMENTATION AGENT, THE SYNDICATION AGENT, THE CO-AGENT, THE LEAD ARRANGER, THE LENDERS AND EACH OF THE CREDIT PARTIES HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS CREDIT AGREEMENT, ANY OF THE OTHER CREDIT DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY.

11.11. SEVERABILITY.

If any provision of any of the Credit Documents is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain

in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions.

11.12. ENTIRETY.

This Credit Agreement (including the provisions of Sections 1.4 and 11.16 hereof) together with the other Credit Documents represent the entire agreement of the parties hereto and thereto, and supersede all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Credit Documents or the transactions contemplated herein and therein.

11.13. BINDING EFFECT; TERMINATION.

(a) This Credit Agreement shall become effective at such time when all of the conditions set forth in Section 5.1 have been satisfied or waived by the Aggregate Required Lenders and it shall have been executed by each Credit Party and the Administrative Agent, and the Administrative Agent shall have received copies hereof (telefaxed or otherwise) which, when taken together, bear the signatures of each Amending Lender and each Tranche C Term Lender, and thereafter this Credit Agreement shall be binding upon and inure to the benefit of each Credit Party, the Administrative Agent and each Lender and their respective successors and assigns.

(b) The term of this Credit Agreement shall be until no Loans, LOC Obligations or any other amounts payable hereunder or under any of the other Credit Documents shall remain outstanding, no Letters of Credit shall be outstanding, all of the Credit Party Obligations have been irrevocably satisfied in full and all of the Commitments hereunder shall have expired or been terminated.

11.14. CONFIDENTIALITY.

The Administrative Agent and each Lender (each, a "Lending Party") agrees to keep confidential any information furnished or made available to it by the Credit Parties pursuant to this Credit Agreement that is marked confidential; provided that nothing herein shall prevent any Lending Party from disclosing such information (a) to any other Lending Party or any Affiliate of any Lending Party, or any officer, director, employee, agent, or advisor of any Lending Party or Affiliate of any Lending Party, (b) to any other Person if reasonably incidental to the administration of the credit facility provided herein, (c) as required by any law, rule, or regulation, (d) upon the order of any court or administrative agency, (e) upon the request or demand of any regulatory agency or authority, (f) that is or becomes available to the public or that is or becomes available to any Lending Party other than as a result of a disclosure by any Lending Party prohibited by this Credit Agreement, (g) in connection with any litigation to which such Lending Party or any of its Affiliates may be a party, (h) to the extent necessary in connection with the exercise of any remedy under this Credit Agreement or any other Credit Document, (i) subject to provisions substantially similar to those contained in this Section 11.14, to any actual or proposed participant or assignee and (j) to any financial institution which is a direct or indirect contractual counterparty in swap agreements or such contractual counterparty's professional advisors (so long as any such contractual counterparty or professional advisor agrees to be bound by the provisions of this Section 11.14).

11.15. CONFLICT.

To the extent that there is a conflict or inconsistency between any provision hereof, on the one hand, and any provision of any other Credit Document, on the other hand, this Credit Agreement shall control.

11.16. EXISTING AGREEMENT SUPERSEDED.

As set forth in Section 1.4, the Original Credit Agreement is superseded by this Credit Agreement, which has been executed in amendment, restatement and modification, but not in extinguishment of, the obligations under the Original Credit Agreement.

[Signature Pages Follow]



IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Credit Agreement to be duly executed and delivered as of the date first above written.

BORROWER:

PRISON REALTY TRUST, INC.  
(formerly known as Prison Realty Corporation), a Maryland corporation

By: /s/ Vida H. Carroll  
Name: Vida H. Carroll  
Title: Chief Financial Officer,  
Secretary and Treasurer

SUBSIDIARY  
GUARANTORS:

PRISON REALTY MANAGEMENT, INC.,  
a Tennessee corporation

By: /s/ Vida H. Carroll  
Name: Vida H. Carroll  
Title: Secretary  
of each of the foregoing  
Subsidiary Guarantors

(SIGNATURES CONTINUE)

LENDERS:

LEHMAN COMMERCIAL PAPER INC.,  
individually in its capacity as a  
Lender and in its capacity as  
Administrative Agent

By: /s/ Michael E. O'Brien  
Name: Michael E. O'Brien  
Title: Authorized Secretary

(SIGNATURES CONTINUE)

SOCIETE GENERALE,  
individually in its capacity as a  
Lender and in its capacity as  
Documentation Agent

By: /s/ Elizabeth R. Peck  
Name: Elizabeth Peck  
Title: Director - European Corporate  
Group

(SIGNATURES CONTINUE)

THE BANK OF NOVA SCOTIA,  
individually in its capacity as a  
Lender and in its capacity  
as Syndication Agent

By: /s/ Barbara J. Brown  
Name: Barbara J. Brown  
Title: Sr. Relationship Manager

(SIGNATURES CONTINUE)

SOUTHTRUST BANK, N.A.,  
individually in its capacity as a  
Lender and in its capacity  
as Co-Agent

By: /s/ Marcy A. Harris  
Name: Marcy A. Harris  
Title: Vice President

(SIGNATURES CONTINUE)

LEHMAN BROTHERS INC.,  
in its capacity as Advisor,  
Lead Arranger and Book Manager

By: /s/ William J. Gallagher

-----  
Name: William J. Gallagher

Title: Authorized Signatory

(SIGNATURES CONTINUE)

PRISON REALTY TRUST, INC.  
Amended and Restated Credit Agreement #1

NATIONAL WESTMINSTER BANK PLC  
By: NatWest Capital Markets Limited, its Agent  
By: Greenwich Capital Markets, Inc., its Agent

By: /s/ Richard J. Jacoby

-----  
Name: Richard J. Jacoby  
Title: Assistant Vice President

National Westminster Bank PLC ("NatWest")  
c/o Greenwich Capital Markets, Inc.  
600 Steamboat Rd.  
Greenwich, CT 06830

Pacific Redwood CBO Limited  
as a Lender

By: /s/ Michael Long

-----  
Name: Michael Long  
Title: Assistant Vice President

Address: 700 Newport Center Drive  
Newport Beach, CA 92660  
Telephone: (949) 219-3745  
Fax: (949) 219-3199

Ref: Prison Realty Trust, Inc. Amended and restated credit agreement dated  
August 4, 1999.



MOUNTAIN CAPITAL CLO I, LTD.  
as a Lender

By: /s/ Darren P. Riley

-----  
Name: Darren P. Riley  
Title: Director

VAN KAMPEN  
PRIME RATE INCOME TRUST  
By: Van Kampen Investment Advisory Corp.

By: /s/ Darvin D. Pierce

-----  
Name: Darvin D. Pierce  
Title: Vice President

One Parkview Plaza  
Oakbrook Terrace, IL 60181  
Telephone: 630-684-6438  
Fax: 630-684-6740

GENERAL ELECTRIC CAPITAL CORPORATION,  
as a Lender

By: /s/ Abigail Wolf

-----  
Name: Abigail Wolf  
Title: Duly Authorized Signatory

Address: 10 South LaSalle Street  
Suite 2700  
Chicago, IL 60603

SENIOR DEBT PORTFOLIO,  
as a Lender

by: Boston Management and Research,  
as investment advisor

By: /s/ Scott Page

-----  
Name: Scott Page  
Title

Address:

STANFIELD CLO, LTD.  
by Stanfield Capital Partners LLC  
as Collateral Manager

By: /s/ Gregory L. Smith  
-----

Name: Gregory L. Smith  
Title: Partner

Address: 330 Madison Avenue, 27th Floor  
New York, New York 10017  
Telephone: 212-284-4311  
Telecopy: 212-284-4325

FRANKLIN FLOATING RATE TRUST,  
as a Lender

By: /s/ Chauncey Lufkin

-----  
Name: Chauncey Lufkin  
Title Vice President

Address: 777 Mariners Island Boulevard  
3rd Floor  
San Mateo, CA 94404  
Telephone: 650-525-7424  
Telecopy: 650-312-3346

CYPRESSTREE INVESTMENT  
PARTNERS I, LTD.,  
as a Lender

By: CypressTree Investment Management  
Company, Inc. as Portfolio Manager

By: /s/ Jeffrey W. Heuer

-----  
Name: Jeffrey W. Heuer  
Title: Principal

Address: 125 High Street, 14th Floor  
Boston, MA 02110  
Telephone: 617-646-0637  
Telecopy: 617-946-5681

CYPRESSTREE INSTITUTIONAL FUND, LLC,  
as a Lender

By: CypressTree Investment Management  
Company, Inc. as Portfolio Manager

By: /s/ Jeffrey W. Heuer

-----  
Name: Jeffrey W. Heuer  
Title: Principal

Address: 125 High Street, 14th Floor  
Boston, MA 02110  
Telephone: 617-646-0637  
Telecopy: 617-946-5681



CYPRESS INVESTMENT FUND, LLC,  
as a Lender

By: CypressTree Investment Management  
Company, Inc. as Portfolio Manager

By: /s/ Jeffrey W. Heuer

-----  
Name: Jeffrey W. Heuer  
Title: Principal

Address: 125 High Street, 14th Floor  
Boston, MA 02110  
Telephone: 617-646-0637  
Telecopy: 617-946-5681

CYPRESSTREE SENIOR FLOATING RATE FUND,  
as a Lender

By: CypressTree Investment Management  
Company, Inc. as Portfolio Manager

By: /s/ Jeffrey W. Heuer

-----  
Name: Jeffrey W. Heuer  
Title: Principal

Address: 125 High Street, 14th Floor  
Boston, MA 02110  
Telephone: 617-646-0637  
Telecopy: 617-946-5681

NORTH AMERICAN SENIOR FLOATING RATE FUND,  
as a Lender

By: CypressTree Investment Management  
Company, Inc. as Portfolio Manager

By: /s/ Jeffrey W. Heuer  
-----

Name: Jeffrey W. Heuer  
Title: Principal

Address: 125 High Street, 14th Floor  
Boston, MA 02110  
Telephone: 617-646-0637  
Telecopy: 617-946-5681

ALLIANCE INVESTMENT OPPORTUNITIES FUND, L.L.C.

By: ALLIANCE INVESTMENT OPPORTUNITIES  
MANAGEMENT, L.L.C., as Managing Member

By: ALLIANCE CAPITAL MANAGEMENT L.P., as  
Managing Member

By: ALLIANCE CAPITAL MANAGEMENT CORPORATION,  
as General Partner

By: /s/ Nelson Jantzen

-----  
Name: Nelson Jantzen  
Title: Senior Vice President

Address: Alliance Investment Opportunities, L.L.C.  
c/o Alliance Capital Management, LP  
1345 Avenue of the Americas - 37th Floor  
New York, NY 10105  
Attn: Kenneth Ostmann  
Tel: (212) 969-1576  
Fax: (212) 969-1466

Monument Capital Ltd., as Assignee  
By: Alliance Capital Management L.P., as  
Investment Manager  
By: Alliance Capital Management Corporation,  
as General Partner

By: /s/ Kenneth G. Ostmann

-----  
Name: Kenneth G. Ostmann  
Title: Vice President

Address: Monument Capital Ltd.  
c/o Alliance Capital Management, LP  
1345 Avenue of the Americas - 37th Floor  
New York, NY 10105  
Attn: Kenneth Ostmann  
Tel: (212) 969-1576  
Tax: (212) 969-1466

Oak Mountain Limited, as Assignee  
By: Alliance Capital Management L.P., as  
Investment Manager  
By: Alliance Capital Management Corporation, as  
General Partner

By: /s/ Kenneth G. Ostmann

-----  
Name: Kenneth G. Ostmann  
Title: Vice President

Address: Oak Mountain Limited  
c/o Alliance Capital Management, LP  
1345 Avenue of the Americas - 37th Floor  
New York, NY 10105  
Attn: Kenneth Ostmann  
Tel: (212) 969-1576  
Fax: (212) 969-1466

Alliance Capital Management L.P., as  
Manager on behalf of ALLIANCE CAPITAL  
FUNDING, L.L.C., as Assignee  
by: ALLIANCE CAPITAL MANAGEMENT CORPORATION,  
General Partner of Alliance Capital  
Management L.P.

By: /s/ Kenneth G. Ostmann

-----  
Name: Kenneth G. Ostmann  
Title: Vice President

Address: Alliance Capital Management, LP  
1345 Avenue of the Americas - 37th Floor  
New York, NY 10105  
Attn: Kenneth Ostmann  
Tel: (212) 969-1576  
Fax: (212) 969-1466

MERCANTILE BANK NATIONAL ASSOCIATION  
as a Lender

By: /s/ Donald A. Adam

-----  
Name: Donald A. Adam

Title: Vice President

Address: One Mercantile Center  
7th & Washington, Tram 12-3  
Saint Louis, Missouri 63101



CIBC Inc.  
as a Lender

By: /s/ John Livingston

-----  
Name: John Livingston  
Title: Executive Director

Address: 425 Lexington Avenue  
New York, NY 10017  
Telephone: 212-856-3581  
Telecopy: 212-856-3761

OCTAGON LOAN TRUST  
BY: Octagon Credit Investors as manager,  
as a Lender

By: /s/ Andrew D. Gordon

-----  
Name: Andrew D. Gordon  
Title: Portfolio Manager

Address: 380 Madison Avenue - 9th Floor  
New York, NY 10017  
Telephone: (212) 622-3064  
Telecopy: (212) 622-3797

OCTAGON INVESTMENT PARTNERS II, LLC  
BY: Octagon Credit Investors, LLC  
as sub-investment manager,  
as a Lender

By: /s/ Andrew D. Gordon

-----  
Name: Andrew D. Gordon  
Title: Portfolio Manager

Address: 380 Madison Avenue - 9th Floor  
New York, NY 10017  
Telephone: (212) 622-3064  
Telecopy: (212) 622-3797

Compagnie Financiere de CIC et  
de l'Union Europeenne,  
as a Lender

By: /s/ Brian O'Leary

-----  
Name: Brian O'Leary  
Title: Vice President

By: /s/ Marcus Edward

-----  
Name: Marcus Edward  
Title: Vice President

Address: 520 Madison Avenue  
Floor 37  
Telephone: (212) 715-4422  
Telecopy: (212) 715-4535

PILGRIM PRIME RATE TRUST  
By: Pilgrim Investments, Inc.  
as its investment manager

By: /s/ Daniel A. Norman

-----  
Name: Daniel A. Norman  
Title: Senior Vice President

Address: Two Renaissance Square  
40 N. Central Ave., Suite 1200  
Phoenix, AZ 85004-4424  
Telephone: 602-417-8112  
Telecopy: 602-417-8327

ML CBO IV (Cayman) Ltd.  
By Highland Capital Management, L.P.  
As Collateral Manager

By: /s/ Todd Travers

-----  
Name: Todd Travers  
Title: Portfolio Manager

Address: 13455 Noel Road  
Suite 1150  
Dallas, TX 75240  
Telephone: 972-233-4300  
Telecopy: 972-233-4343

BANK HAPOALIM B.M.,  
as a Lender

By: /s/ Shlomo Braun

-----  
Name: Shlomo Braun  
Title: Senior Vice President

By: /s/ Shaun Breidbart

-----  
Name: Shaun Breidbart  
Title: Vice President

Address: 1177 Avenue of the Americas  
New York, NY 10036  
Telephone: (212) 782-2186  
Telecopy:(212) 782-2187

Goldman Sachs Credit Partners L.P.

By: /s/ Mark DeNatale  
-----

Address: 85 Broad Street  
6th Floor  
New York, NY 10004  
Telephone: 212/902-4425  
Telecopy: 212/902-3757



INDOSUEZ CAPITAL FUNDING IV, L.P.,  
as a Lender

By: Indosuez Capital,  
as portfolio advisor

By: /s/ Melissa Marano

-----  
Name: Melissa Marano  
Title: Vice President

Address:

INDOSUEZ CAPITAL FUNDING IIA, LIMITED,  
as a Lender

By: Indosuez Capital,  
as portfolio advisor

By: /s/ Melissa Marano

-----  
Name: Melissa Marano  
Title: Vice President

Address:

Comerica Bank,  
as a Lender

By: /s/ Kristine L. Andersen

-----  
Name: Kristine L. Andersen  
Title: Assistant Vice President

Address: 500 Woodward Avenue  
9th Floor, MC 3280  
Detroit, MI 48226  
Telephone: (313) 222-3648  
Telecopy: (313) 222-3330

First American National Bank  
As a Lender

By: /s/ Corey Napier

-----  
Name: Corey Napier  
Title: Sr. Vice President

Address: 315 Deaderick Street  
Nashville, TN 37237  
(615) 748-1429  
(615) 748-2812 (Fax)

UNION PLANTERS BANK. N.A.,  
as a Lender

By: /s/ John L. Burton

-----  
Name: John L. Burton  
Title: Senior Vice President

Address: 401 Union Street  
Nashville, TN 37219  
Telephone: 615-726-4383  
Telecopy: 615-726-4274

KZH CRESCENT LLC,  
as a Lender

By: /s/ Peter Chin

-----  
Name: Peter Chin  
Title: Authorized Agent

Address: c/o The Chase Manhattan Bank  
450 West 33rd Street, 14th Floor  
New York, NY 10001

KZH CRESCENT-2 LLC,  
as a Lender

By: /s/ Peter Chin

-----  
Name: Peter Chin  
Title: Authorized Agent

Address: c/o The Chase Manhattan Bank  
450 West 33rd Street, 14th Floor  
New York, NY 10001

KZH CRESCENT-3 LLC,  
as a Lender

By: /s/ Peter Chin

-----  
Name: Peter Chin  
Title: Authorized Agent

Address: c/o The Chase Manhattan Bank  
450 West 33rd Street, 14th Floor  
New York, NY 10001



KZH CYPRESSTREE-1 LLC,  
as a Lender

By: /s/ Peter Chin

-----  
Name: Peter Chin  
Title: Authorized Agent

Address: c/o The Chase Manhattan Bank  
450 West 33rd Street, 14th Floor  
New York, NY 10001

KZH ING-2 LLC,  
as a Lender

By: /s/ Peter Chin

-----  
Name: Peter Chin  
Title: Authorized Agent

Address: c/o The Chase Manhattan Bank  
450 West 33rd Street, 14th Floor  
New York, NY 10001

SRV-Highland, Inc.

By: /s/ Kelly C. Walker

-----  
Name: Kelly C. Walker  
Title: Vice President

Address: 101 N. Tryon Street  
NC1-007-06-07  
Charlotte, NC 28255  
Telephone: 704/388-8943  
Telecopy: 704/388-0648

BALANCED HIGH-YIELD FUND I,  
as a Lender

By: BHF (USA) Capital Corporation,  
acting as attorney-in-fact

By: /s/ Jeffrey N. Frost

-----  
Name: Jeffrey N. Frost  
Title: Vice President

By: /s/ Patrick S. Marsh

-----  
Name: Patrick S. Marsh  
Title: Associate

Address:

BHF (USA) Capital Corporation  
590 Madison Avenue, 30th Floor  
New York, NY 10025

BALANCED HIGH-YIELD FUND II,  
as a Lender

By: BHF (USA) Capital Corporation,  
acting as attorney-in-fact

By: /s/ Jeffrey N. Frost

-----  
Name: Jeffrey N. Frost  
Title: Vice President

By: /s/ Patrick S. Marsh

-----  
Name: Patrick S. Marsh  
Title: Associate

Address:

BHF (USA) Capital Corporation  
590 Madison Avenue, 30th Floor  
New York, NY 10025

Toronto Dominion (New York), Inc.  
As a Lender

By: /s/ Jorge A. Garcia

-----  
Name: Jorge A. Garcia  
Title: Vice President

Address: 909 Fannin, Suite 1700  
Houston, Texas 77010  
(713) 653-8242  
(713) 652-0914 Fax

United Of Omaha Life Insurance Company  
By: TCW Asset Management Company,  
its Investment Advisor

By: /s/ Justin L. Driscoll

-----  
Name: Justin L. Driscoll  
Title: Senior Vice President

By: /s/ Mark L. Gold

-----  
Name: Mark L. Gold  
Title: Managing Director

SYNDICATED LOAN FUNDING TRUST,  
as a Lender

By: Lehman Commercial Paper Inc.,  
not in its individual capacity but solely as  
Asset Manager

By: /s/ Michael E. O'Brien

-----  
Name: Michael E. O'Brien  
Title: Authorized Signatory

Address: 3 World Financial Center, 11th Floor  
New York, NY 10285  
Telephone: 212-526-0437  
Telecopy: 212-526-7691



OASIS COLLATERIZED HIGH INCOME  
PORTFOLIOS-1, LTD  
as a Lender

By: /s/ Andrew Ian Wignall

-----  
Name: Andrew Ian Wignall  
Title: Director

Address: c/o Stanfield Capital Partners  
330 Madison Avenue - 27th Fl.  
New York, NY 10017  
Tel: 212-284-4306  
Fax: 212-284-4315

AMARA-2 FINANCE, LTD.  
as a Lender

By: /s/ Andrew Ian Wignall

-----  
Name: Andrew Ian Wignall  
Title: Director

Address: C/o Stanfield Capital Partners  
330 Madison Avenue - 27th Fl.  
New York, NY 10017  
Tel: 212-284-4306  
Fax: 212-284-4315

FIRST DOMINION FUNDING I,  
as a Lender

By: /s/ Michael A. Monteleone  
-----  
Name: Michael A. Monteleone  
Title: Authorized Signatory

Address: 1330 Avenue of the Americas  
New York, NY 10019  
Telephone: 212-603-8555  
Facsimile: 212-603-8505

FIRST DOMINION FUNDING II,  
as a Lender

By: /s/ Michael A. Monteleone  
-----  
Name: Michael A. Monteleone  
Title: Authorized Signatory

Address: 1330 Avenue of the Americas  
New York, NY 10019  
Telephone: 212-603-8555  
Facsimile: 212-603-8505

MORGAN STANLEY SENIOR FUNDING, INC.  
as a Lender

By: /s/ Christopher A. Pucillo

-----  
Name: Christopher A. Pucillo  
Title: Vice President

Address: 1585 Broadway  
10th Floor  
New York, NY 10036  
Attn: Richard Biggica  
Telephone: (212) 761-4838  
Telefax: (212) 761-0592

(Schedules and exhibits to this document are omitted from this filing. Registrant agrees to furnish the Commission with a copy of any omitted schedule or exhibit upon request.)

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE FINANCIAL STATEMENTS OF CCA PRISON REALTY TRUST FOR THE SIX MONTHS ENDED JUNE 30, 1999 AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

1,000

6-MOS	
	DEC-31-1999
	JAN-01-1999
	JUN-30-1999
	40,922
	0
	171,618
	0
	0
	77,214
	2,200,325
	27,799
	2,653,576
334,019	
	819,546
0	
	43
	1,182
	1,369,048
2,653,576	
	129,468
	160,984
	20,419
	39,966
	83,200
	0
	15,309
	33,518
	0
33,518	
	0
	0
	0
	33,518
	0.30
	0.30