

SECURITIES AND EXCHANGE COMMISSION

FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

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FILER

**FIDELITY NATIONAL FINANCIAL INC /DE/**

CIK: 809398 | IRS No.: 860498599 | State of Incorporation: DE | Fiscal Year End: 1231  
Type: 10-Q | Act: 34 | File No.: 001-09396 | Film No.: 1697320  
SIC: 6361 Title insurance

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

FORM 10-Q

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

OR

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

For the Quarter Ended June 30, 2001

Commission File Number 1-9396

FIDELITY NATIONAL FINANCIAL, INC.

-----  
(Exact name of registrant as specified in its charter)

Delaware

86-0498599

-----  
(State or other jurisdiction of  
incorporation or organization)

(I.R.S. Employer  
Identification Number)

17911 Von Karman Avenue, Suite 300, Irvine, California

92614

-----  
(Address of principal executive offices)

(Zip Code)

(949) 622-4333

-----  
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

YES ( X ) NO ( )

As of August 2, 2001, 86,366,541 shares of the Registrant's Common Stock were outstanding.

FORM 10-Q

QUARTERLY REPORT  
Quarter Ended June 30, 2001

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Part I: FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements

FIDELITY NATIONAL FINANCIAL, INC. AND SUBSIDIARIES  
CONDENSED CONSOLIDATED BALANCE SHEETS  
(In thousands, except share and per share data)

<TABLE>  
<CAPTION>

	June 30, 2001	December 31, 2000
	-----	-----
	(Unaudited)	
	<C>	<C>
ASSETS		
Investments:		
Fixed maturities available for sale, at fair value at June 30, 2001 includes \$191,158 and, at December 31, 2000 includes \$248,512 of pledged fixed maturity securities related to secured trust deposits .....	\$1,082,483	\$1,188,681
Equity securities, at fair value .....	38,673	39,959
Other long-term investments, at fair value .....	41,380	46,870
Short-term investments, at June 30, 2001 includes \$270,921 and at December 31, 2000 includes \$210,861 of pledged short-term investments related to secured trust deposits .....	627,434	409,317
Investments in real estate and partnerships, net .....	441	504
Total investments .....	1,790,411	1,685,331
Cash and cash equivalents at June 30, 2001 includes \$184,418 and, at December 31, 2000 includes \$132,141 of pledged cash related to secured trust deposits .....	381,331	262,955
Leases and residual interests in securitizations .....	193,827	151,052
Trade receivables, net .....	151,258	127,633
Notes receivable, net .....	15,819	16,381
Income taxes receivable .....	--	22,343
Cost in excess of net assets acquired, net .....	792,631	770,060
Prepaid expenses and other assets .....	203,980	231,118
Title plants .....	276,038	275,295
Property and equipment, net .....	166,155	172,838
Deferred tax asset .....	116,252	118,979
	-----	-----
	\$4,087,702	\$3,833,985
	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY		
Liabilities:		
Accounts payable and accrued liabilities .....	\$ 377,658	\$ 446,394
Notes payable .....	600,328	791,430
Reserve for claim losses .....	894,063	907,482
Secured trust deposits .....	639,304	576,350
Income taxes payable .....	74,714	--
	-----	-----
Minority interests .....	2,586,067	2,721,656
Stockholders' equity:	8,218	5,592
Preferred stock, \$.0001 par value; authorized, 3,000,000 shares;		

issued and outstanding, none .....	--	--
Common stock, \$.0001 par value; authorized, 100,000,000 shares; issued, 86,060,287 as of June 30, 2001 and 76,449,349 as of December 31, 2000 .....	9	8
Additional paid-in capital .....	964,250	695,140
Retained earnings .....	522,655	409,216
	-----	-----
	1,486,914	1,104,364
Accumulated other comprehensive earnings .....	6,503	2,373
	-----	-----
	1,493,417	1,106,737
	-----	-----
	\$4,087,702	\$3,833,985
	=====	=====

</TABLE>

See Notes to Condensed Consolidated Financial Statements

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FIDELITY NATIONAL FINANCIAL, INC. AND SUBSIDIARIES  
CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS  
(In thousands, except per share data)

<TABLE>  
<CAPTION>

	Three months ended		Six months ended	
	June 30,		June 30,	
	2001	2000	2001	2000
	(Unaudited)		(Unaudited)	
<S>	<C>	<C>	<C>	<C>
<b>REVENUE:</b>				
Title insurance premiums .....	\$ 667,539	\$ 535,004	\$ 1,202,379	\$ 795,404
Escrow and other title-related fees .....	187,573	132,517	328,972	190,742
Real estate related services .....	62,309	46,077	118,859	66,947
Interest and investment income, including realized gains and losses .....	28,102	20,645	55,950	35,345
Other income .....	16,025	23,399	33,252	46,861
	-----	-----	-----	-----
	961,548	757,642	1,739,412	1,135,299
	-----	-----	-----	-----
<b>EXPENSES:</b>				
Personnel costs .....	294,373	241,764	545,197	352,471
Other operating expenses .....	204,261	168,375	380,270	278,938
Agent commissions .....	256,028	233,098	477,956	359,006
Provision for claim losses .....	33,714	25,185	60,455	39,770
Interest expense .....	9,139	18,112	23,521	24,691
	-----	-----	-----	-----
Total expenses .....	797,515	686,534	1,487,399	1,054,876
	-----	-----	-----	-----
Earnings before amortization of cost in excess of net assets acquired .....	164,033	71,108	252,013	80,423
Amortization of cost in excess of net assets acquired .....	11,777	11,874	23,499	13,528
	-----	-----	-----	-----
Earnings before income taxes and cumulative effect of a change in accounting principle .....	152,256	59,234	228,514	66,895
Income tax expense .....	62,425	27,863	93,691	33,655
	-----	-----	-----	-----
Earnings before cumulative effect of a change in accounting principle .....	89,831	31,371	134,823	33,240
Cumulative effect of a change in an accounting principle, net of income tax benefit of \$3,035 .....	(5,709)	--	(5,709)	--
	-----	-----	-----	-----
Net earnings .....	\$ 84,122	\$ 31,371	\$ 129,114	\$ 33,240
	=====	=====	=====	=====
Basic earnings per share before cumulative effect of a change in accounting principle .....	\$ 1.04	\$ 0.43	\$ 1.59	\$ 0.61
Cumulative effect of a change in accounting principle .....	(0.06)	--	(0.07)	--
	-----	-----	-----	-----
Basic earnings per share .....	\$ 0.98	\$ 0.43	\$ 1.52	\$ 0.61
	=====	=====	=====	=====
Weighted average shares outstanding, basic basis .....	86,053	73,531	84,859	54,515
	=====	=====	=====	=====
Diluted earnings per share before cumulative effect of a change in accounting principle .....	\$ 1.02	\$ 0.41	\$ 1.55	\$ 0.59

Cumulative effect of a change in accounting principle .....	(0.07)	--	(0.07)	--
Diluted earnings per share .....	\$ 0.95	\$ 0.41	\$ 1.48	\$ 0.59
Weighted average shares outstanding, diluted basis .....	88,266	75,753	87,433	56,261
Cash dividends per share .....	\$ 0.09	\$ 0.09	\$ 0.18	\$ 0.18

</TABLE>

See Notes to Condensed Consolidated Financial Statements

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FIDELITY NATIONAL FINANCIAL, INC. AND SUBSIDIARIES  
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE EARNINGS  
(In thousands)

<TABLE>  
<CAPTION>

	Three months ended June 30,		Six months ended June 30,	
	2001	2000	2001	2000
	(Unaudited)		(Unaudited)	
	<C>	<C>	<C>	<C>
Net earnings .....	\$ 84,122	\$ 31,371	\$ 129,114	\$ 33,240
Other comprehensive earnings (loss):				
Unrealized gains (losses) on investments, net (1) .....	273	(6,231)	5,029	405
Reclassification adjustments for (gains) losses included in net earnings (2) .....	(1,795)	1,245	(899)	(433)
Other comprehensive earnings (loss) .....	(1,522)	(4,986)	4,130	(28)
Comprehensive earnings .....	\$ 82,600	\$ 26,385	\$ 133,244	\$ 33,212

</TABLE>

- (1) Net of income tax expense (benefit) of \$182 and \$(4.2) million and \$3.4 million and \$270 for the three months and six months ended June 30, 2001 and 2000, respectively.
- (2) Net of income tax expense (benefit) of \$1.2 million and \$(830) and \$599 and \$289 for the three months and six months ended June 30, 2001 and 2000, respectively.

See Notes to Condensed Consolidated Financial Statements

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FIDELITY NATIONAL FINANCIAL, INC. AND SUBSIDIARIES  
CONDENSED CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY  
(In thousands)

<TABLE>  
<CAPTION>

	Common Stock		Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Earnings
	Shares	Amount			
	(In thousands,		except per share amounts)		
	<C>	<C>	<C>	<C>	<C>
Balance, December 31, 2000 .....	76,449	\$ 8	\$ 695,140	\$ 409,216	\$ 2,373
Exercise of stock options .....	756	--	8,234	--	--
Tax benefit associated with the exercise of options .....	--	--	6,872	--	--

Other comprehensive earnings--					
unrealized gain on investments					
and other financial instruments .....	--	--	--	--	4,130
Common stock offering, net .....	8,855	1	256,300	--	--
Capital transaction of investments					
accounted for under the					
equity method .....	--	--	(2,296)	--	--
Cash dividends declared (\$0.18 per share) .....	--	--	--	(15,675)	--
Net earnings .....	--	--	--	129,114	--
	-----	-----	-----	-----	-----
Balance, June 30, 2001 .....	86,060	\$ 9	\$ 964,250	\$ 522,655	\$ 6,503
	=====	=====	=====	=====	=====

</TABLE>

See Notes to Condensed Consolidated Financial Statements

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FIDELITY NATIONAL FINANCIAL, INC. AND SUBSIDIARIES  
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(In thousands)

<TABLE>  
<CAPTION>

	Six months ended June 30,	
	2001	2000
	(Unaudited)	
<S>	<C>	<C>
Cash flows from operating activities:		
Net earnings .....	\$ 129,114	\$ 33,240
Reconciliation of net earnings to net cash provided by operating activities:		
Cumulative effect of a change in accounting principle .....	8,744	--
Depreciation and amortization .....	54,357	46,551
Net decrease in reserve for claim losses .....	(13,419)	(61)
Net increase in provision for possible losses other than claims .....	1,537	565
Gain on sales of assets .....	(5,298)	(1,970)
Change in assets and liabilities, net of effects from acquisitions:		
Net increase in leases and lease securitization residual interests .....	(48,875)	(5,046)
Net increase (decrease) in secured trust deposits .....	7,971	(11,160)
Tax benefit associated with the exercise of stock options .....	6,872	--
Net increase in trade receivables .....	(24,498)	(23)
Net decrease in prepaid expenses and other assets .....	25,995	17,578
Net decrease in accounts payable, accrued liabilities and minority interests .....	(73,913)	(62,209)
Net increase in income taxes .....	96,736	17,904
Net cash provided by operating activities .....	165,323	35,369
Cash flows from investing activities:		
Proceeds from sale of real estate .....	--	7
Proceeds from sales of investment securities available for sale .....	516,717	462,986
Proceeds from maturities of investment securities available for sale .....	71,783	589
Proceeds from sale of assets .....	1,352	--
Collections of notes receivable .....	2,963	8,675
Additions to title plants .....	(1,155)	(56)
Additions to property and equipment .....	(23,375)	(16,718)
Additions to investments .....	(467,822)	(583,460)
Net additions from short-term investment securities .....	(218,126)	(7,842)
Additions to notes receivable .....	(4,211)	(8,364)
Acquisitions of businesses, net of cash acquired .....	(36,052)	(389,819)
Net cash used in investing activities .....	(157,926)	(534,002)

</TABLE>

See Notes to Condensed Consolidated Financial Statements

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FIDELITY NATIONAL FINANCIAL, INC. AND SUBSIDIARIES  
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

<TABLE>  
<CAPTION>

	Six months ended June 30,	
	2001	2000
	----- (Unaudited) -----	
<S>	<C>	<C>
Cash flows from financing activities:		
Borrowings .....	\$ 98,343	\$ 600,910
Net proceeds from common stock offering .....	256,301	--
Debt service payments .....	(289,445)	(47,761)
Dividends paid .....	(14,731)	(9,408)
Purchase of treasury stock .....	--	(551)
Stock options exercised .....	8,234	16,601
	-----	-----
Net cash used in financing activities .....	58,702	559,791
	-----	-----
Net increase in cash and cash equivalents .....	66,099	61,158
Cash and cash equivalents at beginning of period .....	130,814	38,569
	-----	-----
Cash and cash equivalents at end of period .....	\$ 196,913	\$ 99,727
	=====	=====
Supplemental cash flow information:		
Income taxes paid (refunded) .....	\$ (10,900)	\$ 6,038
	=====	=====
Interest paid .....	\$ 23,288	\$ 22,988
	=====	=====
Noncash investing and financing activities:		
Dividends declared and unpaid .....	\$ 7,925	\$ 6,722
	=====	=====

</TABLE>

See Notes to Condensed Consolidated Financial Statements

Fidelity National Financial, Inc. and Subsidiaries  
Notes to Condensed Consolidated Financial Statements

Note A - Basis of Financial Statements

The financial information included in this report includes the accounts of Fidelity National Financial, Inc. and its subsidiaries (collectively, the "Company") and has been prepared in accordance with generally accepted accounting principles and the instructions to Form 10-Q and Article 10 of Regulation S-X. All adjustments considered necessary for a fair presentation have been included. This report should be read in conjunction with the Company's Annual Report on Form 10-K for the year ended December 31, 2000.

Certain reclassifications have been made in the 2000 Condensed Consolidated Financial Statements to conform to classifications used in 2001.

Note B - Recent Developments

On January 3, 2001 the Company acquired International Data Management Corporation ("IDM"), a leading provider of real estate information services, for \$20.8 million in cash. IDM's real estate information databases contain over 100 million real property ownership and sales records from the continental United States. The databases are updated daily to reflect new sales, mortgage information and other changes in real property ownership. The acquisition was accounted for as a purchase and the Company is amortizing cost in excess of net assets acquired in connection with the acquisition on a straight-line basis over 15 years.

On June 19, 2001 the Company acquired Risco, Inc., the third largest multiple listing service vendor in the United States, for approximately \$12.0 million. The acquisition was accounted for as a purchase and the Company is amortizing the cost in excess of net assets acquired in connection with the acquisition on a straight-line basis over 15 years.

On August 1, 2001, the Company acquired approximately 77% of the outstanding common stock of Fidelity National Information Solutions, Inc. (NASDAQ:FNIS) ("FNIS"), formerly VISTA Information Solutions, Inc. (NASDAQ:VINI), a provider of real estate information products and services, including multiple listing

services and environmental data and disclosure information businesses. In the transaction, the Company combined its tax, credit, flood, appraisal and property records businesses with FNIS's real estate information operations and products.

Note C - Merger with Chicago Title Corporation

On March 20, 2000, Chicago Title Corporation ("Chicago Title") merged with and into the Company pursuant to an Agreement and Plan of Merger, dated August 1, 1999, as amended on October 13, 1999. Pursuant to the merger agreement, Chicago Title stockholders received aggregate merger consideration valued at approximately \$1.1 billion. The merger consideration was paid in the form of 1.9440 shares of Company common stock and \$26.00 in cash for each share of Chicago Title common stock, resulting in the issuance of approximately 42.6 million shares of Company common stock valued at an average price during the applicable trading period of \$11.9792 per share and the payment of approximately \$570.2 million in cash. The merger was accounted for as a purchase, and the Company is amortizing cost in excess of net assets acquired in connection with the merger on a straight-line basis over 20 years.

The Company's Condensed Consolidated Statements of Earnings for 2000 include the results of operations of Chicago Title for the period from March 20, 2000, the merger date, through June 30, 2000.

In connection with the merger, the Company entered into an \$800.0 million syndicated credit agreement. The credit agreement provides for three distinct credit facilities: (i) a \$100.0 million, 18 month revolving credit facility, which has been paid in full and terminated, see Note E; (ii) a \$250.0 million, 6 year revolving credit facility; and, (iii) a \$450.0 million term loan facility with a 6 year amortization period. The credit agreement bears interest at a variable interest rate based on the debt ratings assigned to the Company by certain independent agencies, and is unsecured. The current interest rate is LIBOR plus 1.125%. Amounts borrowed under the credit agreement were used to finance the cash portion of the merger consideration, to

Fidelity National Financial, Inc. and Subsidiaries  
Notes to Condensed Consolidated Financial Statements

refinance previously existing indebtedness, to pay fees and expenses incurred in connection with the merger and to fund other general corporate purposes.

Selected unaudited pro forma combined results of operations for the six-month period ended June 30, 2000, assuming the merger had occurred as of January 1, 2000, and using actual general and administrative expenses prior to the merger, is set forth below:

<TABLE>  
<CAPTION>

	Six months ended June 30, 2000
	----- (In thousands, except per share data)
<S>	<C>
Total revenue .....	\$ 1,467,559
Net earnings before merger-related expenses and non-recurring charges .....	\$ 43,929
Net earnings .....	\$ 10,141
Basic net earnings per share before merger-related expenses and non-recurring charges .....	\$ 0.60
Diluted net earnings per share before merger-related expenses and non-recurring charges .....	\$ 0.59
Basic net earnings per share .....	\$ 0.14
Diluted net earnings per share .....	\$ 0.14

</TABLE>

Note D - Earnings Per Share

The Company presents "basic" earnings per share, representing net earnings divided by the weighted average shares outstanding (excluding all common stock equivalents), and "diluted" earnings per share, representing the dilutive effect of all common stock equivalents. The following table illustrates the computation of basic and diluted earnings per share:

<TABLE>  
<CAPTION>



	Three months ended June 30,		Six months ended June 30,	
	2001	2000	2001	2000
	(In thousands, except per share amounts)		(In thousands, except per share amounts)	
<S>	<C>	<C>	<C>	<C>
Net earnings, basic and diluted basis .....	\$ 84,122	\$ 31,371	\$129,114	\$ 33,240
Weighted average shares outstanding during the period, basic basis .....	86,053	73,531	84,859	54,515
Plus: Common stock equivalent shares assumed from conversion of options .....	2,213	2,222	2,574	1,746
Weighted average shares outstanding during the period, diluted basis .....	88,266	75,753	87,433	56,261
Basic earnings per share .....	\$ 0.98	\$ 0.43	\$ 1.52	\$ 0.61
Diluted earnings per share .....	\$ 0.95	\$ 0.41	\$ 1.48	\$ 0.59

</TABLE>

Note E - Common Stock Offering

On January 24, 2001, the Company issued 8,855,000 shares of its common stock at a public offering price of \$30.45 per share. Proceeds from this offering, net of underwriting discounts and commissions and other estimated related expenses, were \$256.3 million. Net proceeds of \$100.0 million were used to repay in full and terminate the \$100.0 million, 18-month revolving credit facility and net proceeds of \$149.5 million were used to pay down in full the \$250.0 million, 6-year revolving credit facility. The remainder of the cash proceeds are available for general corporate purposes.

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Fidelity National Financial, Inc. and Subsidiaries  
Notes to Condensed Consolidated Financial Statements

Note F - Segment Information

Summarized financial information concerning the Company's reportable segments is shown in the following table. The amounts reported for 2000 include the results of operations for Chicago Title for the period from March 20, 2000, the merger date, through June 30, 2000. Reportable segments are determined based on the organizational structure and types of products and services from which each reportable segment derives its revenue.

<TABLE>

<CAPTION>

SIX MONTHS ENDED: JUNE 30, 2001	TITLE INSURANCE	REAL ESTATE RELATED SERVICES	CORPORATE AND OTHER	TOTAL
	(Dollars in thousands)			
<S>	<C>	<C>	<C>	<C>
Total revenue .....	\$ 1,581,226	\$ 119,800	\$ 38,386	\$ 1,739,412
Operating earnings .....	\$ 219,930	\$ 15,941	\$ 14,571	\$ 250,442
Interest and investment income, including realized gains and losses .....	49,875	941	5,134	55,950
Depreciation and amortization expense .....	45,527	5,105	3,725	54,357
Interest expense .....	2,481	3	21,037	23,521
Earnings (loss) before income taxes and cumulative effect of a change in accounting principle .....	221,797	11,774	(5,057)	228,514
Income tax expense (benefit) .....	90,937	4,827	(2,073)	93,691
Earnings (loss) before cumulative effect of a change in accounting principle .....	130,860	6,947	(2,984)	134,823
Cumulative effect of a change in accounting principle, net of tax benefit .....	--	--	(5,709)	(5,709)
Net earnings (loss) .....	\$ 130,860	\$ 6,947	\$ (8,693)	\$ 129,114
Assets .....	\$ 3,424,269	\$ 197,364	\$ 466,069	\$ 4,087,702

</TABLE>

<TABLE>  
<CAPTION>

SIX MONTHS ENDED:  
JUNE 30, 2000

	TITLE INSURANCE	REAL ESTATE RELATED SERVICES	CORPORATE AND OTHER	TOTAL
	(Dollars in thousands)			
<S>	<C>	<C>	<C>	<C>
Total revenue .....	\$ 1,016,453	\$ 67,868	\$ 50,978	\$ 1,135,299
Operating earnings (loss) .....	\$ 98,621	\$ 8,169	\$ (3,998)	\$ 102,792
Interest and investment Income, including realized gains and losses .....	30,307	921	4,117	35,345
Depreciation and amortization expense .....	36,899	1,233	8,419	46,551
Interest expense .....	2,135	21	22,535	24,691
Earnings (loss) before Income taxes .....	89,894	7,836	(30,835)	66,895
Income tax expense (benefit) .....	45,226	3,942	(15,513)	33,655
Net earnings (loss) .....	\$ 44,668	\$ 3,894	\$ (15,322)	\$ 33,240
Assets .....	\$ 3,169,756	\$ 94,771	\$ 425,254	\$ 3,689,781

</TABLE>

Fidelity National Financial, Inc. and Subsidiaries  
Notes to Condensed Consolidated Financial Statements

The activities of the reportable segments include the following:

Title Insurance

This segment, consisting of title insurance underwriters and wholly-owned title insurance agencies, provides core title insurance and escrow services, including document preparation, collection and trust activities. This segment coordinates its activities with those of the real estate related services segment described below in order to offer the full range of real estate products and services required to execute and close a real estate transaction.

Real Estate Related Services

This segment, consisting of various real estate related and ancillary service subsidiaries, offers the complementary specialized products and services required to execute and close a real estate transaction that are not offered by the title insurance segment described above. These services include document recording services on a nationwide basis, tax qualifying property exchange services, property appraisal services, tax monitoring services, home warranty insurance, credit reporting, real estate referral services, flood monitoring, and foreclosure publishing and posting. These services require specialized expertise and have been centralized for efficiency and ease of management.

Corporate and Other

The corporate segment consists of the operations of the parent holding company, as well as the operations of Micro General Corporation, FNF Capital, Inc. and Express Network, Inc., which was sold in the second quarter of 2000, as well as the issuance and repayment of corporate debt obligations. The non-recurring charges of \$13.4 million that were recorded during the first quarter of 2000 primarily relate to the corporate segment.

The accounting policies of the segments are the same as those used in the Condensed Consolidated Financial Statements. Intersegment sales or transfers which occurred in the ordinary course of consolidated operations, have been eliminated from the segment information provided.

Note G - Dividends and Stock Repurchase Program

On January 13, 2001, the Company's Board of Directors declared a cash dividend of \$.09 per share, payable on April 27, 2001, to stockholders of record as of April 13, 2001. On April 25, 2001, the Company's Board of Directors declared a cash dividend of \$.09 per share, payable on July 27, 2001, to stockholders of record as of July 13, 2001. On July 24, 2001, the Company's Board of Directors declared a cash dividend of \$.10 per share, payable on October 26, 2001, to stockholders of record as of October 12, 2001.

On April 25, 2001, the Company's Board of Directors authorized the Company to purchase up to 5,500,000 shares of its common stock. Purchases may be made from time to time by the Company in the open market, in block purchases or in privately negotiated transactions. To date, no such purchases have been made.

#### Note H - Share and Per Share Restatement

On July 25, 2001, the Company declared a 10% stock dividend to stockholders of record on August 9, 2001, payable on August 23, 2001.

All data with respect to earnings per share, dividends per share and share information, including price per share where applicable, in the Condensed Consolidated Financial Statements has been retroactively adjusted to reflect the stock dividend.

#### Note I - Cumulative Effect of a Change in Accounting Principle

During the second quarter of 2001, the Company adopted Emerging Issues Task Force No. 99-20, "Recognition of Interest Income and Impairment on Purchased and Retained Beneficial Interests in Securitized Financial Assets", ("EITF 99-20"). EITF 99-20 sets forth the rules for recognizing interest income on all credit-sensitive mortgage and asset-backed securities and certain prepayment-sensitive securities including agency interest-only strips, whether purchased or retained in

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securitization, and determining when these securities must be written down to fair value because of impairment. Adoption of EITF 99-20 requires the valuation of residual interest in securitizations to be recorded as a reduction to the carrying value of the residual interests through a charge to earnings when any portion of the decline in fair value is attributable to an impairment loss, rather than an unrealized loss in stockholders' equity. As such, the Company recorded a charge of \$5.7 million, net of income tax benefit of \$3.0 million, in the second quarter of 2001.

#### Note J - Recent Accounting Pronouncements

In July 2001, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 141, "Business Combinations" ("SFAS No. 141") and Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets" ("SFAS No. 142"). SFAS No. 141 requires that all business combinations be accounted for under the purchase method. The statement further requires separate recognition of intangible assets that meet one of two criteria. The statement applies to all business combinations initiated after June 30, 2001.

SFAS No. 142 requires that an intangible asset that is acquired shall be initially recognized and measured based on its fair value. The statement also provides that goodwill should not be amortized, but shall be tested for impairment annually, or more frequently if circumstances indicate potential impairment, through a comparison of fair value to its carrying amount. Existing goodwill will continue to be amortized through the remainder of 2001 at which time amortization will cease and the Company will perform a transitional goodwill impairment test. SFAS No. 142 is effective for fiscal periods beginning after December 15, 2001. The Company is currently evaluating the impact of the new accounting standards on existing goodwill and other intangible assets. While the ultimate impact of the new accounting standards has yet to be determined, goodwill amortization expense for the six months ended June 30, 2001 was \$23.5 million.

#### Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The statements contained in this Quarterly Report on Form 10-Q that are not purely historical are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, including statements regarding our expectations, hopes, intentions or strategies regarding the future. All forward-looking statements included in this document are based on information available to us on the date hereof, and we assume no obligation to update any such forward-looking statements. It is important to note that our actual results could vary materially from those forward-looking statements contained herein due to many factors, including, but not limited to: general economic and business conditions, including interest rate fluctuations and general volatility in the capital markets; changes in the performance of the real estate markets; the impact of competitive products and pricing; success of operating initiatives; our ability to integrate the acquired business operations of Chicago Title and our ability to implement cost-saving synergies associated with the acquisition; adverse publicity; the ability to identify businesses to be acquired; availability of qualified personnel; employee benefits costs and changes in, or the failure to comply with government regulations and other risks detailed in our filings with the Securities and

## Factors Affecting Comparability

Our Condensed Consolidated Statements of Earnings for 2001 include a \$5.7 million, after-tax charge, reflected as a cumulative effect of a change in accounting principle, as a result of adopting EITF 99-20 during the second quarter of 2001. See Note I of Notes to Condensed Consolidated Financial Statements.

Our Condensed Consolidated Statements of Earnings for 2000 include the results of operations of Chicago Title for the period from March 20, 2000, the merger date, through June 30, 2000. As a result, year over year comparisons may not be meaningful. In addition, during the first quarter of 2000 we recorded certain non-recurring charges totaling \$13.4 million, after applicable taxes. These charges primarily relate to the revaluation of non-title assets, including our investment in Express Network, Inc. and certain existing goodwill and obsolete software.

## RESULTS OF OPERATIONS

Net earnings for the second quarter of 2001 were \$84.1 million, or \$0.95 per diluted share, as compared with net earnings of \$31.4 million, or \$0.41 per diluted share, for the second quarter of 2000. Net earnings for the second quarter of 2001 include a \$5.7 million, or \$0.07 per diluted share, after tax charge, reflected as a cumulative effect of a change in accounting principle, as a result of adopting EITF 99-20. See Note I of Notes to Condensed Consolidated Financial Statements. Earnings before the cumulative effect of a change in accounting principle were \$89.8 million, or \$1.02 per diluted share.

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Net earnings for the six months ended June 30, 2001 were \$129.1 million, or \$1.48 per diluted share compared with net earnings for the six months ended June 30, 2000 of \$33.2 million, or \$0.59 per diluted share. Excluding the cumulative effect of a change in accounting principle of \$5.7 million, or \$0.07 per diluted share, recorded in the second quarter of 2001, and excluding the non-recurring, non-title related charges we recorded in the first quarter of 2000 of \$13.4 million, or \$0.24 per diluted share, net earnings for the six-month 2001 period were \$134.8 million, or \$1.55 per diluted share, as compared with net earnings for the corresponding period in 2000 of \$46.6 million, or \$0.83 per diluted share.

The following table presents the calculation of net earnings before the cumulative effect of a change in accounting principle, amortization of cost in excess of net assets acquired and non-recurring charges. We believe that earnings before these charges better reflect the operational performance of our business.

<TABLE>  
<CAPTION>

	Three months ended June 30,		Six months ended June 30,	
	2001	2000	2001	2000
	(In thousands, except per share data)		(In thousands, except per share data)	
<S>	<C>	<C>	<C>	<C>
Net earnings .....	\$ 84,122	\$ 31,371	\$ 129,114	\$ 33,240
Amortization of cost in excess of net assets acquired .....	11,777	11,874	23,499	13,528
Tax effect of amortization of cost in excess of net assets acquired .....	(285)	(316)	(532)	(316)
Cumulative effect of a change in accounting principle, net of tax .....	5,709	--	5,709	--
Non-recurring charges, net of tax .....	--	--	--	13,371
Net earnings before cumulative effect of a change in accounting principle, amortization of cost in excess of net assets acquired and non-recurring charges .....	\$ 101,323	\$ 42,929	\$ 157,790	\$ 59,823
Diluted net earnings per share before cumulative effect of a change in accounting principle, amortization of cost in excess of net assets acquired and non-recurring charges .....	\$ 1.15	\$ 0.57	\$ 1.80	\$ 1.06
Diluted weighted average shares outstanding .....	88,266	75,753	87,433	56,261

</TABLE>

Economic conditions, including the steady increase in interest rates during the second half of 1999 through the first half of 2000, resulted in a significant decline in refinancing transactions in 2000, which shifted the real estate market during that period from a refinance-driven market to a more traditional market driven by new home purchases and resales. However, beginning in December 2000 and continuing through the second quarter of 2001, the Federal Reserve Board has reduced interest rates by 275 basis points, bringing interest rates down to their lowest level in nearly two years, which has significantly increased the volume of refinance activity. As a result of the steady decreases in interest rates, total title insurance premiums have increased for the six months ended June 30, 2001 as compared with the six months ended June 30, 2000 on a pro forma basis (assuming the Chicago Title merger occurred on January 1, 2000).

The following table presents information regarding the components of title premiums:

<TABLE>  
<CAPTION>

	Three months ended June 30,				Six months ended June 30,			
	2001	% of Total	2000	% of Total	2001	% of Total	2000	% of Total
	(Dollars in thousands)				(Dollars in thousands)			
<S>	<C>	<C>	<C>	<C>	<C>	<C>	<C>	<C>
Title premiums								
from direct								
operations .....	339,238	50.8%	\$ 233,362	43.6%	\$ 588,945	49.0%	\$ 335,828	42.2%
Title premiums								
from agency								
operations .....	328,301	49.2%	301,642	56.4%	613,434	51.0%	459,576	57.8%
Total .....	\$ 667,539	100.0%	\$ 535,004	100.0%	\$1,202,379	100.0%	\$ 795,404	100.0%

</TABLE>

Total title premiums have increased in the second quarter of 2001 as compared with the second quarter of 2000 due to the increase in real estate and refinance activity as a result of decreasing interest rates. For the six-month period ending June 30, 2001, title premiums have increased as compared to the prior year period as a result of the increase in real estate and refinance activity as well as the inclusion of Chicago Title operations for a full year in 2001 versus a partial year in 2000. In both the three and six-month periods ended June 30, 2001, the increase in title premiums have been partially offset by a decrease in the average fee per file. The decrease in the average fee per file is consistent with the increased levels of refinance activity experienced during 2001.

Escrow and other title-related fees for the three and six months ended June 30, 2001 were \$187.6 million and \$329.0 million, respectively, as compared with \$132.5 million and \$190.7 million, respectively, for the corresponding periods of the prior year. The trend in escrow fees is generally consistent with that of our direct title premiums.

Revenues from real estate related services were \$62.3 million in the second quarter of 2001, as compared with \$46.1 million for the prior year quarter. On a year-to-date basis, revenues were \$118.9 million in 2001 and \$66.9 million in 2000. The increase in revenue for the three and six-month periods ended June 30, 2001 is primarily the result of increases in revenue from our market intelligence, credit reporting, field services, tax qualifying property exchange services and property records business (IDM), which was acquired in the first quarter of 2001. In addition, the increase in revenue for the 2001 year-to-date period is the result of the inclusion of Chicago Title operations for a full year in 2001 versus a partial year in 2000.

Interest and investment income was \$28.1 million in the second quarter of 2001, as compared with \$20.6 million in the second quarter of 2000. The increase in interest and investment income earned during the second quarter of 2001 is primarily due to an increase in net realized gains on the sale of investments of \$7.1 million. For the second quarter of 2001, net realized gains on the sale of investments were \$4.5 million, as compared with net realized losses of \$2.6 million in the second quarter of 2000. Interest and investment income for the six-month period ended June 30, 2001 was \$56.0 million, as compared with \$35.3 million for the corresponding period in 2000. The increase in interest and investment income earned in the 2001 year-to-date period is primarily due to an

increase in invested assets as a result of the Chicago Title acquisition and the inclusion of Chicago Title for a full year in 2001 versus a partial year in 2000, as well as an increase in net realized gains on the sale of investments. We recorded net realized gains on the sale of investments in the 2001 period of \$5.3 million, as compared with net realized gains of \$2.0 million for the corresponding 2000 period.

Other income represents revenue generated by Micro General Corporation, our majority-owned information-services subsidiary, FNF Capital, Inc., our equipment leasing subsidiary and Express Network, Inc., which was sold in the second quarter of 2000. Other income for the second quarter of 2001 was \$16.0 million, as compared with \$23.4 million for the second quarter of 2000. On a year-to-date basis, other income was \$33.3 million for the 2001 period as compared with \$46.9 million in 2000. The decrease in other income is due to the sale of Express Network, Inc. in the second quarter of 2000 as well as decreases in externally generated revenue by Micro General Corporation.

Our operating expenses consist primarily of personnel costs, other operating expenses and agent commissions, which are incurred as orders are received and processed. Title insurance premiums and escrow and other title-related fees are generally recognized as income at the time the underlying transaction closes. As a result, revenue lags approximately 60-90 days behind expenses and therefore gross margins may fluctuate. The changes in the market environment, mix of business between direct and agency operations and the contributions from our various business units have impacted margins and net earnings. We have implemented programs and have taken necessary actions to maintain expense levels consistent with revenue. However, a short time lag does exist in reducing variable costs and certain fixed costs are incurred regardless of revenue levels.

Personnel costs include base salaries, commissions and bonuses paid to employees, and are one of our most significant operating expenses. These costs generally fluctuate with the level of orders opened and closed and with the mix of revenue. For the second quarter of 2001 personnel costs were \$294.4 million, or 30.6% of total revenue, compared with \$241.8 million, or 31.9% of total revenue, for the corresponding 2000 quarter. For the six-month periods ended June 30, 2001 and 2000, personnel costs were \$545.2 million, or 31.3% of total revenue, and \$352.5 million, or 31.1% of total revenue, respectively. On a year-to-date, pro forma basis (assuming the Chicago Title merger occurred on January 1, 2000), personnel costs as a percentage of total revenues have decreased in the 2001 year-to-date period as compared with the 2000 year-to-date period. We have taken significant measures to maintain appropriate personnel levels and costs relative to the volume and mix of business while maintaining customer service standards and quality controls. We will continue to monitor prevailing market conditions and will adjust personnel costs in accordance with activity.

Other operating expenses consist primarily of facilities expenses, title plant maintenance, premium taxes (which insurance underwriters are required to pay on title premiums in lieu of franchise and other state taxes), postage and courier services,

computer services (including personnel costs associated with information technology support), professional services, advertising expenses, general insurance, depreciation and trade and notes receivable allowances. We continue to be committed to cost control measures. In response to market conditions, we have implemented aggressive cost control programs in order to maintain operating expenses at levels consistent with the levels of revenue. However, certain fixed costs are incurred regardless of revenue levels, resulting in period-over-period fluctuations. Our cost control programs are designed to evaluate expenses, both current and budgeted, relative to existing and projected market conditions. Total other operating expenses were \$204.3 million, or 21.2% of total revenues, for the second quarter of 2001 as compared with \$168.4 million, or 22.2% of total revenues, for the second quarter of 2000. For the six-month periods ended June 30, 2001 and 2000, these expenses were \$380.3 million and \$278.9 million, respectively. As a percentage of total revenue, other operating expenses for the 2001 period were 21.9% as compared with 24.6% for the 2000 period.

Agent commissions represent the portion of policy premiums retained by agents pursuant to the terms of their respective agency contracts. Agent commissions were 78.0% of agent title premiums in the second quarter of 2001 as compared with 77.3% of agent title premiums for the second quarter of 2000. Agent commissions, as a percentage of agent title premiums, for the six-month periods ended June 30, 2001 and 2000 were 77.9% and 78.1%, respectively. Agent commissions and the resulting percentage of agent title premiums retained by us vary according to regional differences in real estate closing practices and state regulations.

The provision for claim losses includes an estimate of anticipated title claims

and escrow losses. The estimate of anticipated title claims and escrow losses is accrued as a percentage of title premium revenue based on our historical loss experience and other relevant factors. We monitor our claims loss experience on a continual basis and adjust the provision for claim losses accordingly. Based on our loss development studies, we believe that as a result of our underwriting and claims handling practices, as well as the refinancing business of prior years, we will maintain the favorable claim loss trends we have experienced over the past several years. As such, our claim loss provision as a percentage of total title premiums was 5.0% in the second quarter of 2001, as compared with 4.7% in the second quarter of 2000. On a year-to-date basis, our provision for claim losses as a percentage of total title premiums was 5.0% in 2001 and 2000.

Interest expense for the three and six-month periods ended June 30, 2001 was \$9.1 million and \$23.5 million, respectively. Interest expense for the three and six-month periods ended June 30, 2000 was \$18.1 million and \$24.7 million, respectively. The decrease in interest expense for the 2001 periods is attributable to the decrease in outstanding notes payable, primarily as a result of the paydown of \$249.5 million in notes payable in connection with our common stock offering in January 2001 (See Note E of Notes to Condensed Consolidated Financial Statements) and a decrease in certain indices on which our variable interest rates are based.

Amortization of cost in excess of net assets acquired was \$11.8 million in the second quarter of 2001, as compared with \$11.9 million in the second quarter of 2000. These expenses totaled \$23.5 million and \$13.5 million for the six-month periods ended June 30, 2001 and 2000, respectively. In connection with the acquisition of Chicago Title on March 20, 2000, we recorded estimated cost in excess of net assets acquired of approximately \$762.3 million. As a result, amortization of cost in excess of net assets acquired has increased accordingly.

Income tax expense, as a percentage of earnings before income taxes, was 41.0% and 47.0% for the second quarters of 2001 and 2000, respectively. For the six-month periods ended June 30, 2001 and 2000, income tax expense, as a percentage of earnings before income taxes, was 41.0% and 50.3%, respectively. The fluctuation in income tax expense as a percentage of earnings before income taxes is attributable to our estimate of ultimate income tax liability, the impact of the non-recurring charges in the first quarter of 2000 and the non-deductible goodwill recorded pursuant to the Chicago Title merger and the characteristics of net earnings, i.e. operating income versus investment income.

#### LIQUIDITY AND CAPITAL RESOURCES

In connection with the Chicago Title merger, we entered into a syndicated credit agreement. The credit agreement provides for three distinct credit facilities:

- \$100.0 million, 18 month revolving credit facility due September 30, 2001, repaid and terminated on January 24, 2001;
- \$250.0 million, 6 year revolving credit facility due March 19, 2006; and
- \$450.0 million term loan facility with a 6 year amortization period, due March 19, 2006.

The credit agreement bears interest at a variable rate of interest based on the debt ratings assigned to us by certain independent agencies, and is unsecured. The current interest rate is LIBOR plus 1.125%. Amounts borrowed under the credit agreement were used to pay the cash portion of the merger consideration, to refinance previously existing indebtedness, to pay fees and expenses incurred in connection with the merger and to fund other general corporate purposes.

The credit agreement and other debt facilities impose certain affirmative and negative covenants on us relating to current debt ratings, certain financial ratios related to liquidity, net worth, capitalization, investments, acquisitions and restricted payments, and certain dividend restrictions.

On January 24, 2001, we issued 8,855,000 shares of our common stock at a public offering price of \$30.45 per share. Proceeds from this offering, net of underwriting discounts and commissions and other estimated related expenses, were \$256.3 million. Net proceeds of \$100.0 million were used to repay in full and terminate the \$100.0 million, 18 month revolving credit facility and net proceeds of \$149.5 million were used to pay down in full the \$250.0 million, 6 year revolving credit facility. The remainder of the cash proceeds are available for general corporate purposes. See Note E of Notes to Condensed Consolidated Financial Statements.

Our cash requirements include debt service, operating expenses, lease fundings, lease securitizations, taxes and dividends on our common stock. We believe that all anticipated cash requirements for current operations will be met from

internally generated funds, through cash dividends from subsidiaries, cash generated by investment securities and bank borrowings through existing credit facilities. Our short- and long-term liquidity requirements are monitored regularly to match cash inflows with cash requirements. We forecast the daily needs of all of our subsidiaries and periodically review their short- and long-term projected sources and uses of funds, as well as the asset, liability, investment and cash flow assumptions underlying these projections.

Our two significant sources of funds are dividends and distributions from our subsidiaries. As a holding company, we receive cash from our subsidiaries in the form of dividends and as reimbursement for operating and other administrative expenses we incur. The reimbursements are executed within the guidelines of management agreements among us and our subsidiaries. Our insurance subsidiaries are restricted by state regulation in their ability to pay dividends and make distributions. Each state of domicile regulates the extent to which our title underwriters can pay dividends or make other distributions to us. Our underwritten title companies, real estate related service companies, Micro General and FNF Capital collect revenue and pay operating expenses. However, they are not regulated to the same extent as our insurance subsidiaries. Positive cash flow from these subsidiaries are invested primarily in cash and cash equivalents.

Item 3. Quantitative and Qualitative Disclosure about Market Risk

There have been no material changes in the market risks described in our Annual Report on Form 10-K for the year ended December 31, 2000.

Part II: OTHER INFORMATION

Item 1. Legal Proceedings

As previously disclosed in our prior Securities and Exchange Commission filings, we are named in class action lawsuits alleging irregularities and violations of law in connection with title and escrow practices. Four lawsuits are currently pending. Three previously filed lawsuits have been dismissed. One of the existing lawsuits is filed by the Attorney General of the State of California and others on behalf of the California Controllor, the California Insurance Commissioner and the California general public against an alleged defendant class consisting of the entire title and escrow industry in California. The other three suits are filed by private parties in State court in Los Angeles. In February 2000, we reached a settlement of the claims alleged by the California Insurance Commissioner. Although the settlement required us to make a monetary payment, it did not require us to pay any fine or penalty. We are vigorously defending the existing lawsuits.

Item 4. Submission of Matters to Vote of Security Holders

Our Annual Meeting of Stockholders was held on June 19, 2001 for the purpose of electing certain members of the board of directors, to approve an amendment to increase the shares available under our 1998 Stock Option Plan, to approve our 2001 Stock Incentive Plan and to approve our Annual Incentive Plan.

Nominees for directors, whose term expired as of the date of the Annual Meeting, were elected by the following vote:

<TABLE>  
<CAPTION>

	Shares Voted "For"	Authority to Vote "Withheld"
	-----	-----
<S>	<C>	<C>
William A. Imparato	76,563,346	1,104,235
Donald M. Koll	66,697,896	10,969,690
Cary H. Thompson	75,977,128	1,690,458
General William Lyon	76,691,974	985,512

</TABLE>

The proposal to approve the amendment to our 1998 Stock Option Plan received the following votes:

<TABLE>  
<CAPTION>

	Votes	Percentage
	-----	-----
<S>	<C>	<C>
Shares Voted "For"	36,478,603	56.9%



Shares Voted "Against"	27,401,466	42.7%
Shares Voted "Abstain"	238,466	0.4%

</TABLE>

The proposal to approve the 2001 Stock Incentive Plan received the following votes:

<TABLE> <CAPTION>		Votes	Percentage
		-----	-----
<S>		<C>	<C>
	Shares Voted "For"	49,826,411	77.7%
	Shares Voted "Against"	14,005,237	21.8%
	Shares Voted "Abstain"	286,887	0.5%

</TABLE>

The proposal to approve the Annual Incentive Plan received the following votes:

<TABLE> <CAPTION>		Votes	Percentage
		-----	-----
<S>		<C>	<C>
	Shares Voted "For"	72,235,689	93.0%
	Shares Voted "Against"	5,156,599	6.6%
	Shares Voted "Abstain"	277,497	0.4%

</TABLE>

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Item 6. Exhibits and Reports on Form 8-K

(a) Exhibits:

- Exhibit 10.68 Fidelity National Financial, Inc. Amended and Restated 1998 Stock Incentive Plan.
- Exhibit 10.69 Fidelity National Financial, Inc. Amended and Restated 2001 Stock Incentive Plan.
- Exhibit 10.70 Fidelity National Financial, Inc. Employee Stock Purchase Plan, as Amended and Restated as of April 24, 2001.
- Exhibit 10.71 Employment Agreement by and between Fidelity National Financial, Inc. and William P. Foley, II as of March 22, 2001.
- Exhibit 10.72 Employment Agreement by and between Fidelity National Financial, Inc. and Patrick F. Stone as of March 22, 2000.
- Exhibit 10.73 Employment Agreement by and between Fidelity National Financial, Inc. and Alan L. Stinson as of March 22, 2001.
- Exhibit 10.74 Employment Agreement by and between Fidelity National Financial, Inc. and Peter T. Sadowski as of April 11, 2001.

(b) Reports on Form 8-K:

None

SIGNATURES

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

FIDELITY NATIONAL FINANCIAL, INC.  
(Registrant)

By: /s/ Alan L. Stinson

-----  
Alan L. Stinson  
Executive Vice President,  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

Date: August 3, 2001

## FIDELITY NATIONAL FINANCIAL, INC.

## AMENDED AND RESTATED

## 1998 STOCK INCENTIVE PLAN

AS AMENDED AND RESTATED AS OF JULY 24, 2001

This AMENDED AND RESTATED 1998 STOCK INCENTIVE PLAN (the "Amended and Restated Plan") is hereby established by FIDELITY NATIONAL FINANCIAL, INC., a Delaware corporation (the "Company"), and amends and restates the Company's 1998 Stock Incentive Plan, effective as of the 24th day of July, 2001 (the "Effective Date").

## ARTICLE 1.

## PURPOSES OF THE PLAN

1.1 PURPOSES. The purposes of the Amended and Restated Plan are (a) to enhance the Company's ability to attract and retain the services of qualified employees, officers and directors (including non-employee officers and directors), and consultants and other service providers upon whose judgment, initiative and efforts the successful conduct and development of the Company's business largely depends, and (b) to provide additional incentives to such persons or entities to devote their utmost effort and skill to the advancement and betterment of the Company, by providing them an opportunity to participate in the ownership of the Company and thereby have an interest in the success and increased value of the Company.

## ARTICLE 2.

## DEFINITIONS

For purposes of this Plan, the following terms shall have the meanings indicated:

2.1 ADMINISTRATOR. "Administrator" means the Board or, if the Board delegates responsibility for any matter to the Committee, the term Administrator shall mean the Committee.

2.2 AFFILIATED COMPANY. "Affiliated Company" means any subsidiary of the Company, any business venture which the Company has a significant interest, as determined at the discretion of the Administrator. However, for purposes of eligibility to receive Incentive Options, "Affiliated Company" means any "parent

corporation" or "subsidiary corporation" of the Company, whether now existing or hereafter created or acquired, as those terms are defined in Sections 424(e) and 424(f) of the Code, respectively.

2.3 BOARD. "Board" means the Board of Directors of the Company.

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2.4 CHANGE IN CONTROL. "Change in Control" shall mean (i) the acquisition, directly or indirectly, by any person or group (within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) of the beneficial ownership of securities of the Company possessing more than fifty percent (50%) of the total combined voting power of all outstanding securities of the Company; (ii) a merger or consolidation in which the Company is not the surviving entity, except for a transaction in which the holders of the outstanding voting securities of the Company immediately prior to such merger or consolidation hold, in the aggregate, securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the surviving entity immediately after such merger or consolidation; (iii) a reverse merger in which the Company is the surviving entity but in which securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the Company are transferred to or acquired by a person or persons different from the persons holding those securities immediately prior to such merger; (iv) the sale, transfer or other disposition (in one transaction or a series of related transactions) of all or substantially all of the assets of the Company; or (v) the approval by the shareholders of a plan or proposal for the liquidation or dissolution of the Company.

2.5 CODE. "Code" means the Internal Revenue Code of 1986, as amended from time to time.

2.6 COMMITTEE. "Committee" means a committee of two or more members of the Board appointed to administer the Amended and Restated Plan, as set forth in Section 7.1 hereof.

2.7 COMMON STOCK. "Common Stock" means the Common Stock, \$.0001 par value of the Company, subject to adjustment pursuant to Section 4.2 hereof.

2.8 DISABILITY. "Disability" means permanent and total disability as defined in Section 22(e)(3) of the Code. The Administrator's determination of a Disability or the absence thereof shall be conclusive and binding on all interested parties.

2.9 EFFECTIVE DATE. "Effective Date" means the date on which the Amended and Restated Plan is adopted by the Board, as set forth on the first page hereof.

2.10 EXERCISE PRICE. "Exercise Price" means the purchase price per share of

Common Stock payable upon exercise of an Option.

2.11 FAIR MARKET VALUE. "Fair Market Value" on any given date means the value of one share of Common Stock, determined as follows:

(a) If the Common Stock is then listed or admitted to trading on a national stock exchange or a NASDAQ market system which reports closing sale prices, the Fair Market Value shall be the closing sale price on the date of valuation on the principal stock exchange or NASDAQ market system on which the Common Stock is then listed or admitted to trading, or, if no closing sale price is quoted on such day, then the Fair Market Value shall be the closing sale price of the Common Stock on such exchange or NASDAQ market system on the next preceding day for

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which a closing sale price is reported.

(b) If the Common Stock is not then listed or admitted to trading on a national stock exchange or NASDAQ market system which reports closing sale prices, the Fair Market Value shall be the average of the closing bid and asked prices of the Common Stock in the over-the-counter market on the date of valuation.

(c) If neither (a) nor (b) is applicable as of the date of valuation, then the Fair Market Value shall be determined by the Administrator in good faith using any reasonable method of evaluation, which determination shall be conclusive and binding on all interested parties.

2.12 INCENTIVE OPTION. "Incentive Option" means any Option designated and qualified as an "incentive stock option" as defined in Section 422 of the Code.

2.13 INCENTIVE OPTION AGREEMENT. "Incentive Option Agreement" means an Option Agreement with respect to an Incentive Option.

2.14 NASD DEALER. "NASD Dealer" means a broker-dealer that is a member of the National Association of Securities Dealers, Inc.

2.15 NONQUALIFIED OPTION. "Nonqualified Option" means any Option that is not an Incentive Option. To the extent that any Option designated as an Incentive Option fails in whole or in part to qualify as an Incentive Option, including, without limitation, for failure to meet the limitations applicable to a 10% Shareholder or because it exceeds the annual limit provided for in Section 5.6 below, it shall to that extent constitute a Nonqualified Option.

2.16 NONQUALIFIED OPTION AGREEMENT. "Nonqualified Option Agreement" means an Option Agreement with respect to a Nonqualified Option.

2.17 OFFEREE. "Offeree" means a Participant to whom a Right to Purchase has

been offered or who has acquired Restricted Stock under the Amended and Restated Plan.

2.18 OPTION. "Option" means any option to purchase Common Stock granted pursuant to the Amended and Restated Plan.

2.19 OPTION AGREEMENT. "Option Agreement" means the written agreement entered into between the Company and the Optionee with respect to an Option granted under the Amended and Restated Plan.

2.20 OPTIONEE. "Optionee" means a Participant who holds an Option.

2.21 PARTICIPANT. "Participant" means an individual or entity who holds an Option, a Right to Purchase or Restricted Stock under the Amended and Restated Plan.

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2.22 PURCHASE PRICE. "Purchase Price" means the purchase price per share of Restricted Stock payable upon acceptance of a Right to Purchase.

2.23 RESTRICTED STOCK. "Restricted Stock" means shares of Common Stock issued pursuant to Article 6 hereof, subject to any restrictions and conditions as are established pursuant to such Article 6.

2.24 RIGHT TO PURCHASE. "Right to Purchase" means a right to purchase Restricted Stock granted to an Offeree pursuant to Article 6 hereof.

2.25 SERVICE PROVIDER. "Service Provider" means a consultant or other person or entity who provides services to the Company or an Affiliated Company and who the Administrator authorizes to become a Participant in the Amended and Restated Plan.

2.26 STOCK PURCHASE AGREEMENT. "Stock Purchase Agreement" means the written agreement entered into between the Company and the Offeree with respect to a Right to Purchase offered under the Amended and Restated Plan.

2.27 10% SHAREHOLDER. "10% Shareholder" means a person who, as of a relevant date, owns or is deemed to own (by reason of the attribution rules applicable under Section 424(d) of the Code) stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or of an Affiliated Company.

### ARTICLE 3.

#### ELIGIBILITY

3.1 INCENTIVE OPTIONS. Officers and other key employees of the Company or

of an Affiliated Company (including members of the Board if they are employees of the Company or of an Affiliated Company) are eligible to receive Incentive Options under the Amended and Restated Plan.

3.2 NONQUALIFIED OPTIONS AND RIGHTS TO PURCHASE. Officers and other key employees of the Company or of an Affiliated Company, members of the Board (whether or not employed by the Company or an Affiliated Company), and Service Providers are eligible to receive Nonqualified Options or Rights to Purchase under the Amended and Restated Plan.

3.3 LIMITATION ON SHARES. In no event shall any Participant be granted Options or Rights to Purchase in any one calendar year pursuant to which the aggregate number of shares of Common Stock that may be acquired thereunder exceeds 1,662,000 shares. In no event shall the aggregate number of shares subject to Incentive Options exceed 5,540,000.

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#### ARTICLE 4.

##### PLAN SHARES

4.1 SHARES SUBJECT TO THE AMENDED AND RESTATED PLAN. A total of 5,540,000 shares of Common Stock, plus, on the date of each annual meeting of the stockholders an additional 220,000 shares of Common Stock, may be issued under the Amended and Restated Plan subject to adjustment as to the number and kind of shares pursuant to Section 4.2 hereof. For purposes of this limitation, in the event that (a) all or any portion of any Option or Right to Purchase granted or offered under the Amended and Restated Plan can no longer under any circumstances be exercised, or (b) any shares of Common Stock are reacquired by the Company pursuant to an Incentive Option Agreement, Nonqualified Option Agreement or Stock Purchase Agreement, the shares of Common Stock allocable to the unexercised portion of such Option or such Right to Purchase, or the shares so reacquired, shall again be available for grant or issuance under the Amended and Restated Plan.

4.2 CHANGES IN CAPITAL STRUCTURE. In the event that the outstanding shares of Common Stock are hereafter increased or decreased or changed into or exchanged for a different number or kind of shares or other securities of the Company by reason of a recapitalization, stock split, combination of shares, reclassification, stock dividend, or other change in the capital structure of the Company, then appropriate adjustments shall be made by the Administrator to the aggregate number and kind of shares subject to this Plan, and the number and kind of shares and the price per share subject to outstanding Option Agreements, Rights to Purchase and Stock Purchase Agreements in order to preserve, as nearly as practical, but not to increase, the benefits to Participants.

#### ARTICLE 5.

## OPTIONS

5.1 OPTION AGREEMENT. Each Option granted pursuant to this Plan shall be evidenced by an Option Agreement which shall specify the number of shares subject thereto, the Exercise Price per share, and whether the Option is an Incentive Option or Nonqualified Option. As soon as is practical following the grant of an Option, an Option Agreement shall be duly executed and delivered by or on behalf of the Company to the Optionee to whom such Option was granted. Each Option Agreement shall be in such form and contain such additional terms and conditions, not inconsistent with the provisions of this Plan, as the Administrator shall, from time to time, deem desirable, including, without limitation, the imposition of any rights of first refusal and resale obligations upon any shares of Common Stock acquired pursuant to an Option Agreement. Each Option Agreement may be different from each other Option Agreement.

5.2 EXERCISE PRICE. The Exercise Price per share of Common Stock covered by each Option shall be determined by the Administrator, subject to the following: (a) the Exercise Price of an Option shall not be less than 100% of Fair Market Value on the date the Option is granted, and (b) if the person to whom an Incentive Option is granted is a 10% Shareholder on the date of grant, the Exercise Price shall not be less than 110% of Fair Market Value on the date the Incentive Option is granted.

5.3 PAYMENT OF EXERCISE PRICE. Payment of the Exercise Price shall be made upon exercise of an

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Option and may be made, in the discretion of the Administrator, subject to any legal restrictions, by: (a) cash; (b) check; (c) the surrender of shares of Common Stock owned by the Optionee that have been held by the Optionee for at least six (6) months, which surrendered shares shall be valued at Fair Market Value as of the date of such exercise; (d) the Optionee's promissory note in a form and on terms acceptable to the Administrator; (e) the cancellation of indebtedness of the Company to the Optionee; (f) the waiver of compensation due or accrued to the Optionee for services rendered; (g) provided that a public market for the Common Stock exists, a "same day sale" commitment from the Optionee and an NASD Dealer whereby the Optionee irrevocably elects to exercise the Option and to sell a portion of the shares so purchased to pay for the Exercise Price and whereby the NASD Dealer irrevocably commits upon receipt of such shares to forward the Exercise Price directly to the Company; (h) provided that a public market for the Common Stock exists, a "margin" commitment from the Optionee and an NASD Dealer whereby the Optionee irrevocably elects to exercise the Option and to pledge the shares so purchased to the NASD Dealer in a margin account as security for a loan from the NASD Dealer in the amount of the Exercise Price, and whereby the NASD Dealer irrevocably commits upon receipt of such shares to forward the Exercise Price directly to the Company; or (i) any combination of the foregoing methods of payment or any other consideration or



method of payment as shall be permitted by applicable corporate law.

5.4 TERM AND TERMINATION OF OPTIONS. The term and provisions for termination of each Option shall be as fixed by the Administrator, but no Option may be exercisable more than ten (10) years after the date it is granted. An Incentive Option granted to a person who is a 10% Shareholder on the date of grant shall not be exercisable more than five (5) years after the date it is granted.

5.5 VESTING AND EXERCISE OF OPTIONS. Each Option shall vest and become exercisable in one or more installments at such time or times and subject to such conditions, including without limitation the achievement of specified performance goals or objectives, as shall be determined by the Administrator.

5.6 ANNUAL LIMIT ON INCENTIVE OPTIONS. To the extent required for "incentive stock option" treatment under Section 422 of the Code, the aggregate Fair Market Value (determined as of the time of grant) of the Common Stock shall not, with respect to which Incentive Options granted under this Plan and any other plan of the Company or any Affiliated Company become exercisable for the first time by an Optionee during any calendar year, exceed \$100,000.

5.7 NONTRANSFERABILITY OF OPTIONS. Except as otherwise provided by the Administrator, no Option shall be assignable or transferable except by will or the laws of descent and distribution, and during the life of the Optionee shall be exercisable only by such Optionee.

5.8 RIGHTS AS SHAREHOLDER. An Optionee or permitted transferee of an Option shall have no rights or privileges as a shareholder with respect to any shares covered by an Option until such Option has been duly exercised and certificates representing shares purchased upon such exercise have been issued to such person.

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### ARTICLE 6.

#### RIGHTS TO PURCHASE

6.1 NATURE OF RIGHT TO PURCHASE. A Right to Purchase granted to an Offeree entitles the Offeree to purchase shares of Common Stock subject to such terms, restrictions and conditions as the Administrator may determine at the time of grant ("Restricted Stock") provided, however, in no event shall the Purchase Price for a Right to Purchase be less than 100% of Fair Market Value on the date the Right to Purchase is granted. Such conditions may include, but are not limited to, continued employment or the achievement of specified performance goals or objectives.

6.2 ACCEPTANCE OF RIGHT TO PURCHASE. An Offeree shall have no rights with respect to the Restricted Stock subject to a Right to Purchase unless the Offeree shall have accepted the Right to Purchase within ten (10) days (or such longer or shorter period as the Administrator may specify) following the grant of the Right to Purchase by making payment of the full Purchase Price to the Company in the manner set forth in Section 6.3 hereof and by executing and delivering to the Company a Stock Purchase Agreement. Each Stock Purchase Agreement shall be in such form, and shall set forth the Purchase Price and such other terms, conditions and restrictions of the Restricted Stock, not inconsistent with the provisions of this Plan, as the Administrator shall, from time to time, deem desirable. Each Stock Purchase Agreement may be different from each other Stock Purchase Agreement.

6.3 PAYMENT OF PURCHASE PRICE. Subject to any legal restrictions, payment of the Purchase Price upon acceptance of a Right to Purchase Restricted Stock may be made, in the discretion of the Administrator, by: (a) cash; (b) check; (c) the surrender of shares of Common Stock owned by the Offeree that have been held by the Offeree for at least six (6) months, which surrendered shares shall be valued at Fair Market Value as of the date of such exercise; (d) the Offeree's promissory note in a form and on terms acceptable to the Administrator; (e) the cancellation of indebtedness of the Company to the Offeree; (f) the waiver of compensation due or accrued to the Offeree for services rendered; or (g) any combination of the foregoing methods of payment or any other consideration or method of payment as shall be permitted by applicable corporate law.

6.4 RIGHTS AS A SHAREHOLDER. Upon complying with the provisions of Section 6.2 hereof, an Offeree shall have the rights of a shareholder with respect to the Restricted Stock purchased pursuant to the Right to Purchase, including voting and dividend rights, subject to the terms, restrictions and conditions as are set forth in the Stock Purchase Agreement. Unless the Administrator shall determine otherwise, certificates evidencing shares of Restricted Stock shall remain in the possession of the Company until such shares have vested in accordance with the terms of the Stock Purchase Agreement.

6.5 RESTRICTIONS. Shares of Restricted Stock may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of except as specifically provided in the Stock Purchase Agreement. In the event of termination of a Participant's employment, service as a director of the Company or Service Provider status for any reason whatsoever (including death or disability), the Stock Purchase Agreement may provide, in the discretion of the Administrator, that the Company shall have the right, exercisable at the discretion of the Administrator, to repurchase (i) at the original Purchase Price, any shares of Restricted Stock which have not vested as of the date of termination, and (ii) at Fair Market Value, any shares of Restricted Stock which have vested as of such date, on such terms as may be provided in the Stock Purchase Agreement.

6.6 VESTING OF RESTRICTED STOCK. The Stock Purchase Agreement shall specify the date or dates, the performance goals or objectives which must be achieved, and any other conditions on which the Restricted Stock may vest.

6.7 DIVIDENDS. If payment for shares of Restricted Stock is made by promissory note, any cash dividends paid with respect to the Restricted Stock may be applied, in the discretion of the Administrator, to repayment of such note.

6.8 NONASSIGNABILITY OF RIGHTS. No Right to Purchase shall be assignable or transferable except by will or the laws of descent and distribution or as otherwise provided by the Administrator.

## ARTICLE 7.

### ADMINISTRATION OF THE PLAN

7.1 ADMINISTRATOR. Authority to control and manage the operation and administration of the Amended and Restated Plan shall be vested in the Board, which may delegate such responsibilities in whole or in part to a committee consisting of two (2) or more members of the Board (the "Committee"). Members of the Committee may be appointed from time to time by, and shall serve at the pleasure of, the Board. As used herein, the term "Administrator" means the Board or, with respect to any matter as to which responsibility has been delegated to the Committee, the term Administrator shall mean the Committee.

7.2 POWERS OF THE ADMINISTRATOR. In addition to any other powers or authority conferred upon the Administrator elsewhere in the Amended and Restated Plan or by law, the Administrator shall have full power and authority: (a) to determine the persons to whom, and the time or times at which, Incentive Options or Nonqualified Options shall be granted and Rights to Purchase shall be offered, the number of shares to be represented by each Option and Right to Purchase and the consideration to be received by the Company upon the exercise thereof; (b) to interpret the Amended and Restated Plan; (c) to create, amend or rescind rules and regulations relating to the Amended and Restated Plan; (d) to determine the terms, conditions and restrictions contained in, and the form of, Option Agreements and Stock Purchase Agreements; (e) to determine the identity or capacity of any persons who may be entitled to exercise a Participant's rights under any Option or Right to Purchase under the Amended and Restated Plan; (f) to correct any defect or supply any omission or reconcile any inconsistency in the Amended and Restated Plan or in any Option Agreement or Stock Purchase Agreement; (g) to accelerate the vesting of any Option or release or waive any repurchase rights of the Company with respect to Restricted Stock; (h) to extend the exercise date of any Option or acceptance date of any Right to Purchase; (i) to provide for rights of first refusal and/or repurchase

rights; (j) to amend outstanding Option Agreements and Stock Purchase Agreements to provide for, among other things, any change or modification which the Administrator could have provided for upon the grant of an Option or Right to Purchase or in furtherance of the powers provided for herein; and (k) to make all other determinations necessary or advisable for the administration of the Amended and Restated Plan, but only to the extent not contrary to the express provisions of the Amended and Restated Plan. Notwithstanding the foregoing, or anything to the contrary contained herein, the Administrator may not in any event (i) modify any Option to reduce the exercise price of such Option below 100% of Fair Market Value on the date the Option was granted; or (ii) modify any Right to Purchase to reduce the Purchase Price of such Right to Purchase below 100 % of Fair Market Value on the date the Right to Purchase was granted. Any action, decision, interpretation or determination made in good faith by the Administrator in the exercise of its authority conferred upon it under the Amended and Restated Plan shall be final and binding on the Company and all Participants.

7.3 LIMITATION ON LIABILITY. No employee of the Company or member of the Board or Committee shall be subject to any liability with respect to duties under the Amended and Restated Plan unless the person acts fraudulently or in bad faith. To the extent permitted by law, the Company shall indemnify each member of the Board or Committee, and any employee of the Company with duties under the Amended and Restated Plan, who was or is a party, or is threatened to be made a party, to any threatened, pending or completed proceeding, whether civil, criminal, administrative or investigative, by reason of such person's conduct in the performance of duties under the Amended and Restated Plan.

## ARTICLE 8.

### CHANGE IN CONTROL

8.1 CHANGE IN CONTROL. In order to preserve a Participant's rights in the event of a Change in Control of the Company, (i) the time period relating to the exercise or realization of all outstanding Options, Rights to Purchase and Restricted Stock shall automatically accelerate immediately prior to the consummation of such Change in Control, and (ii) with respect to Options and Rights to Purchase, the Administrator in its discretion may, at any time an Option or Right to Purchase is granted, or at any time thereafter, take one or more of the following actions: (A) provide for the purchase or exchange of each Option or Right to Purchase for an amount of cash or other property having a value equal to the difference, or spread, between (x) the value of the cash or other property that the Participant would have received pursuant to such Change in Control transaction in exchange for the shares issuable upon exercise of the Option or Right to Purchase had the Option or Right to Purchase been exercised immediately prior to such Change in Control transaction and (y) the Exercise Price of such Option or the Purchase Price under such Right to Purchase, (B) adjust the terms of the Options and Rights to Purchase in a manner determined by the Administrator to reflect the Change in Control, (C) cause the Options and

Rights to Purchase to be assumed, or new rights substituted therefor, by another entity, through the continuance of the Amended and Restated Plan and the assumption of outstanding Options and Rights to Purchase, or the substitution for such

Options and Rights to Purchase of new options and new rights to purchase of comparable value covering shares of a successor corporation, with appropriate adjustments as to the number and kind of shares and Exercise Prices, in which event the Amended and Restated Plan and such Options and Rights to Purchase, or the new options and rights to purchase substituted therefor, shall continue in the manner and under the terms so provided, or (D) make such other provision as the Administrator may consider equitable. If the Administrator does not take any of the forgoing actions, all Options and Rights to Purchase shall terminate upon the consummation of the Change in Control, unless the Common Stock remains listed or admitted to trading on a national stock exchange or a NASDAQ market system. The Administrator shall cause written notice of the proposed Change in Control transaction to be given to all Participants not less than fifteen (15) days prior to the anticipated effective date of the proposed transaction.

#### ARTICLE 9.

##### AMENDMENT AND TERMINATION OF THE PLAN

9.1 AMENDMENTS. The Board may from time to time alter, amend, suspend or terminate the Amended and Restated Plan in such respects as the Board may deem advisable, provided however, no such amendment shall be made without the approval of the Company's stockholders to the extent such approval is required by law or agreement or if such amendment would:

- (i) materially increase the benefits accruing to the Participants;
- (ii) increase the number of shares of Common Stock available for issuance under the Amended and Restated Plan;
- (iii) materially modify the requirements for eligibility to participate in the Amended and Restated Plan;
- (iv) permit the grant of any Award at an exercise price or purchase price below 100% of Fair Market Value on the date of grant; or
- (v) allow for the modification of any outstanding Award to reduce the exercise price or the purchase price of such Award below 100% of Fair Market Value on the date of grant of such Award.

The Board may alter or amend the Amended and Restated Plan to comply with requirements under the Code relating to Incentive Options or other types of options which give Optionees more favorable tax treatment than that applicable

to Options granted under this Amended and Restated Plan as of the date of its adoption. Upon any such alteration or amendment, any outstanding Option granted hereunder may, if the Administrator so determines and if permitted by applicable law, be subject to the more favorable tax treatment afforded to an Optionee pursuant to such terms and conditions.

9.2 PLAN TERMINATION. Unless the Amended and Restated Plan shall theretofore have been terminated, the Amended and Restated Plan shall terminate on the tenth (10th) anniversary of the Effective Date and no Options or Rights to Purchase may be granted under the Amended and Restated Plan thereafter, but Option Agreements, Stock Purchase Agreements and Rights to Purchase

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then outstanding shall continue in effect in accordance with their respective terms.

#### ARTICLE 10.

##### TAX WITHHOLDING

10.1 WITHHOLDING. The Company shall have the power to withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy any applicable Federal, state, and local tax withholding requirements with respect to any Options exercised or Restricted Stock issued under the Amended and Restated Plan. To the extent permissible under applicable tax, securities and other laws, the Administrator may, in its sole discretion and upon such terms and conditions as it may deem appropriate, permit a Participant to satisfy his or her obligation to pay any such tax, in whole or in part, up to an amount determined on the basis of the highest marginal tax rate applicable to such Participant, by (a) directing the Company to apply shares of Common Stock to which the Participant is entitled as a result of the exercise of an Option or as a result of the purchase of or lapse of restrictions on Restricted Stock or (b) delivering to the Company shares of Common Stock owned by the Participant. The shares of Common Stock so applied or delivered in satisfaction of the Participant's tax withholding obligation shall be valued at their Fair Market Value as of the date of measurement of the amount of income subject to withholding.

#### ARTICLE 11.

##### MISCELLANEOUS

11.1 BENEFITS NOT ALIENABLE. Other than as provided above, benefits under the Amended and Restated Plan may not be assigned or alienated, whether voluntarily or involuntarily. Any unauthorized attempt at assignment, transfer, pledge or other disposition shall be without effect.

11.2 NO ENLARGEMENT OF EMPLOYEE RIGHTS. This Plan is strictly a voluntary

undertaking on the part of the Company and shall not be deemed to constitute a contract between the Company and any Participant to be consideration for, or an inducement to, or a condition of, the employment of any Participant. Nothing contained in the Amended and Restated Plan shall be deemed to give the right to any Participant to be retained as an employee of the Company or any Affiliated Company or to limit the right of the Company or any Affiliated Company to discharge any Participant at any time.

11.3 APPLICATION OF FUNDS. The proceeds received by the Company from the sale of Common Stock pursuant to Option Agreements and Stock Purchase Agreements, except as otherwise provided herein, will be used for general corporate purposes.

## FIDELITY NATIONAL FINANCIAL, INC.

## AMENDED AND RESTATED

## 2001 STOCK INCENTIVE PLAN

AS AMENDED AND RESTATED AS OF JULY 24, 2001

This AMENDED AND RESTATED 2001 STOCK INCENTIVE PLAN (the "Amended and Restated Plan") is hereby established by FIDELITY NATIONAL FINANCIAL, INC., a Delaware corporation (the "Company"), and amends and restates the Company's 2001 Stock Incentive Plan, effective as of the 24th day of July, 2001 (the "Effective Date").

## ARTICLE 1.

## PURPOSES OF THE PLAN

1.1 PURPOSES. The purposes of the Amended and Restated Plan are (a) to enhance the Company's ability to attract and retain the services of qualified employees, officers and directors (including non-employee officers and directors), and consultants and other service providers upon whose judgment, initiative and efforts the successful conduct and development of the Company's business largely depends, and (b) to provide additional incentives to such persons or entities to devote their utmost effort and skill to the advancement and betterment of the Company, by providing them an opportunity to participate in the ownership of the Company and thereby have an interest in the success and increased value of the Company.

## ARTICLE 2.

## DEFINITIONS

For purposes of this Amended and Restated Plan, the following terms shall have the meanings indicated:

2.1 ADMINISTRATOR. "Administrator" means the Board or, if the Board delegates responsibility for any matter to the Committee, the term Administrator shall mean the Committee.

2.2 AFFILIATED COMPANY. "Affiliated Company" means any subsidiary of the Company, any business venture which the Company has a significant interest, as determined at the discretion of the Administrator. However, for purposes of eligibility to receive Incentive Options, "Affiliated Company" means any "parent



corporation" or "subsidiary corporation" of the Company, whether now existing or hereafter created or acquired, as those terms are defined in Sections 424(e) and 424(f) of the Code, respectively.

2.3 AWARD. "Award" means any award made pursuant to Articles 5, 6, and 6A of this Amended and Restated Plan including Options, Restricted Stock, and Deferred Shares.

2.4 BOARD. "Board" means the Board of Directors of the Company.

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2.5 CHANGE IN CONTROL. "Change in Control" shall mean (i) the acquisition, directly or indirectly, by any person or group (within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) of the beneficial ownership of securities of the Company possessing more than fifty percent (50%) of the total combined voting power of all outstanding securities of the Company; (ii) a merger or consolidation in which the Company is not the surviving entity, except for a transaction in which the holders of the outstanding voting securities of the Company immediately prior to such merger or consolidation hold, in the aggregate, securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the surviving entity immediately after such merger or consolidation; (iii) a reverse merger in which the Company is the surviving entity but in which securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the Company are transferred to or acquired by a person or persons different from the persons holding those securities immediately prior to such merger; (iv) the sale, transfer or other disposition (in one transaction or a series of related transactions) of all or substantially all of the assets of the Company; or (v) the approval by the shareholders of a plan or proposal for the liquidation or dissolution of the Company.

2.6 CODE. "Code" means the Internal Revenue Code of 1986, as amended from time to time.

2.7 COMMITTEE. "Committee" means a committee of two or more "outside" (within the meaning of Code Section 162(m)) members of the Board appointed to administer the Amended and Restated Plan, as set forth in Section 7.1 hereof.

2.8 COMMON STOCK. "Common Stock" means the Common Stock, \$.0001 par value of the Company, subject to adjustment pursuant to Section 4.2 hereof.

2.9 CONTINUOUS SERVICE. "Continuous Service" means uninterrupted service as an Officer, employee of the Company or of an Affiliated Company, member of the Board (whether or not employed by the Company or an Affiliated Company), or Service Provider. Continuous Service shall not be considered interrupted (unless an Award otherwise specifies) in the case of: (i) any approved or legally-mandated leave of absence, provided that such leave is for a period of not more than 90 days, unless reemployment upon the expiration of such leave is guaranteed by contract or statute, or unless provided otherwise pursuant to

Company policy; (ii) changes in status with the Company (including changes to advisory or emeritus status); or (iii) in the case of transfers between locations of the Company or between the Company, any Affiliated Company, or their respective successors.

2.10 DEFERRED SHARE. "Deferred Share" means a share of the Common Stock credited under Section 6A.2 of this Amended and Restated Plan.

2.11 DISABILITY. "Disability" means permanent and total disability as defined in Section 22(e)(3) of the Code. The Administrator's determination of a Disability or the absence thereof shall be conclusive and binding on all interested parties.

2.12 EFFECTIVE DATE. "Effective Date" means the date on which the Amended and Restated Plan is adopted by the Board, as set forth on the first page hereof.

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2.13 EXERCISE PRICE. "Exercise Price" means the purchase price per share of Common Stock payable upon exercise of an Option.

2.14 FAIR MARKET VALUE. "Fair Market Value" on any given date means the value of one share of Common Stock, determined as follows:

(a) If the Common Stock is then listed or admitted to trading on a national stock exchange or a NASDAQ market system which reports closing sale prices, the Fair Market Value shall be the closing sale price on the date of valuation on the principal stock exchange or NASDAQ market system on which the Common Stock is then listed or admitted to trading, or, if no closing sale price is quoted on such day, then the Fair Market Value shall be the closing sale price of the Common Stock on such exchange or NASDAQ market system on the next preceding day for which a closing sale price is reported.

(b) If the Common Stock is not then listed or admitted to trading on a national stock exchange or NASDAQ market system which reports closing sale prices, the Fair Market Value shall be the average of the closing bid and asked prices of the Common Stock in the over-the-counter market on the date of valuation.

(c) If neither (a) nor (b) is applicable as of the date of valuation, then the Fair Market Value shall be determined by the Administrator in good faith using any reasonable method of evaluation, which determination shall be conclusive and binding on all interested parties.

2.15 INCENTIVE OPTION. "Incentive Option" means any Option designated and qualified as an "incentive stock option" as defined in Section 422 of the Code.

2.16 INCENTIVE OPTION AGREEMENT. "Incentive Option Agreement" means an Option Agreement with respect to an Incentive Option.

2.17 NASD DEALER. "NASD Dealer" means a broker-dealer that is a member of the National Association of Securities Dealers, Inc.

2.18 NONQUALIFIED OPTION. "Nonqualified Option" means any Option that is not an Incentive Option. To the extent that any Option designated as an Incentive Option fails in whole or in part to qualify as an Incentive Option, including, without limitation, for failure to meet the limitations applicable to a 10% Shareholder or because it exceeds the annual limit provided for in Section 5.6 below, it shall to that extent constitute a Nonqualified Option.

2.19 NONQUALIFIED OPTION AGREEMENT. "Nonqualified Option Agreement" means an Option Agreement with respect to a Nonqualified Option.

2.20 OFFEREE. "Offeree" means a Participant to whom a Right to Purchase has been offered or who has acquired Restricted Stock under the Amended and Restated Plan.

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2.21 OPTION. "Option" means any option to purchase Common Stock granted pursuant to the Amended and Restated Plan.

2.22 OPTION AGREEMENT. "Option Agreement" means the written agreement entered into between the Company and the Optionee with respect to an Option granted under the Amended and Restated Plan.

2.23 OPTIONEE. "Optionee" means a Participant who holds an Option.

2.24 PARTICIPANT. "Participant" means an individual or entity who holds an Option, a Right to Purchase, Restricted Stock, or rights to Deferred Shares under the Amended and Restated Plan.

2.25 PURCHASE PRICE. "Purchase Price" means the purchase price per share of Restricted Stock payable upon acceptance of a Right to Purchase.

2.26 RESTRICTED STOCK. "Restricted Stock" means shares of Common Stock issued pursuant to Article 6 hereof, subject to any restrictions and conditions as are established pursuant to such Article 6.

2.27 RIGHT TO PURCHASE. "Right to Purchase" means a right to purchase Restricted Stock granted to an Offeree pursuant to Article 6 hereof.

2.28 SERVICE PROVIDER. "Service Provider" means a consultant or other person or entity who provides services to the Company or an Affiliated Company

and who the Administrator authorizes to become a Participant in the Amended and Restated Plan.

2.29 STOCK PURCHASE AGREEMENT. "Stock Purchase Agreement" means the written agreement entered into between the Company and the Offeree with respect to a Right to Purchase or a right to accrue Deferred Shares offered under the Amended and Restated Plan.

2.30 10% SHAREHOLDER. "10% Shareholder" means a person who, as of a relevant date, owns or is deemed to own (by reason of the attribution rules applicable under Section 424(d) of the Code) stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or of an Affiliated Company.

### ARTICLE 3.

#### ELIGIBILITY

3.1 INCENTIVE OPTIONS. Officers and other employees of the Company or of an Affiliated Company (including members of the Board if they are employees of the Company or of an Affiliated Company) are eligible to receive Incentive Options under the Amended and Restated Plan.

3.2 NONQUALIFIED OPTIONS, RIGHTS TO PURCHASE, RESTRICTED STOCK, AND DEFERRED SHARES. Officers and other employees of the Company or of an Affiliated Company, members of the Board or of the board of directors of any Affiliated Company (whether or not employed by

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the Company or an Affiliated Company), Service Providers, customers and suppliers of the Company or of an Affiliated Company are eligible to receive Nonqualified Options, Rights to Purchase, Restricted Stock, or Deferred Shares under the Amended and Restated Plan.

3.3 LIMITATION ON SHARES. In no event shall any Participant be granted Options or Rights to Purchase pursuant to which the aggregate number of shares of Common Stock that may be acquired thereunder exceeds the total number of shares then available for grants under Section 4.1 hereof. In no event shall the aggregate number of shares of Common Stock subject to Incentive Options exceed 2,000,000.

### ARTICLE 4.

#### PLAN SHARES

4.1 SHARES SUBJECT TO THE AMENDED AND RESTATED PLAN. A total of 2,000,000 shares of Common Stock, plus, on the date of each annual meeting of the

stockholders an additional 200,000 shares of Common Stock, may be issued under the Amended and Restated Plan subject to adjustment as to the number and kind of shares pursuant to Section 4.2 hereof. For purposes of this limitation, in the event that (a) all or any portion of any Option or Right to Purchase granted or offered under the Amended and Restated Plan can no longer under any circumstances be exercised, or (b) any shares of Common Stock are reacquired by the Company pursuant to an Incentive Option Agreement, Nonqualified Option Agreement or Stock Purchase Agreement or (c) any shares of Restricted Stock or Deferred Shares are forfeited for any reason, the shares of Common Stock allocable to the unexercised portion of such Option or such Right to Purchase, or the shares so reacquired or forfeited, shall again be available for grant or issuance under the Amended and Restated Plan.

4.2 CHANGES IN CAPITAL STRUCTURE. In the event that the outstanding shares of Common Stock are hereafter increased or decreased or changed into or exchanged for a different number or kind of shares or other securities of the Company by reason of a recapitalization, stock split, combination of shares, reclassification, stock dividend, or other change in the capital structure of the Company, then appropriate adjustments shall be made by the Administrator to the aggregate number and kind of shares subject to this Amended and Restated Plan, and the number and kind of shares and the price per share subject to outstanding Option Agreements, Rights to Purchase and Stock Purchase Agreements, Restricted Stock, or Deferred Share Awards in order to preserve, as nearly as practical, but not to increase, the benefits to Participants.

## ARTICLE 5.

### OPTIONS

5.1 OPTION AGREEMENT. Each Option granted pursuant to this Amended and Restated Plan shall be evidenced by an Option Agreement which shall specify the number of shares subject thereto, the Exercise Price per share, and whether the Option is an Incentive Option or Nonqualified Option. As soon as is practical following the grant of an Option, an Option Agreement shall be duly executed and delivered by or on behalf of the Company to the Optionee to whom such Option was granted. Each Option Agreement shall be in such form and contain such additional terms and conditions, not inconsistent with the provisions of this Amended and

Restated Plan, as the Administrator shall, from time to time, deem desirable, including, without limitation, the imposition of any rights of first refusal and resale obligations upon any shares of Common Stock acquired pursuant to an Option Agreement. Each Option Agreement may be different from each other Option Agreement.

5.2 EXERCISE PRICE. The Exercise Price per share of Common Stock covered by each Option shall be determined by the Administrator, subject to the following:

(a) the Exercise Price of an Option shall not be less than 100% of Fair Market Value on the date the Option is granted, and (b) if the person to whom an Incentive Option is granted is a 10% Shareholder on the date of grant, the Exercise Price shall not be less than 110% of Fair Market Value on the date the Incentive Option is granted.

(b) the Exercise Price, for each Nonqualified Option granted pursuant to any program by which the Administrator or the Board allows a select Participant to receive Nonqualified Options in lieu of a bonus otherwise payable in cash, shall be reduced below Fair Market Value at the election of the Participant and in such dollar increment per Nonqualified Option as the Administrator determines in its discretion; provided that the aggregate Exercise Price reduction for the Nonqualified Options issued to such Participant shall equal the bonus that the Company would otherwise have paid in cash but for the Participant's election to defer compensation.

5.3 PAYMENT OF EXERCISE PRICE. Payment of the Exercise Price shall be made upon exercise of an Option and may be made, in the discretion of the Administrator, subject to any legal restrictions, by: (a) cash; (b) certified or official bank check, wire transfer, or the equivalent thereof acceptable to the Company; (c) the surrender of shares of Common Stock owned by the Optionee that have been held by the Optionee for at least six (6) months, which surrendered shares shall be valued at Fair Market Value as of the date of such exercise; (d) the Optionee's promissory note in a form and on terms acceptable to the Administrator; (e) the cancellation of indebtedness of the Company to the Optionee; (f) the waiver of compensation due or accrued to the Optionee for services rendered; (g) provided that a public market for the Common Stock exists, a "same day sale" commitment from the Optionee and an NASD Dealer whereby the Optionee irrevocably elects to exercise the Option and to sell a portion of the shares so purchased to pay for the Exercise Price and whereby the NASD Dealer irrevocably commits upon receipt of such shares to forward the Exercise Price directly to the Company; (h) provided that a public market for the Common Stock exists, a "margin" commitment from the Optionee and an NASD Dealer whereby the Optionee irrevocably elects to exercise the Option and to pledge the shares so purchased to the NASD Dealer in a margin account as security for a loan from the NASD Dealer in the amount of the Exercise Price, and whereby the NASD Dealer irrevocably commits upon receipt of such shares to forward the Exercise Price directly to the Company; or (i) any combination of the foregoing methods of payment or any other consideration or method of payment as shall be permitted by applicable corporate law. In addition, where the Committee provides written approval after investigating the associated financial accounting consequences, the Committee may provide in an Option Agreement for the payment of the Exercise Price on a cashless basis, by stating in the exercise notice the number of shares of Common Stock the Optionee elects to purchase pursuant to such exercise (in which case the Optionee shall receive a

number of shares of Common Stock equal to the number the Optionee would have received upon such exercise for cash less such number of shares of Common Stock as shall then have a Fair Market Value in the aggregate equal to the Exercise Price due in respect of such exercise). The Committee may, in its discretion and for any reason, refuse to accept a particular form of consideration (other than cash or a certified or official bank check) at the time of any Option exercise.

5.4 TERM AND TERMINATION OF OPTIONS. The term and provisions for termination of each Option shall be as fixed by the Administrator, but no Incentive Option may be exercisable more than ten (10) years after the date it is granted. An Incentive Option granted to a person who is a 10% Shareholder on the date of grant shall not be exercisable more than five (5) years after the date it is granted.

5.5 VESTING AND EXERCISE OF OPTIONS. Each Option shall vest and become exercisable in one or more installments at such time or times and subject to such conditions, including without limitation the achievement of specified performance goals or objectives, as shall be determined by the Administrator.

5.6 ANNUAL LIMIT ON INCENTIVE OPTIONS. To the extent required for "incentive stock option" treatment under Section 422 of the Code, the aggregate Fair Market Value (determined as of the time of grant) of the Common Stock shall not, with respect to which Incentive Options granted under this Amended and Restated Plan and any other plan of the Company or any Affiliated Company become exercisable for the first time by an Optionee during any calendar year, exceed \$100,000.

5.7 NONTRANSFERABILITY OF OPTIONS. Except as otherwise provided by the Administrator, no Incentive Option shall be assignable or transferable except by will or the laws of descent and distribution, and during the life of the Optionee shall be exercisable only by such optionee. Any other Award pursuant to the Amended and Restated Plan shall be transferable only by will, the laws of descent and distribution, or to an immediate family member of the optionee or a trust for an immediate family member; provided that any transferee of such an Award shall be subject to the terms of the original Award.

5.8 RIGHTS AS SHAREHOLDER. An Optionee or permitted transferee of an Option shall have no rights or privileges as a shareholder with respect to any shares covered by an Option until such Option has been duly exercised and certificates representing shares purchased upon such exercise have been issued to such person.

## ARTICLE 6.

### RIGHTS TO PURCHASE

6.1 NATURE OF RIGHT TO PURCHASE. A Right to Purchase granted to an Offeree entitles the Offeree to purchase shares of Common Stock subject to such terms, restrictions and conditions as the Administrator may determine at the time of

grant ("Restricted Stock") provided, however, in no event shall the Purchase Price for a Right to Purchase be less than 100% of Fair Market Value on the date the Right to Purchase is granted. Such conditions may include, but are

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not limited to, continued employment or the achievement of specified performance goals or objectives.

6.2 ACCEPTANCE OF RIGHT TO PURCHASE. An Offeree shall have no rights with respect to the Restricted Stock subject to a Right to Purchase unless the Offeree shall have accepted the Right to Purchase within ten (10) days (or such longer or shorter period as the Administrator may specify) following the grant of the Right to Purchase by making payment of the full Purchase Price to the Company in the manner set forth in Section 6.3 hereof and by executing and delivering to the Company a Stock Purchase Agreement. Each Stock Purchase Agreement shall be in such form, and shall set forth the Purchase Price and such other terms, conditions and restrictions of the Restricted Stock, not inconsistent with the provisions of this Amended and Restated Plan, as the Administrator shall, from time to time, deem desirable. Each Stock Purchase Agreement may be different from each other Stock Purchase Agreement.

6.3 PAYMENT OF PURCHASE PRICE. Subject to any legal restrictions, payment of the Purchase Price upon acceptance of a Right to Purchase Restricted Stock may be made, in the discretion of the Administrator, by: (a) cash; (b) certified or official bank check, wire transfer, or the equivalent thereof acceptable to the Company; (c) the surrender of shares of Common Stock owned by the Offeree that have been held by the Offeree for at least six (6) months, which surrendered shares shall be valued at Fair Market Value as of the date of such exercise; (d) the Offeree's promissory note in a form and on terms acceptable to the Administrator; (e) the cancellation of indebtedness of the Company to the Offeree; (f) the waiver of compensation due or accrued to the Offeree for services rendered; or (g) any combination of the foregoing methods of payment or any other consideration or method of payment as shall be permitted by applicable corporate law.

6.4 RIGHTS AS A SHAREHOLDER. Upon complying with the provisions of Section 6.2 hereof, an Offeree shall have the rights of a shareholder with respect to the Restricted Stock purchased pursuant to the Right to Purchase, including voting and dividend rights, subject to the terms, restrictions and conditions as are set forth in the Stock Purchase Agreement. Unless the Administrator shall determine otherwise, certificates evidencing shares of Restricted Stock shall remain in the possession of the Company until such shares have vested in accordance with the terms of the Stock Purchase Agreement.

6.5 RESTRICTIONS. Shares of Restricted Stock may not be sold, assigned, transferred, pledged or otherwise encumbered or disposed of except as specifically provided in the Stock Purchase Agreement. In the event of



termination of a Participant's employment, service as a director of the Company or Service Provider status for any reason whatsoever (including death or disability), the Stock Purchase Agreement may provide, in the discretion of the Administrator, that the Company shall have the right, exercisable at the discretion of the Administrator, to repurchase (i) at the original Purchase Price, any shares of Restricted Stock which have not vested as of the date of termination, and (ii) at Fair Market Value, any shares of Restricted Stock which have vested as of such date, on such terms as may be provided in the Stock Purchase Agreement.

6.6 VESTING OF RESTRICTED STOCK. The Stock Purchase Agreement shall specify the date or dates, the performance goals or objectives which must be achieved, and any other conditions on which the Restricted Stock may vest.

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6.7 DIVIDENDS. If payment for shares of Restricted Stock is made by promissory note, any cash dividends paid with respect to the Restricted Stock may be applied, in the discretion of the Administrator, to repayment of such note.

6.8 NONASSIGNABILITY OF RIGHTS. No Right to Purchase shall be assignable or transferable except by will or the laws of descent and distribution or as otherwise provided by the Administrator.

6.9 DEFERRAL ELECTIONS. The Participant may elect in accordance with Article 6A.1 hereto, with the Committee's consent, to exchange Restricted Stock for an equivalent Deferred Share Award under Article 6A hereto (or a deferred compensation provision under another Company plan).

## ARTICLE 6A

### DEFERRED SHARES

6A.1 DEFERRAL ELECTIONS. The Committee may permit employees of the Company or of an Affiliated Company, members of the Board (whether or not employed by the Company or an Affiliated Company), and Service Providers to irrevocably elect to receive the credits described in Section 6A.2 below in lieu of fees, salary, or other income from the Company that the Participant earns after the election; provided that employees of the Company will only be permitted to make deferral elections if the Committee determines they are members of a select group of management or highly compensated employees (within the meaning of the Employee Retirement Income Security Act of 1974). Any election pursuant to this Section 6A.1 shall be made before the Participant becomes legally entitled to the fees, salary, or other income being deferred; provided that (a) a deferral election with respect to Restricted Stock of previously Deferred Shares must be made more than 12 months before a Participant's Restricted Stock vests or Deferred Shares are scheduled to be distributed to a Participant pursuant to

this Article 6A; and provided further that (b) the Committee will honor an election made within 12 months of a scheduled vesting date (or distribution date for Deferred Shares) if the Participant consents in the election to irrevocably forfeit 5% of the Restricted Stock or Deferred Shares to which the Participant would otherwise be entitled.

6A.2 DEFERRED SHARE CREDITS AND EARNINGS. The Committee shall establish an internal Amended and Restated Plan account for each Participant who makes an election under Section 6A.1 hereto. At the end of each calendar year thereafter (or such more frequent periods as the Committee may direct or approve), the Committee shall credit the Participant's account with a number of Deferred Shares having a Fair Market Value on that date equal to the compensation deferred during the year, and any cash dividends paid during the year on Deferred Shares previously credited to the Participant's account. The Committee shall hold each Participant's Deferred Shares until distribution is required pursuant to Section 6A.4 hereto.

6A.3 RIGHTS TO DEFERRED SHARES. Except as provided in Section 6.9 hereto, a Participant shall at all times be 100% vested in his or her right to any Deferred Shares and any associated cash earnings. A Participant's right to Deferred Shares shall at all times constitute an unsecured promise of the Company to pay benefits as they come due.

6A.4 DISTRIBUTION OF DEFERRED SHARES AND EARNINGS. The Committee shall distribute a Participant's Deferred Shares in five substantially equal annual installments in real Shares commencing as of the first day of the calendar year beginning after the Participant's Continuous Service terminates, provided that the Committee will honor a Participant's election of a different time and manner of distribution if the election is made on a form approved by the Committee pursuant hereto. Fractional shares shall not be distributed, and instead shall be paid out in cash.

6A.5 HARDSHIP WITHDRAWALS. A Participant may apply to the Committee for an immediate distribution of all or a portion of his or her Deferred Shares on account of hardship. The hardship must result from a sudden and unexpected illness or accident of the Participant or dependent, casualty loss of property, or other similar conditions beyond the control of the Participant. School expenses or residence purchases, for example, will not be considered hardships. Distributions will not be made to the extent a hardship could be relieved through insurance or by liquidation of the Participant's nonessential assets. The amount of any distribution hereunder shall be limited to the amount necessary to relieve the Participant's financial hardship. The determination of whether a Participant has a qualifying hardship and the amount to be distributed, if any, shall be made by the Committee in its discretion. The Committee may require evidence of the purpose and amount of the need, and may establish such application or other procedures as it deems appropriate.

## ARTICLE 7.

### ADMINISTRATION OF THE PLAN

7.1 ADMINISTRATOR. Authority to control and manage the operation and administration of the Amended and Restated Plan shall be vested in the Board, which may delegate such responsibilities in whole or in part to a committee consisting of two (2) or more "outside" (within the meaning of Code Section 162(m)) members of the Board (the "Committee"). Members of the Committee may be appointed from time to time by, and shall serve at the pleasure of, the Board. As used herein, the term "Administrator" means the Board or, with respect to any matter as to which responsibility has been delegated to the Committee, the term Administrator shall mean the Committee.

7.2 POWERS OF THE ADMINISTRATOR. In addition to any other powers or authority conferred upon the Administrator elsewhere in the Amended and Restated Plan or by law, the Administrator shall have full power and authority: (a) to determine the persons to whom, and the time or times at which, Incentive Options or Nonqualified Options shall be granted and Rights to Purchase and the opportunity to accrue Deferred Shares shall be offered, the number of shares to be represented by each Option and Right to Purchase and the consideration to be received by the Company upon the exercise thereof; (b) to interpret the Amended and Restated Plan; (c) to create, amend or rescind rules and regulations relating to the Amended and Restated Plan; (d) to determine the terms, conditions and restrictions contained in, and the form of, Option Agreements and Stock Purchase Agreements; (e) to determine the identity or capacity of any persons who may be entitled to exercise a Participant's rights under any Option or Right to Purchase under the Amended and Restated Plan; (f) to correct any defect or supply any omission or reconcile any inconsistency in the Amended and Restated Plan or in any Option Agreement or Stock Purchase Agreement; (g) to accelerate the vesting of any Option or release or waive any repurchase rights of the Company with respect to

Restricted Stock; (h) to extend the exercise date of any Option or acceptance date of any Right to Purchase; (i) to provide for rights of first refusal and/or repurchase rights; (j) to amend outstanding Option Agreements and Stock Purchase Agreements to provide for, among other things, any change or modification which the Administrator could have provided for upon the grant of an Option or Right to Purchase or in furtherance of the powers provided for herein; and (k) to make all other determinations necessary or advisable for the administration of the Amended and Restated Plan, but only to the extent not contrary to the express provisions of the Amended and Restated Plan. Notwithstanding the foregoing, or anything to the contrary contained herein, the Administrator may not in any event (i) modify any Option to reduce the exercise price of such Option below

100% of Fair Market Value on the date the Option was granted; or (ii) modify any Right to Purchase to reduce the Purchase Price of such Right to Purchase below 100 % of Fair Market Value on the date the Right to Purchase was granted; or (iii) modify or otherwise credit a Participant's account with Deferred Shares in addition to the number of Deferred Shares initially credited to such account based on the Fair Market Value on the date of such initial credit and the compensation amount deferred by such Participant. Any action, decision, interpretation or determination made in good faith by the Administrator in the exercise of its authority conferred upon it under the Amended and Restated Plan shall be final and binding on the Company and all Participants.

7.3 LIMITATION ON LIABILITY. No employee of the Company or member of the Board or Committee shall be subject to any liability with respect to duties under the Amended and Restated Plan unless the person acts fraudulently or in bad faith. To the extent permitted by law, the Company shall indemnify each member of the Board or Committee, and any employee of the Company with duties under the Amended and Restated Plan, who was or is a party, or is threatened to be made a party, to any threatened, pending or completed proceeding, whether civil, criminal, administrative or investigative, by reason of such person's conduct in the performance of duties under the Amended and Restated Plan.

## ARTICLE 8.

### CHANGE IN CONTROL

8.1 CHANGE IN CONTROL. In order to preserve a Participant's rights in the event of a Change in Control of the Company, (i) the time period relating to the exercise or realization of all outstanding Options, Rights to Purchase and Restricted Stock shall automatically accelerate immediately prior to the consummation of such Change in Control, and (ii) with respect to Options, Rights to Purchase, or Deferred Shares the Administrator in its discretion may, at any time an Option, Right to Purchase, or Deferred Share Award is granted, or at any time thereafter, take one or more of the following actions: (A) provide for the purchase or exchange of each Option or Right to Purchase for an amount of cash or other property having a value equal to the difference, or spread, between (x) the value of the cash or other property that the Participant would have received pursuant to such Change in Control transaction in exchange for the shares issuable upon exercise of the Option or Right to Purchase had the Option or Right to Purchase been exercised immediately prior to such Change in Control transaction and (y) the Exercise Price of such Option or the Purchase Price under such Right to Purchase, (B) adjust the terms of the Options, Rights to Purchase, or Deferred Shares in a manner determined by the Administrator to reflect the Change in Control, (C) cause the Options, Rights to Purchase, or Deferred Shares to be assumed, or new rights substituted therefor, by another entity, through the continuance of the Amended and Restated Plan and the assumption of outstanding Options, Rights to Purchase, or

Deferred Shares, or the substitution for such Options, Rights to Purchase, and Deferred Shares of new options, new rights to purchase or new deferred shares of comparable value covering shares of a successor corporation, with appropriate adjustments as to the number and kind of shares and Exercise Prices, in which event the Amended and Restated Plan and such Options, Rights to Purchase, or Deferred Shares, or the new options, rights to purchase and deferred shares substituted therefor, shall continue in the manner and under the terms so provided, or (D) make such other provision as the Administrator may consider equitable. If the Administrator does not take any of the forgoing actions, all Options, Rights to Purchase, or Deferred Shares shall terminate upon the consummation of the Change in Control, unless the Common Stock remains listed or admitted to trading on a national stock exchange or a NASDAQ market system. The Administrator shall cause written notice of the proposed Change in Control transaction to be given to all Participants not less than fifteen (15) days prior to the anticipated effective date of the proposed transaction.

## ARTICLE 9.

### AMENDMENT AND TERMINATION OF THE PLAN

9.1 AMENDMENTS. The Board may from time to time alter, amend, suspend or terminate the Amended and Restated Plan in such respects as the Board may deem advisable, provided however, no such amendment shall be made without the approval of the Company's stockholders to the extent such approval is required by law or agreement or if such amendment would:

- (i) materially increase the benefits accruing to the Participants;
- (ii) increase the number of shares of Common Stock available for issuance under the Amended and Restated Plan;
- (iii) materially modify the requirements for eligibility to participate in the Amended and Restated Plan;
- (iv) permit the grant of any Award at an exercise price or purchase price below 100% of Fair Market Value on the date of grant; or
- (v) allow for the modification of any outstanding Award to reduce the exercise price or the purchase price of such Award below 100% of Fair Market Value on the date of grant of such Award.

The Board may alter or amend the Amended and Restated Plan to comply with requirements under the Code relating to Incentive Options or other types of options which give Optionees more favorable tax treatment than that applicable to Options granted under this Amended and Restated Plan as of the date of its adoption. Upon any such alteration or amendment, any outstanding Option granted hereunder may, if the Administrator so determines and if permitted by applicable law, be subject to the more favorable tax treatment afforded to an Optionee pursuant to such terms and conditions.

9.2 AMENDED AND RESTATED PLAN TERMINATION. Unless the Amended and Restated Plan shall theretofore have been terminated, the Amended and Restated Plan shall terminate on the tenth (10th) anniversary of the Effective Date and no Options, Rights to Purchase, or Deferred Shares may be granted under the Amended and Restated Plan thereafter, but Option Agreements, Stock Purchase Agreements and Rights to Purchase then outstanding shall continue in effect in accordance with their respective terms.

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## ARTICLE 10.

### TAX WITHHOLDING

10.1 WITHHOLDING. The Company shall have the power to withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy any applicable Federal, state, and local tax withholding requirements with respect to any Options exercised or Restricted Stock or Deferred Share issued under the Amended and Restated Plan. To the extent permissible under applicable tax, securities and other laws, the Administrator may, in its sole discretion and upon such terms and conditions as it may deem appropriate, permit a Participant to satisfy his or her obligation to pay any such tax, in whole or in part, up to an amount determined on the basis of the highest marginal tax rate applicable to such Participant, by (a) directing the Company to apply shares of Common Stock to which the Participant is entitled as a result of the exercise of an Option or as a result of the purchase of or lapse of restrictions on Restricted Stock or (b) delivering to the Company shares of Common Stock owned by the Participant. The shares of Common Stock so applied or delivered in satisfaction of the Participant's tax withholding obligation shall be valued at their Fair Market Value as of the date of measurement of the amount of income subject to withholding.

## ARTICLE 11.

### MISCELLANEOUS

11.1 BENEFITS NOT ALIENABLE. Other than as provided above, benefits under the Amended and Restated Plan may not be assigned or alienated, whether voluntarily or involuntarily. Any unauthorized attempt at assignment, transfer, pledge or other disposition shall be without effect.

11.2 NO ENLARGEMENT OF EMPLOYEE RIGHTS. This Amended and Restated Plan is strictly a voluntary undertaking on the part of the Company and shall not be deemed to constitute a contract between the Company and any Participant to be consideration for, or an inducement to, or a condition of, the employment of any Participant. Nothing contained in the Amended and Restated Plan shall be deemed to give the right to any Participant to be retained as an employee of the

Company or any Affiliated Company or to limit the right of the Company or any Affiliated Company to discharge any Participant at any time.

11.3 APPLICATION OF FUNDS. The proceeds received by the Company from the sale of Common Stock pursuant to Option Agreements and Stock Purchase Agreements, except as otherwise provided herein, will be used for general corporate purposes.

FIDELITY NATIONAL FINANCIAL, INC.  
EMPLOYEE STOCK PURCHASE PLAN

AS AMENDED AND RESTATED AS OF APRIL 24, 2001

Fidelity National Financial, Inc. (the "Company") originally adopted the 1987 Employee Stock Purchase Plan (the "Plan") in 1987. The Plan was amended on February 28, 1994 and is hereby amended and restated in its entirety to be effective on the Effective Date.

ARTICLE I  
PURPOSE OF THE PLAN

1.1 PURPOSE. The Company has determined that it is in its best interests to provide an incentive to attract and retain employees and to increase employee morale by providing a program through which employees may acquire a proprietary interest in the Company through the purchase of shares of the common stock of the Company ("Company Stock") and its subsidiary corporations. The Plan is hereby amended and restated by the Company to permit employees to subscribe for and purchase directly from the Company shares of the Company Stock, and to pay the purchase price in installments by payroll deductions. Participation in the Plan is entirely voluntary and the Company makes no recommendations to its employees as to whether they should participate in the Plan. The Plan is not intended to be an employee benefit plan under the Employee Retirement Income Security Act of 1974, and therefore is not required to comply with that Act.

ARTICLE II  
DEFINITIONS

2.1 BASE EARNINGS. "Base Earnings" means the amount of a Participant's regular salary before deductions required by law and deductions authorized by the Participant, including any elective deferrals with respect to a plan of the Company qualified under either Section 125 or Section 401(a) of the Internal Revenue Code of 1986, issued to an employee by the Company and any amounts deferred by the Participant to a nonqualified deferred compensation plan sponsored by the Company. In the case of Participants primarily compensated on a commission basis, "Base Earnings" may include commission earnings not to exceed \$7,500 per month. "Base Earnings" shall not include wages paid for overtime, extended workweek schedules or any other form of extra compensation. "Base Earnings" shall not include payments made by the Company based upon salary for Social Security (FUTA), workmen's compensation, unemployment compensation, disability payments or any other payment mandated by state or federal statute or Company contributions made by the Company for insurance, annuity or any other employee benefit plan.



2.2 BOARD. "Board" means the Board of Directors for the Company.

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2.3 BROKER. "Broker" means the financial institution designated by the Company to act as Broker for the Plan under Article VIII below.

2.4 BROKERAGE ACCOUNT. "Brokerage Account" means the bookkeeping entry maintained by the Company for the purpose of accounting for the benefits accrued by a Participant under the Plan.

2.5 COMMITTEE. "Committee" means the Committee described in Article VIII.

2.6 COMPANY. "Company" means Fidelity National Financial, Inc., a Delaware corporation and any affiliated Company who adopts this Plan with the approval of the Board of Directors of the Company.

2.7 COMPANY STOCK. "Company Stock" means the common stock of the Company.

2.8 EMPLOYEE. "Employee" means each person currently employed by the Company or any of its operating subsidiaries who average at least twenty hours per week and have been employed continuously during the last ninety days, any portion of whose income is subject to withholding of income tax or for whom Social Security retirement contributions are made by the Company and any person qualifying as a common law employee of the Company. Persons determined by the Board to be non-employees and Employees on leave of absence are not eligible to become Participants in the Plan.

2.9 EFFECTIVE DATE. "Effective Date" means January 1, 2000.

2.10 PARTICIPANT. "Participant" means an Employee who has satisfied the eligibility requirements of Section 3.1 and has become a participant in the Plan in accordance with Section 3.2.

2.11 PAYROLL PERIOD. "Payroll Period" means the approximately two week pay periods coinciding with the Company's payroll practices, as revised from time to time.

2.12 PLAN YEAR. "Plan Year" means the twelve consecutive month period ending on December 31.

2.13 QUARTER. "Quarter" means the three consecutive calendar month periods commencing January 1 through March 31, April 1 through June 30, July 1 through September 30 and October 1 through December 31 each Plan Year.

2.14 QUARTER END. "Quarter End" means the last day of each calendar quarter (March 31, June 30, September 30 or December 31).

ARTICLE III  
ELIGIBILITY AND PARTICIPATION

3.1 ELIGIBILITY. Each Employee of the Company who is a Participant on the Effective Date shall continue as a Participant in the Plan. All other Employees of the Company may become a Participant in the Plan on the first day of the next Payroll Period (to the extent practical under the Company's payroll practices) following the delivery of the an Enrollment Form coincident with or next following his completion of ninety days of employment with the Company.

3.2 PARTICIPATION. An Employee who has satisfied the eligibility requirements of Section 3.1 may become a Participant in the Plan upon his completion and delivery to the Human Resources Department of the Company of an enrollment form provided by the Company (the "Enrollment Form") authorizing payroll deductions. Payroll deductions for a Participant shall commence on the first day of the next Payroll Period coincident with or next following the filing of the Participant's Enrollment Form and shall remain in effect until revoked by the Participant by the filing of a notice of withdrawal from the Plan under Article VII or by the filing of a new Enrollment Form providing for a change in the Participant's payroll deduction rate under Section 4.2.

3.3 SPECIAL RULES. In the event that a person is excluded from participation in the Plan under Section 2.8 above and a court of competent jurisdiction determines that that person or persons are eligible to participate in the Plan, the person or persons shall be treated as an Employee only from the date of the court's determination and shall not be entitled to retroactive participation in the Plan.

ARTICLE IV  
PAYROLL DEDUCTIONS

4.1 PARTICIPANT ELECTION. Upon the Enrollment Form, each Participant shall designate the amount of payroll deductions ("Participant Contributions") to be made from his paycheck to purchase Company Stock under the Plan. The amount of Participant Contributions shall be designated in whole percentages of Base Earnings, of at least 5% not to exceed 15% of Base Earnings for any Plan Year. Commencing April 1, 2000, the amount of Participant Contributions may be at least 3% not to exceed 15% of Base Earnings for any Plan Year. The amount so designated upon the Enrollment Form shall be effective as of the next payroll period and shall continue until terminated or altered in accordance with Section 4.2 below.

4.2 CHANGES IN ELECTION. A Participant may terminate participation in the Plan at any time prior to the close of a Payroll Period as provided in Article VII. A Participant may

decrease or increase the rate of Participant Contributions once each calendar quarter by completing and delivering to the Human Resources Department of the Company a new Enrollment Form setting forth the desired change. Any change under this Section shall become effective on the first day of the next Payroll Period (to the extent practical under the Company's payroll practices) following the delivery of the new Enrollment Form.

4.3 PARTICIPANT ACCOUNTS. The Company shall establish and maintain a separate Brokerage Account for each Participant. The amount of each Participant's Participant Contributions shall be credited to his Brokerage Account. No interest will be paid or allowed on amounts credited to a Participant's Brokerage Account. All Participant Contributions withheld by the Company under the Plan are general corporate assets of the Company and may be used by the Company for any corporate purpose. The Company is not obligated to segregate such Participant Contributions.

#### ARTICLE V COMPANY CONTRIBUTIONS

5.1 OFFICERS AND DIRECTORS. For each Officer or director of the Company who is a Participant in the Plan and remains an Employee of the Company on each day from each Quarter End until the anniversary of that Quarter End (the "Matching Date"), the Company shall make a Matching Contribution to the Brokerage Account of that Participant. The Matching Contribution shall be in an amount equal to 50% of the amount of Participant Contributions set aside into the Participant's Brokerage Account for the Quarter ending on the applicable Quarter End. The Matching Contribution shall be made as soon as is practical to the Broker following the Matching Date. Withholding taxes, if any, shall be made upon such Matching Contribution based upon the Participant's existing withholding percentages or as otherwise required by law from the Participant's Base Earnings. "Officer" means president, secretary, vice president, treasurer or assistant vice president and shall be determined by the Committee as of any Quarter End.

5.2 OTHER PARTICIPANTS. For each Participant who the Committee determines is not considered an Officer or director of the Company under Section 5.1 above, who is a Participant in the Plan and remains an Employee of the Company on each day from each Quarter End until the Matching Date, the Company shall make a Matching Contribution to the Brokerage Account of that Participant. The Matching Contribution shall be in an amount equal to one-third of the amount of Participant Contributions set aside into the Participant's Brokerage Account for the Quarter ending on the applicable Quarter End. The Matching Contribution shall be made as soon as is practical to the Broker following the Matching Date. Withholding taxes, if any, shall be made upon such Matching Contribution based upon the Participant's existing withholding percentages or as otherwise required by law from the Participant's Base Earnings.

5.3 TEN YEAR EMPLOYEES. Notwithstanding the provisions of Section 5.2 above, each Employee who is a Participant in the Plan and has completed at least ten consecutive years of employment with the Company at the time any Matching Contribution will be made, the Matching Contribution for such Participant under Section 5.2 above shall be 50% of the amount of the Participant's Contributions instead of one-third.

ARTICLE VI  
PURCHASE OF STOCK

6.1 PURCHASE OF COMPANY STOCK. Absent an election by the Participant to terminate and have his Brokerage Account returned, as soon as is practical following the transfer of funds from the Company to the Broker following the close of each Payroll Period or Quarter End for Matching Contributions, the Plan shall purchase on behalf of each Participant the maximum number of shares and partial shares of Company Stock at the purchase price determined under Section 6.4 as can be purchased with the amounts held in each Participant's Brokerage Account. In the event that there are amounts held in a Participant's Brokerage Account that are not used to purchase Company Stock, all such amounts shall be held in the Participant's Brokerage Account and carried forward to the next Payroll Period.

6.2 DELIVERY OF COMPANY STOCK.

(a) Company Stock acquired under the Plan may either be issued directly to Participants or may be issued to the Broker engaged by the Company to administer the Plan under Article VIII. If the Company Stock is issued in the name of the Broker, all Company Stock so issued ("Plan Held Stock") shall be held in the name of the Broker for the benefit of the Plan. The Broker shall maintain Brokerage Accounts for the benefit of the Participants that shall reflect each Participant's interest in the Plan Held Stock. Such accounts shall reflect the number of whole and partial shares of Company Stock that are being held by the Broker for the benefit of each Participant.

(b) Any Participant may elect to have the Company Stock purchased under the Plan from his Brokerage Account be issued directly to the Participant. Any election under this paragraph shall be on the forms provided by the Company and shall be issued in accordance with paragraph (c) below.

(c) In the event that Company Stock under the Plan is issued directly to a Participant, the Company will deliver to each Participant a stock certificate or certificates issued in his name for the number of shares of Company Stock purchased as soon as practicable after the Company Stock is purchased. Where Company Stock is issued under this paragraph, only full shares of stock will be issued to a Participant. The time of issuance and delivery of shares may be

postponed for such period as may be necessary to comply with

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the registration requirements under the Securities Act of 1933, as amended, the listing requirements of any securities exchange on which the Company Stock may then be listed, or the requirements under other laws or regulations applicable to the issuance or sale of such shares.

6.4 PURCHASE PRICE. The purchase price for any Offering Period shall be the Fair Market Value of Company Stock on the Purchase Date.

6.5 FAIR MARKET VALUE. "Fair Market Value" on any given date means the value of one share of Company Stock, determined as follows:

(a) If the Company Stock is then listed or admitted to trading on the NASDAQ National Market System or a stock exchange which reports closing sale prices, the Fair Market Value shall be the opening sale price on the date of valuation on the NASDAQ National Market System or principal stock exchange on which the Company Stock is then listed or admitted to trading, or, if no opening sale price is quoted or no sale takes place on such day, then the Fair Market Value shall be the opening sale price of the Company Stock on the NASDAQ National Market System or such exchange on the next preceding day on which a sale occurred.

(b) If the Company Stock is not then listed or admitted to trading on the NASDAQ National Market System or a stock exchange which reports closing sale prices, the Fair Market Value shall be the average of the opening bid and asked prices of the Company Stock in the over-the-counter market on the date of valuation.

(c) If neither (a) nor (b) is applicable as of the date of valuation, then the Fair Market Value shall be determined by the Administrator in good faith using any reasonable method of valuation, which determination shall be conclusive and binding on all interested parties.

6.6 FEES AND COMMISSIONS. The Company shall pay the Broker's administrative charges for opening and maintaining the Brokerage Accounts for the Participants and the brokerage commissions on purchases made for such Brokerage Accounts that are attributable to the purchase of Company Stock with Participant Contributions and Matching Contributions under the Plan. Such Brokerage Accounts may be utilized for other transactions as described in Section 6.7 below, but any fees, commissions or other charges by the Broker in connection with such transactions shall, in certain circumstances described in Section 6.7, be payable directly to the Broker by the Participant.

6.7 PARTICIPANT ACCOUNTS WITH BROKER. Each Participant's Brokerage Account shall be credited with all cash dividends paid with respect to full shares and

unless the Company Stock is registered in the Participant's name under Section 6.2 above. Unless directed otherwise, all cash dividends on Company Stock held in a Participant's Brokerage Account shall automatically be reinvested Company Stock as soon as is practical following receipt of the dividends by the Broker. Applicable fees and brokerage commissions on the reinvestment of such dividends will be payable by the Participant. Any stock dividends or stock splits that are made with respect to Company Stock purchased with Participant Contributions and Matching Contributions shall be credited to the Participant's Brokerage Account without charge to the Participant. Any Participant may request that a certificate for any or all of the full shares of Company Stock credited to his Brokerage Account be delivered to him or her at any time, provided that the Participant shall be charged by the Broker for any fees applicable to such request. A Participant may request the Broker to sell any or all of the full or fractional shares of Company Stock allocated to his Brokerage Account. Unless directed otherwise by the Participant, the Broker shall mail to the Participant a check for the proceeds, less any applicable fees and brokerage commissions and any transfer taxes, registration fees or other normal charges associated with such a sale which shall be paid by the Participant. Except as provided in Section 7.1 below, any sale of Company Stock held in a Participant's Brokerage Account shall not affect his status as a Participant in the Plan. A Participant may purchase or sell additional shares of Company Stock through his Brokerage Account at any time through separate purchases arranged through the Broker. The Participant shall pay any and all costs, commissions or fees associated with any such transactions to the Broker, including, but not limited to, purchases, sales, reinvestment of dividends, requests for certificates and crediting of stock dividends or stock splits.

ARTICLE VII  
WITHDRAWAL

7.1 IN SERVICE WITHDRAWALS. At any time prior to the close of a Payroll Period, any Participant may withdraw the amounts held in his Brokerage Account by executing and delivering to the Human Resources Department for the Company written notice of withdrawal on the form provided by the Company. In such a case, the entire balance of the Participant's Brokerage Account shall be paid to the Participant, without interest, as soon as is practicable. Upon such notification, that Participant shall cease to participate in the Plan for the remainder of the Payroll Period in which the notice is given. Any Employee who has withdrawn under this Section shall be excluded from participation in the Plan for the remainder of the Payroll Period, but may then be reinstated as a Participant for a subsequent Payroll Period by executing and delivering a new Enrollment Form to the Committee.

## 7.2 TERMINATION OF EMPLOYMENT.

(a) In the event that a Participant's employment with the Company terminates for any reason, the Participant shall cease to participate in the Plan on the date of termination.

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As soon as is practical following the date of termination, the entire balance of the Participant's Brokerage Account shall be paid to the Participant or his beneficiary, without interest.

(b) A Participant may file a written designation of a beneficiary who is to receive any shares of Company Stock purchased under the Plan or any cash from the Participant's Brokerage Account in the event of his death subsequent to a Quarter End, but prior to delivery of such shares and cash. In addition, a Participant may file a written designation of a beneficiary who is to receive any cash from the Participant's Brokerage Account under the Plan in the event of his death prior to a Quarter End under paragraph (a) above.

(c) Any beneficiary designation under paragraph (b) above may be changed by the Participant at any time by written notice. In the event of the death of a Participant, the Committee may rely upon the most recent beneficiary designation it has on file as being the appropriate beneficiary. In the event of the death of a Participant and no valid beneficiary designation exists or the beneficiary has predeceased the Participant, the Committee shall deliver any cash or shares of Company Stock to the executor or administrator of the estate of the Participant, or if no such executor or administrator has been appointed to the knowledge of the Committee, the Committee, in its sole discretion, may deliver such shares of Company Stock or cash to the spouse or any one or more dependents or relatives of the Participant, or if no spouse, dependent or relative is known to the Committee, then to such other person as the Committee may designate.

## ARTICLE VIII PLAN ADMINISTRATION

### 8.1 PLAN ADMINISTRATION.

(a) Authority to control and manage the operation and administration of the Plan shall be vested in the Board, or a committee ("Committee") appointed by the Board. The Board or Committee shall have all powers necessary to supervise the administration of the Plan and control its operations.

(b) In addition to any powers and authority conferred on the Board or Committee elsewhere in the Plan or by law, the Board or Committee shall have the following powers and authority:

- (i) To designate agents to carry out responsibilities relating to

the Plan;

- (ii) To administer, interpret, construe and apply this Plan and to answer all questions that may arise or that may be raised under this Plan by a Participant, his beneficiary or any other person whatsoever;

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- (iii) To establish rules and procedures from time to time for the conduct of its business and for the administration and effectuation of its responsibilities under the Plan; and
- (iv) To perform or cause to be performed such further acts as it may deem to be necessary, appropriate, or convenient for the operation of the Plan.

(c) Any action taken in good faith by the Board or Committee in the exercise of authority conferred upon it by this Plan shall be conclusive and binding upon a Participant and his beneficiaries. All discretionary powers conferred upon the Board shall be absolute.

9.2 LIMITATION ON LIABILITY. No Employee of the Company nor member of the Board or Committee shall be subject to any liability with respect to his duties under the Plan unless the person acts fraudulently or in bad faith. To the extent permitted by law, the Company shall indemnify each member of the Board or Committee, and any other Employee of the Company with duties under the Plan who was or is a party, or is threatened to be made a party, to any threatened, pending or completed proceeding, whether civil, criminal, administrative, or investigative, by reason of the person's conduct in the performance of his duties under the Plan.

#### ARTICLE IX COMPANY STOCK

9.1 LIMITATIONS ON PURCHASE OF SHARES. The maximum number of shares of Company Stock that shall be made available for sale under the Plan shall be 10,784,600 shares, subject to adjustment under Section 9.4 below. The Company will issue the shares of Company Stock to be sold to Participants under the Plan. If the total number of shares of Company Stock that would otherwise be issuable pursuant to rights granted pursuant to Article VI of the Plan at the purchase date exceeds the number of shares then available under the Plan, the Company shall make a pro rata allocation of the shares remaining available in as uniform and equitable a manner as is practicable. In such event, the Company shall give written notice of such reduction of the number of shares to each participant affected thereby and any unused Participant Contributions shall be returned to such participant if necessary.



9.2 VOTING COMPANY STOCK. The Participant will have no interest or voting right in shares to be purchased under Article VI of the Plan until such shares have been purchased.

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9.3 REGISTRATION OF COMPANY STOCK. Shares to be delivered to a Participant under the Plan will be registered in the name of the Plan unless designated otherwise by the Participant.

9.4 CHANGES IN CAPITALIZATION OF THE COMPANY. Subject to any required action by the stockholders of the Company, the number of shares of Company Stock covered by each right under the Plan which has not yet been exercised and the number of shares of Company Stock which have been authorized for issuance under the Plan but have not yet been placed under rights or which have been returned to the Plan upon the cancellation of a right, as well as the Purchase Price per share of Company Stock covered by each right under the Plan which has not yet been exercised, shall be proportionately adjusted for any increase or decrease in the number of issued shares of Company Stock resulting from a stock split, stock dividend, spin-off, reorganization, recapitalization, merger, consolidation, exchange of shares or the like. Such adjustment shall be made by the Board, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issue by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Company Stock subject to any right granted hereunder.

9.5 MERGER OF COMPANY. In the event that the Company at any time proposes to merge into, consolidate with or to enter into any other reorganization pursuant to which the Company is not the surviving entity (including the sale of substantially all of its assets or a "reverse" merger in which the Company is the surviving entity), the Plan shall terminate, unless provision is made in writing in connection with such transaction for the continuance of the Plan and for the assumption of rights theretofore granted, or the substitution for such rights of new rights covering the shares of a successor corporation, with appropriate adjustments as to number and kind of shares and prices, in which event the Plan and the rights theretofore granted or the new rights substituted therefore, shall continue in the manner and under the terms so provided. If such provision is not made in such transaction for the continuance of the Plan and the assumption of rights theretofore granted or the substitution for such rights of new rights covering the shares of a successor corporation, then the Board of Directors or its committee shall cause written notice of the proposed transaction to be given to the persons holding rights not less than 10 days prior to the anticipated effective date of the proposed transaction, and, concurrent with the effective date of the proposed transaction, such rights shall be exercised automatically in accordance with Article VI as if such

effective date were the end of a Payroll Period unless a Participant withdraws from the Plan as provided in Article VII.

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ARTICLE X  
MISCELLANEOUS MATTERS

10.1 AMENDMENT AND TERMINATION. Since future conditions affecting the Company cannot be anticipated or foreseen, the Company reserves the right to amend, modify, or terminate the Plan at any time. Upon termination of the Plan, all benefits shall become payable immediately. Notwithstanding the foregoing, no such amendment or termination shall affect rights previously granted, nor may an amendment make any change in any right previously granted which adversely affects the rights of any Participant. In addition, no amendment may be made without prior approval of the stockholders of the Company if such amendment would:

(a) Increase the number of shares of Company Stock that may be issued under the Plan;

(b) Materially modify the requirements as to eligibility for participation in the Plan; or

(c) Materially increase the benefits that accrue to Participants under the Plan.

10.2 BENEFITS NOT ALIENABLE. Benefits under the Plan may not be assigned or alienated, whether voluntarily or involuntarily. Any attempt at assignment, transfer, pledge or other disposition shall be without effect, except that the Company may treat such act as an election to withdraw funds in accordance with Article VII.

10.3 NO ENLARGEMENT OF EMPLOYEE RIGHTS. This Plan is strictly a voluntary undertaking on the part of the Company and shall not be deemed to constitute a contract between the Company and any Employee or to be consideration for, or an inducement to, or a condition of, the employment of any Employee. Nothing contained in the Plan shall be deemed to give the right to any Employee to be retained in the employ of the Company or to interfere with the right of the Company to discharge any Employee at any time.

10.4 GOVERNING LAW. To the extent not preempted by Federal law, all legal questions pertaining to the Plan shall be determined in accordance with the laws of the State of California.

10.5 NON-BUSINESS DAYS. When any act under the Plan is required to be performed on a day that falls on a Saturday, Sunday or legal holiday, that act shall be performed on the next succeeding day which is not a Saturday, Sunday or

legal holiday. Notwithstanding the above, Fair Market Value shall be determined in accordance with Section 6.5.

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10.6 COMPLIANCE WITH SECURITIES LAWS. Notwithstanding any provision of the Plan, the Committee shall administer the Plan in such a way to insure that the Plan at all times complies with any requirements of Federal Securities Laws. For example, affiliates may be required to make irrevocable elections in accordance with the rules set forth under Section 16b-3 of the Securities Exchange Act of 1934.

IN WITNESS WHEREOF, FIDELITY NATIONAL FINANCIAL, INC. has caused this instrument to become effective as of April 24, 2001.

FIDELITY NATIONAL FINANCIAL, INC.

BY: /s/ Alan L. Stinson

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ALAN L. STINSON, CHIEF  
FINANCIAL OFFICER

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## EMPLOYMENT AGREEMENT

This employment agreement (the "Agreement") is effective as of March 22, 2001 (the "Effective Date"), by and between FIDELITY NATIONAL FINANCIAL, INC., a Delaware corporation (the "Company"), and WILLIAM P. FOLEY, II (the "Employee"). In consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Employment and Duties. Subject to the terms and conditions of this Agreement, the Company employs the Employee to serve in an executive and managerial capacity as Chief Executive Officer and Chairman of the Board of Directors of the Company, and the Employee accepts such employment and agrees to perform such reasonable responsibilities and duties commensurate with the aforesaid positions as set forth in the Articles of Incorporation and the Bylaws of the Company. Any change in such titles or delegation of duties inconsistent with such titles shall be deemed a Termination Without Cause under Section 7(b) of this Agreement.

2. Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of five (5) years ending March 22, 2006, subject to prior termination as set forth in Section 7, below (the "Term"). The Term may be extended at any time upon mutual agreement of the parties.

3. Salary. During the Term, the Company shall pay the Employee a minimum base annual salary, before deducting all applicable withholdings, of \$950,000 per year, payable at the times and in the manner dictated by the Company's standard payroll policies. Such minimum base annual salary may be periodically reviewed and increased (but not decreased) at the discretion of the Compensation Committee of the Board of Directors to reflect, among other matters, cost of living increases and performance results.

4. Other Compensation and Fringe Benefits. In addition to any executive bonus, pension, deferred compensation and stock option plans which the Company may from time to time make available to the employee upon mutual agreement, the Employee shall be entitled to the following:

- (a) The standard Company benefits enjoyed by the Company's other top executives.
- (b) Payment by the Company of the Employee's initiation and membership dues in all social and/or recreational clubs as deemed necessary and appropriate by the Employee to maintain various business relationships on behalf of the Company; provided, however, that the Company shall not be obligated to pay for any of the Employee's personal purchases

and expenses at such club.

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- (c) Provision by the Company during the Term and any extensions thereof to the Employee and his dependents of medical and other insurance coverage under the Company's Executive Medical Plan.
- (d) Provision by the Company of supplemental disability insurance sufficient to provide two-thirds of the Employee's pre-disability minimum base annual salary.
- (e) An annual incentive bonus for each calendar year included in this Agreement calculated pursuant to a formula substantially similar to (and the formula of which will not yield a bonus less than) the FY 2001 Incentive Plan adopted by the Compensation Committee of the Company with a target bonus based upon 100% of base annual salary, a copy of which is attached hereto as Exhibit A ("Incentive Bonus"); provided, however, that the Employer's stockholders approve an annual incentive bonus plan containing substantially the terms of the Incentive Bonus prior to its payment in accordance with Section 162(m) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder. The annual bonus shall be paid no later than March 15th of the following year and is fully vested at the end of each year in the event of a non-renewal of this Agreement by the Company. Subject to Section 7 below, the annual bonus shall be pro-rated for any partial employment year.

The Company shall deduct from all compensation payable under this Agreement to the Employee any taxes or withholdings the Company is required to deduct pursuant to state and federal laws or by mutual agreement between the parties

5. Vacation. For and during each year of the Term and any extensions thereof, the Employee shall be entitled to reasonable paid vacation periods consistent with his positions with the Company. In addition, the Employee shall be entitled to such holidays consistent with the Company's standard policies or as the Company's Board of Directors may approve.

6. Expense Reimbursement. In addition to the compensation and benefits provided herein, the Company shall, upon receipt of appropriate documentation, reimburse the Employee each month for his reasonable travel, lodging, entertainment, promotion and other ordinary and necessary business expenses.

7. Termination.

- (a) For Cause. The Company may terminate this Agreement immediately for cause upon written notice to the Employee, in which event the Company shall be obligated to pay the Employee that portion of the minimum

base annual salary due him through the date of termination. Cause shall be limited to (i) the persistent failure to perform duties consistent with a commercially reasonable standard of care; (ii) the willful neglect of duties;

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(iii) criminal or other illegal activities involving dishonesty; or  
(iv) a material breach of this Agreement.

- (b) Without Cause. Either party may terminate this Agreement immediately without cause by giving written notice to the other. If the Company terminates under this Section 7(b), then it shall pay to the Employee an amount equal to the product of (i) the Employee's minimum annual base salary in effect as of the date of termination, plus the greater of either (x) the total annual bonus paid, payable, or which would have been payable to the Employee under this Agreement (had it been in effect) for 2000 and payable in 2001 or (y) the highest bonus paid for any year during which this Agreement was in effect ("Base Year Bonus"), times (ii) the number of years (including partial years) remaining in the Term or the number 3 (three), whichever is greater. The Company shall make such payment in a lump sum on or before the fifth day following the date of termination, or as otherwise directed by the Employee. In addition, all options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately and the Company shall maintain in full force and effect for the continued benefit of the Employee for the number of years (including partial years) remaining in the Term, all employee benefit plans and programs in which the Employee was entitled to participate immediately prior to the date of termination, provided that the Employee's continued participation is possible under the general terms and provisions of such plans and programs. In the event that the Employee's participation in any such plan or program is prohibited, the Company shall, at its expense, arrange to provide the Employee with benefits substantially similar to those which the Employee would otherwise have been entitled to receive under such plans and programs for which his continued participation is prohibited. If the Employee terminates under this Section 7(b), then the Company shall be obligated to pay the Employee the minimum annual base salary due him through the date of termination.
- (c) Disability. If the Employee fails to perform his duties hereunder on account of illness or other incapacity for a period of nine consecutive months, then the Company shall have the right upon written notice to the Employee to terminate this Agreement without further obligation by paying the Employee the minimum base annual salary, without offset, for the remainder of the Term in a lump sum or as otherwise directed by the Employee.

- (d) Death. If the Employee dies during the Term, then this Agreement shall terminate immediately and the Employee's legal representatives shall be entitled to receive the minimum annual base salary for the remainder of the Term in a lump sum or as otherwise directed by the Employee's legal representative.

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- (e) Mitigation. The Employee shall not be required to mitigate the amount of any payment provided for in this Section 7 by seeking other employment or otherwise, nor shall any compensation or other payments received by the Employee after the date of termination reduce any payments due under this Section 7.
- (f) Effect of Termination. Termination for any reason or for no reason shall not constitute a waiver of the Company's rights under this Agreement nor a release of the Employee from any obligation hereunder except his obligation to perform his day-to-day duties as an employee.

#### 8. Severance Payment.

- (a) The Employee may terminate his employment hereunder for "Good Reason," which for purposes of this Agreement shall mean a "change in control of the Company." A "change in control of the Company," for purposes of this Agreement, shall be deemed to have occurred if (i) there shall be consummated (x) any consolidation or merger of the Company other than a consolidation or merger of the Company in which the holders of the Company's Common Stock immediately prior to the merger own more than 50% of the voting securities of the surviving corporation immediately after the merger, or (y) any sale, lease exchange or other transfer (in one transaction or a series of related transactions) of all, of substantially all, of the assets of the Company, or (ii) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company, or (iii) any "person" (such as that term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 (the "Exchange Act")), other than the Company or any "person" who, on the date hereof, is a director or officer of the Company, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), of securities of the Company representing 30% or more of the combined voting power of the Company's then outstanding securities, or (iv) during any period of two (2) consecutive years during the Term or any extensions thereof, individuals, who, at the beginning of such period, constitute the Board of Directors, cease for any reason to constitute at least a majority thereof, unless the election of each director who was not a director at the beginning of such period has been approved in advance by directors representing at least two-thirds of the directors then in

office who were directors at the beginning of the period.

- (b) If the Employee terminates his employment for Good Reason, or, if after a change in control of the Company, the Company shall terminate the Employee's employment in breach of this Agreement or pursuant to Section 7(b), then:

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- (i) The Company shall pay the Employee his minimum base annual salary due him through the date of termination.
- (ii) In lieu of any further salary and bonus payments or other payments due to the Employee for periods subsequent to the date of termination, the Company shall pay, as severance to the Employee, an amount equal to the product of (A) the Employee's minimum base annual salary in effect as of the date of termination plus the Base Year Bonus, multiplied by (B) the number of years (including partial years) remaining in the Term or the number 3 (three), whichever is greater.
- (iii) All options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately; and
- (iv) The Company shall maintain in full force and effect, for the continued benefit of the Employee for the number of years (including partial years) remaining in the Term, all employee benefit plans and programs in which the Employee was entitled to participate immediately prior to the date of termination, provided that the Employee's continued participation is possible under the general terms and provisions of such plans and programs. In the event that the Employee's participation in any such plan or program is prohibited, the Company shall, at its expense, arrange to provide the Employee with benefits substantially similar to those which the Employee would otherwise have been entitled to receive under such plans and programs from which his continued participation is prohibited.
- (c) For purposes of this Section 8 and Section 7 hereof, the Employee shall not be required to mitigate the amount of any payment provided for in Sections 7 and 8 by seeking other employment or otherwise, nor shall any compensation or other payments received by the Employee after the date of termination reduce any payments due under such Sections.

9. Indemnification for Taxes. The Company shall indemnify Employee for any and all taxes, penalties, additions to tax and interest on tax deficiencies of any kind (collectively, "Taxes") with respect to any and all payments and



benefits provided by this Agreement or other agreements with Employee which are subject (if at all) to the excise tax (Excess Tax") pursuant to Section 4999 of the Internal Revenue Code of 1986, as amended. This indemnification shall extend to any and all Taxes with respect to any and all reimbursements hereunder such that, on a net-after-tax basis, Employee is in the same position that Employee would have been in if no payments made by Company to Employee had been subject to the Excise Tax (and, therefore, no indemnification payments hereunder had been necessary).

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10. Non-Delegation of Employee's Rights. The obligations, rights and benefits of the Employee hereunder are personal and may not be delegated, assigned or transferred in any manner whatsoever, nor are such obligations, rights or benefits subject to involuntary alienation, assignment or transfer.

11. Confidential Information. The Employee acknowledges that in his capacity as an employee of the Company he will occupy a position of trust and confidence and he further acknowledges that he will have access to and learn substantial information about the Company and its operations that is confidential or not generally known in the industry including, without limitation, information that relates to purchasing, sales, customers, marketing, and the Company's financial position and financing arrangements. The Employee agrees that all such information is proprietary or confidential, or constitutes trade secrets and is the sole property of the Company. The Employee will keep confidential, and will not reproduce, copy or disclose to any other person or firm, any such information or any documents or information relating to the Company's methods, processes, customers, accounts, analyses, systems, charts, programs, procedures, correspondence or records, or any other documents used or owned by the Company, nor will the Employee advise, discuss with or in any way assist any other person, firm or entity in obtaining or learning about any of the items described in this Section 11. Accordingly, the Employee agrees that during the Term and at all times thereafter he will not disclose, or permit or encourage anyone else to disclose, any such information, nor will he utilize any such information, either along or with others, outside the scope of his duties and responsibilities with the Company.

12. Non-Competition During Employment Term. The Employee agrees that, during the term and any extensions thereof, he will devote substantially all his business time and effort, and give undivided loyalty, to the Company. He will not engage in any way whatsoever, directly or indirectly, in any business that is competitive with the Company or its affiliates, nor solicit, or in any other manner work for or assist any business which is competitive with the Company or its affiliates. In addition, during the Term and any extensions thereof, the Employee will undertake no planning for or organization of any business activity competitive with the work he performs as an employee of the Company, and the Employee will not combine or conspire with any other employee of the Company or any other person for the purpose of organizing any such competitive business

activity.

13. Non-Competition After Employment Term. The parties acknowledge that as an executive officer of the Company the Employee will acquire substantial knowledge and information concerning the business of the Company as a result of his employment. The parties further acknowledge that the scope of business in which the Company is engaged as of the Effective Date is national and very competitive and one in which few companies can successfully compete. Competition by an executive officer such as the Employee in that business after this Agreement is terminated would severely injure the Company. Accordingly, for a period of one year after this Agreement is terminated or the Employee leaves the employment of the Company for any reason whatsoever, except as otherwise stated herein below, the Employee agrees (i) not to become an employee,

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consultant, advisor, principal, partner or substantial shareholder of any firm or business that in any way competes with the Company in any of its presently-existing or then-existing products and markets; and (ii) not to solicit any person or business that was at the time of such termination and remains a customer or prospective customer, or an employee of the Company. Notwithstanding any of the foregoing provisions to the contrary, the Employee shall not be subject to the restrictions set forth in this Section 13 under the following circumstances:

- (a) If the Employee's employment with the Company is terminated by the Company without cause;
- (b) If the Employee's employment with the Company is terminated as a result of the Company's unwillingness to extend the Term of this Agreement; or,
- (c) If the Employee leaves the employment of the Company for Good Reason pursuant to Section 8, above.

14. Return of Company Documents. Upon termination of this Agreement, Employee shall return immediately to the Company all records and documents of or pertaining to the Company and shall not make or retain any copy or extract of any such record or document.

15. Other Employment and Location. Anything to the contrary hereinabove notwithstanding, Company acknowledges that Employee also serves and will in the future serve as a Director and/or Chairman of the Board of certain other companies and will direct a reasonable portion of his time to fulfilling his duties in such capacities. In particular, Employee is a director of American National Title Insurance Company, in which both the Company and Employee are shareholders but which is one of the Company's competitors. Company acknowledges that Employee serving as a Director and/or Chairman of the Board of other

companies shall not constitute a violation of this Agreement or any provision hereof including but not limited to Sections 11, 12 and 13, so long as Employee dedicates a reasonable amount of his time to his duties hereunder. The Employee shall not be required to move from Santa Barbara Count, California, to perform his duties hereunder during the Term without his written consent.

16. Improvements and Inventions. Any and all improvements or inventions, which the Employee may make or participate in during the period of his employment, shall be the sole and exclusive property of the Company. The Employee will, whenever requested by the Company, execute and deliver any and all documents which the Company shall deem appropriate in order to apply for and obtain patents for improvements or inventions or in order to assign and convey to the Company the sole and exclusive right, title and interest in and to such improvements, inventions, patents or applications.

17. Actions. The parties agree and acknowledge that the rights conveyed by this Agreement are of a unique and special nature and that the Company will not have an

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adequate remedy at law in the event of a failure by the Employee to abide by its terms and conditions nor will money damages adequately compensate for such injury. It is, therefore, agreed between the parties that, in the event of a breach by the Employee of any of his obligations contained in this Agreement, the Company shall have the right, among other rights, to damages sustained thereby and to obtain an injunction or decree of specific performance from any court of competent jurisdiction to restrain or compel the Employee to perform as agreed herein. The Employee agrees that this Section 17 shall survive the termination of his employment and he shall be bound by its terms at all times subsequent to the termination of his employment for so long a period as Company continues to conduct the same business or businesses as conducted during the Term or any extensions thereof. Nothing herein contained shall in any way limit or exclude any other right granted by law or equity to the Company.

18. Amendment. This Agreement contains, and its terms constitute, the entire agreement of the parties, and it may be amended only by a written document signed by both parties to this Agreement.

19. Governing Law. California law shall govern the construction and enforcement of this Agreement and the parties agree that any litigation pertaining to this Agreement shall be adjudicated in courts located in California. This Agreement supercedes and replaces any prior agreements or understandings between the parties with respect to the subject matter hereof.

20. Attorneys' Fees. If any party finds it necessary to employ legal counsel or to bring an action at law or other proceedings against the other party to enforce any of the terms hereof, the party prevailing in any such

action or other proceeding shall be paid by the other party its reasonable attorneys' fees as well as court costs, all as determined by the court and not a jury.

21. Severability. If any section, subsection or provision hereof is found for any reason whatsoever, to be invalid or inoperative, that section, subsection or provision shall be deemed severable and shall not affect the force and validity of any other provision of this Agreement. If any covenant herein is determined by a court to be overly broad thereby making the covenant unenforceable, the parties agree and it is their desire that such court shall substitute a reasonable judicially enforceable limitation in place of the offensive part of the covenant and that as so modified the covenant shall be as fully enforceable as if set forth herein by the parties themselves in the modified form. The covenants of the Employee in this Agreement shall each be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of the Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of the covenants in this Agreement.

22. Notices. Any notice, request, or instruction to be given hereunder shall be in writing and shall be deemed given when personally delivered or three (3) days after

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being sent by United States Certified Mail, postage prepaid, with Return Receipt Requested, to the parties at their respective addresses set forth below:

To the Company: Fidelity National Financial, Inc.  
4050 Calle Real  
Santa Barbara, California 93110-3413  
Attention: Peter T. Sadowski  
Executive Vice President

To the Employee: William P. Foley, II  
4181 Creciente Drive  
Santa Barbara, California 93110

23. Waiver of Breach. The Waiver by any party of any provisions of this Agreement shall not operate or be construed as a waiver of any prior or subsequent breach by the other party.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the date first set forth above.

By: /s/ Peter T. Sadowski

-----  
Peter T. Sadowski  
Its: Executive Vice President

WILLIAM P. FOLEY, II

/s/ William P. Foley, II  
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## EMPLOYMENT AGREEMENT

This employment agreement (the "Agreement") is effective as of March 22, 2000 (the "Effective Date"), by and between FIDELITY NATIONAL FINANCIAL, INC., a Delaware corporation (the "Company"), and PATRICK F. STONE (the "Employee"). In consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Employment and Duties. Subject to the terms and conditions of this Agreement, the Company employs the Employee to serve in an executive and managerial capacity as President and Chief Operating Officer of the Company, and the Employee accepts such employment and agrees to perform such reasonable responsibilities and duties commensurate with the aforesaid positions as set forth in the Articles of Incorporation and the Bylaws of the Company. Any change in such titles or delegation of duties inconsistent with such titles shall be deemed a Termination Without Cause under Section 7(b) of this Agreement.

2. Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of three (3) years ending March 22, 2003, subject to prior termination as set forth in Section 7, below (the "Term"). The Term may be extended at any time upon mutual agreement of the parties.

3. Salary. During the Term, the Company shall pay the Employee a minimum base annual salary, before deducting all applicable withholdings, of \$750,000 per year, payable at the times and in the manner dictated by the Company's standard payroll policies. Such minimum base annual salary may be periodically reviewed and increased (but not decreased) at the discretion of the Compensation Committee of the Board of Directors to reflect, among other matters, cost of living increases and performance results.

4. Other Compensation and Fringe Benefits. In addition to any executive bonus, pension, deferred compensation and stock option plans which the Company may from time to time make available to the employee upon mutual agreement, the Employee shall be entitled to the following:

- (a) The standard Company benefits enjoyed by the Company's other top executives.
- (b) Payment by the Company of the Employee's initiation and membership dues in all social and/or recreational clubs as deemed necessary and appropriate by the Employee to maintain various business relationships on behalf of the Company; provided, however, that the Company shall not be obligated to pay for any of the Employee's personal purchases

and expenses at such club.

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- (c) Provision by the Company during the Term and any extensions thereof to the Employee and his dependents of medical and other insurance coverage under the Company's Executive Medical Plan.
- (d) Provision by the Company of supplemental disability insurance sufficient to provide two-thirds of the Employee's pre-disability minimum base annual salary.
- (e) An annual incentive bonus for each calendar year included in this Agreement calculated pursuant to a formula substantially similar to (and the formula of which will not yield a bonus less than) the FY 2001 Incentive Plan adopted by the Compensation Committee of the Company with a target bonus based upon 100% of base annual salary, a copy of which is attached hereto as Exhibit A ("Incentive Bonus"); provided, however, that the Employer's stockholders approve an annual incentive bonus plan containing substantially the terms of the Incentive Bonus prior to its payment in accordance with Section 162(m) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder. The annual bonus shall be paid no later than March 15th of the following year and is fully vested at the end of each year in the event of a non-renewal of this Agreement by the Company. Subject to Section 7 below, the annual bonus shall be pro-rated for any partial employment year.

The Company shall deduct from all compensation payable under this Agreement to the Employee any taxes or withholdings the Company is required to deduct pursuant to state and federal laws or by mutual agreement between the parties

5. Vacation. For and during each year of the Term and any extensions thereof, the Employee shall be entitled to reasonable paid vacation periods consistent with his positions with the Company. In addition, the Employee shall be entitled to such holidays consistent with the Company's standard policies or as the Company's Board of Directors may approve.

6. Expense Reimbursement. In addition to the compensation and benefits provided herein, the Company shall, upon receipt of appropriate documentation, reimburse the Employee each month for his reasonable travel, lodging, entertainment, promotion and other ordinary and necessary business expenses.

7. Termination.

- (a) For Cause. The Company may terminate this Agreement immediately for cause upon written notice to the Employee, in which event the Company shall be obligated to pay the Employee that portion of the minimum

base annual salary due him through the date of termination. Cause shall be limited to (i) the persistent failure to perform duties consistent with a commercially reasonable standard of care; (ii) the willful neglect of duties;

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(iii) criminal or other illegal activities involving dishonesty; or  
(iv) a material breach of this Agreement.

- (b) Without Cause. Either party may terminate this Agreement immediately without cause by giving written notice to the other. If the Company terminates under this Section 7(b), then it shall pay to the Employee an amount equal to the product of (i) the Employee's minimum annual base salary in effect as of the date of termination, plus the greater of either (x) the total annual bonus paid, payable, or which would have been payable to the Employee under this Agreement (had it been in effect) for 2000 and payable in 2001 or (y) the highest bonus paid for any year during which this Agreement was in effect ("Base Year Bonus"), times (ii) the number of years (including partial years) remaining in the Term or the number 2 (two), whichever is greater. The Company shall make such payment in a lump sum on or before the fifth day following the date of termination, or as otherwise directed by the Employee. In addition, all options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately and the Company shall maintain in full force and effect for the continued benefit of the Employee for the number of years (including partial years) remaining in the Term, all employee benefit plans and programs in which the Employee was entitled to participate immediately prior to the date of termination, provided that the Employee's continued participation is possible under the general terms and provisions of such plans and programs. In the event that the Employee's participation in any such plan or program is prohibited, the Company shall, at its expense, arrange to provide the Employee with benefits substantially similar to those which the Employee would otherwise have been entitled to receive under such plans and programs for which his continued participation is prohibited. If the Employee terminates under this Section 7(b), then the Company shall be obligated to pay the Employee the minimum annual base salary due him through the date of termination.
- (c) Disability. If the Employee fails to perform his duties hereunder on account of illness or other incapacity for a period of nine consecutive months, then the Company shall have the right upon written notice to the Employee to terminate this Agreement without further obligation by paying the Employee the minimum base annual salary, without offset, for the remainder of the Term in a lump sum or as otherwise directed by the Employee.



- (d) Death. If the Employee dies during the Term, then this Agreement shall terminate immediately and the Employee's legal representatives shall be entitled to receive the minimum annual base salary for the remainder of the Term in a lump sum or as otherwise directed by the Employee's legal representative.

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- (e) Mitigation. The Employee shall not be required to mitigate the amount of any payment provided for in this Section 7 by seeking other employment or otherwise, nor shall any compensation or other payments received by the Employee after the date of termination reduce any payments due under this Section 7.
- (f) Effect of Termination. Termination for any reason or for no reason shall not constitute a waiver of the Company's rights under this Agreement nor a release of the Employee from any obligation hereunder except his obligation to perform his day-to-day duties as an employee.

#### 8. Severance Payment.

- (a) The Employee may terminate his employment hereunder for "Good Reason," which for purposes of this Agreement shall mean a "change in control of the Company." A "change in control of the Company," for purposes of this Agreement, shall be deemed to have occurred if (i) there shall be consummated (x) any consolidation or merger of the Company other than a consolidation or merger of the Company in which the holders of the Company's Common Stock immediately prior to the merger own more than 50% of the voting securities of the surviving corporation immediately after the merger, or (y) any sale, lease exchange or other transfer (in one transaction or a series of related transactions) of all, of substantially all, of the assets of the Company, or (ii) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company, or (iii) any "person" (such as that term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 (the "Exchange Act")), other than the Company or any "person" who, on the date hereof, is a director or officer of the Company, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), of securities of the Company representing 30% or more of the combined voting power of the Company's then outstanding securities, or (iv) during any period of two (2) consecutive years during the Term or any extensions thereof, individuals, who, at the beginning of such period, constitute the Board of Directors, cease for any reason to constitute at least a majority thereof, unless the election of each director who was not a director at the beginning of such period has been approved in advance by directors representing at least two-thirds of the directors then in

office who were directors at the beginning of the period.

- (b) If the Employee terminates his employment for Good Reason, or, if after a change in control of the Company, the Company shall terminate the Employee's employment in breach of this Agreement or pursuant to Section 7(b), then:

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- (i) The Company shall pay the Employee his minimum base annual salary due him through the date of termination.
- (ii) In lieu of any further salary and bonus payments or other payments due to the Employee for periods subsequent to the date of termination, the Company shall pay, as severance to the Employee, an amount equal to the product of (A) the Employee's minimum base annual salary in effect as of the date of termination plus the Base Year Bonus, multiplied by (B) the number of years (including partial years) remaining in the Term or the number 2 (two), whichever is greater.
- (iii) All options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately; and
- (iv) The Company shall maintain in full force and effect, for the continued benefit of the Employee for the number of years (including partial years) remaining in the Term, all employee benefit plans and programs in which the Employee was entitled to participate immediately prior to the date of termination, provided that the Employee's continued participation is possible under the general terms and provisions of such plans and programs. In the event that the Employee's participation in any such plan or program is prohibited, the Company shall, at its expense, arrange to provide the Employee with benefits substantially similar to those which the Employee would otherwise have been entitled to receive under such plans and programs from which his continued participation is prohibited.
- (c) For purposes of this Section 8 and Section 7 hereof, the Employee shall not be required to mitigate the amount of any payment provided for in Sections 7 and 8 by seeking other employment or otherwise, nor shall any compensation or other payments received by the Employee after the date of termination reduce any payments due under such Sections.

9. Indemnification for Taxes. The Company shall indemnify Employee for any and all taxes, penalties, additions to tax and interest on tax deficiencies of any kind (collectively, "Taxes") with respect to any and all payments and

benefits provided by this Agreement or other agreements with Employee which are subject (if at all) to the excise tax (Excess Tax") pursuant to Section 4999 of the Internal Revenue Code of 1986, as amended. This indemnification shall extend to any and all Taxes with respect to any and all reimbursements hereunder such that, on a net-after-tax basis, Employee is in the same position that Employee would have been in if no payments made by Company to Employee had been subject to the Excise Tax (and, therefore, no indemnification payments hereunder had been necessary).

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10. Non-Delegation of Employee's Rights. The obligations, rights and benefits of the Employee hereunder are personal and may not be delegated, assigned or transferred in any manner whatsoever, nor are such obligations, rights or benefits subject to involuntary alienation, assignment or transfer.

11. Confidential Information. The Employee acknowledges that in his capacity as an employee of the Company he will occupy a position of trust and confidence and he further acknowledges that he will have access to and learn substantial information about the Company and its operations that is confidential or not generally known in the industry including, without limitation, information that relates to purchasing, sales, customers, marketing, and the Company's financial position and financing arrangements. The Employee agrees that all such information is proprietary or confidential, or constitutes trade secrets and is the sole property of the Company. The Employee will keep confidential, and will not reproduce, copy or disclose to any other person or firm, any such information or any documents or information relating to the Company's methods, processes, customers, accounts, analyses, systems, charts, programs, procedures, correspondence or records, or any other documents used or owned by the Company, nor will the Employee advise, discuss with or in any way assist any other person, firm or entity in obtaining or learning about any of the items described in this Section 11. Accordingly, the Employee agrees that during the Term and at all times thereafter he will not disclose, or permit or encourage anyone else to disclose, any such information, nor will he utilize any such information, either along or with others, outside the scope of his duties and responsibilities with the Company.

12. Non-Competition During Employment Term. The Employee agrees that, during the term and any extensions thereof, he will devote substantially all his business time and effort, and give undivided loyalty, to the Company. He will not engage in any way whatsoever, directly or indirectly, in any business that is competitive with the Company or its affiliates, nor solicit, or in any other manner work for or assist any business which is competitive with the Company or its affiliates. In addition, during the Term and any extensions thereof, the Employee will undertake no planning for or organization of any business activity competitive with the work he performs as an employee of the Company, and the Employee will not combine or conspire with any other employee of the Company or any other person for the purpose of organizing any such competitive business

activity.

13. Non-Competition After Employment Term. The parties acknowledge that as an executive officer of the Company the Employee will acquire substantial knowledge and information concerning the business of the Company as a result of his employment. The parties further acknowledge that the scope of business in which the Company is engaged as of the Effective Date is national and very competitive and one in which few companies can successfully compete. Competition by an executive officer such as the Employee in that business after this Agreement is terminated would severely injure the Company. Accordingly, for a period of one year after this Agreement is terminated or the Employee leaves the employment of the Company for any reason whatsoever, except as otherwise stated herein below, the Employee agrees (i) not to become an employee,

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consultant, advisor, principal, partner or substantial shareholder of any firm or business that in any way competes with the Company in any of its presently-existing or then-existing products and markets; and (ii) not to solicit any person or business that was at the time of such termination and remains a customer or prospective customer, or an employee of the Company. Notwithstanding any of the foregoing provisions to the contrary, the Employee shall not be subject to the restrictions set forth in this Section 13 under the following circumstances:

- (a) If the Employee's employment with the Company is terminated by the Company without cause;
- (b) If the Employee's employment with the Company is terminated as a result of the Company's unwillingness to extend the Term of this Agreement; or,
- (c) If the Employee leaves the employment of the Company for Good Reason pursuant to Section 8, above.

14. Return of Company Documents. Upon termination of this Agreement, Employee shall return immediately to the Company all records and documents of or pertaining to the Company and shall not make or retain any copy or extract of any such record or document.

15. Other Employment and Location. Anything to the contrary hereinabove notwithstanding, Company acknowledges that Employee also serves and will in the future serve as a Director and/or Chairman of the Board of certain other companies and will direct a reasonable portion of his time to fulfilling his duties in such capacities. Company acknowledges that Employee serving as a Director and/or Chairman of the Board of other companies shall not constitute a violation of this Agreement or any provision hereof including but not limited to Sections 11, 12 and 13, so long as Employee dedicates a reasonable amount of his

time to his duties hereunder. The Employee shall not be required to move from Santa Barbara Count, California, to perform his duties hereunder during the Term without his written consent.

16. Improvements and Inventions. Any and all improvements or inventions, which the Employee may make or participate in during the period of his employment, shall be the sole and exclusive property of the Company. The Employee will, whenever requested by the Company, execute and deliver any and all documents which the Company shall deem appropriate in order to apply for and obtain patents for improvements or inventions or in order to assign and convey to the Company the sole and exclusive right, title and interest in and to such improvements, inventions, patents or applications.

17. Actions. The parties agree and acknowledge that the rights conveyed by this Agreement are of a unique and special nature and that the Company will not have an adequate remedy at law in the event of a failure by the Employee to abide by its terms and conditions nor will money damages adequately compensate for such injury. It is,

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therefore, agreed between the parties that, in the event of a breach by the Employee of any of his obligations contained in this Agreement, the Company shall have the right, among other rights, to damages sustained thereby and to obtain an injunction or decree of specific performance from any court of competent jurisdiction to restrain or compel the Employee to perform as agreed herein. The Employee agrees that this Section 17 shall survive the termination of his employment and he shall be bound by its terms at all times subsequent to the termination of his employment for so long a period as Company continues to conduct the same business or businesses as conducted during the Term or any extensions thereof. Nothing herein contained shall in any way limit or exclude any other right granted by law or equity to the Company.

18. Amendment. This Agreement contains, and its terms constitute, the entire agreement of the parties, and it may be amended only by a written document signed by both parties to this Agreement.

19. Governing Law. California law shall govern the construction and enforcement of this Agreement and the parties agree that any litigation pertaining to this Agreement shall be adjudicated in courts located in California. This Agreement supercedes and replaces any prior agreements or understandings between the parties with respect to the subject matter hereof.

20. Attorneys' Fees. If any party finds it necessary to employ legal counsel or to bring an action at law or other proceedings against the other party to enforce any of the terms hereof, the party prevailing in any such action or other proceeding shall be paid by the other party its reasonable attorneys' fees as well as court costs, all as determined by the court and not a

jury.

21. Severability. If any section, subsection or provision hereof is found for any reason whatsoever, to be invalid or inoperative, that section, subsection or provision shall be deemed severable and shall not affect the force and validity of any other provision of this Agreement. If any covenant herein is determined by a court to be overly broad thereby making the covenant unenforceable, the parties agree and it is their desire that such court shall substitute a reasonable judicially enforceable limitation in place of the offensive part of the covenant and that as so modified the covenant shall be as fully enforceable as if set forth herein by the parties themselves in the modified form. The covenants of the Employee in this Agreement shall each be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of the Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of the covenants in this Agreement.

22. Notices. Any notice, request, or instruction to be given hereunder shall be in writing and shall be deemed given when personally delivered or three (3) days after being sent by United States Certified Mail, postage prepaid, with Return Receipt Requested, to the parties at their respective addresses set forth below:

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To the Company: Fidelity National Financial, Inc.  
4050 Calle Real  
Santa Barbara, California 93110-3413  
Attention: Peter T. Sadowski  
Executive Vice President

To the Employee: Patrick F. Stone  
1020 Via Tranquilla  
Santa Barbara, California 93110

23. Waiver of Breach. The Waiver by any party of any provisions of this Agreement shall not operate or be construed as a waiver of any prior or subsequent breach by the other party.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the date first set forth above.

FIDELITY NATIONAL FINANCIAL, INC.

By: /s/ Marlan C. Walker

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Marlan C. Walker

Its: Executive Vice President

PATRICK F. STONE

/s/ Patrick F. Stone

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## EMPLOYMENT AGREEMENT

This employment agreement (the "Agreement") is effective as of March 22, 2001 (the "Effective Date"), by and between FIDELITY NATIONAL FINANCIAL, INC., a Delaware corporation (the "Company"), and ALAN L. STINSON (the "Employee"). In consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Employment and Duties. Subject to the terms and conditions of this Agreement, the Company employs the Employee to serve in an executive and managerial capacity as Executive Vice President and Chief Financial Officer of the Company, and the Employee accepts such employment and agrees to perform such reasonable responsibilities and duties commensurate with the aforesaid positions as set forth in the Articles of Incorporation and the Bylaws of the Company. Any change in such titles or delegation of duties inconsistent with such titles shall be deemed a Termination Without Cause under Section 7(b) of this Agreement.

2. Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of three (3) years ending March 22, 2004, subject to prior termination as set forth in Section 7, below (the "Term"). The Term may be extended at any time upon mutual agreement of the parties.

3. Salary. During the Term, the Company shall pay the Employee a minimum base annual salary, before deducting all applicable withholdings, of \$350,000 per year, payable at the times and in the manner dictated by the Company's standard payroll policies. Such minimum base annual salary may be periodically reviewed and increased (but not decreased) at the discretion of the Compensation Committee of the Board of Directors to reflect, among other matters, cost of living increases and performance results.

4. Other Compensation and Fringe Benefits. In addition to any executive bonus, pension, deferred compensation and stock option plans which the Company may from time to time make available to the employee upon mutual agreement, the Employee shall be entitled to the following:

- (a) The standard Company benefits enjoyed by the Company's other top executives.
- (b) Payment by the Company of the Employee's initiation and membership dues in all social and/or recreational clubs as deemed necessary and appropriate by the Employee to maintain various business relationships on behalf of the Company; provided, however, that the Company shall



not be obligated to pay for any of the Employee's personal purchases and expenses at such club.

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- (c) Provision by the Company during the Term and any extensions thereof to the Employee and his dependents of medical and other insurance coverage under the Company's Executive Medical Plan.
- (d) Provision by the Company of supplemental disability insurance sufficient to provide two-thirds of the Employee's pre-disability minimum base annual salary.
- (e) An annual incentive bonus for each calendar year included in this Agreement calculated pursuant to a formula substantially similar to (and the formula of which will not yield a bonus less than) the FY 2001 Incentive Plan adopted by the Compensation Committee of the Company with a target bonus based upon 100% of base annual salary, a copy of which is attached hereto as Exhibit A ("Incentive Bonus"); provided, however, that the Employer's stockholders approve an annual incentive bonus plan containing substantially the terms of the Incentive Bonus prior to its payment in accordance with Section 162(m) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder. The annual bonus shall be paid no later than March 15th of the following year and is fully vested at the end of each year in the event of a non-renewal of this Agreement by the Company. Subject to Section 7 below, the annual bonus shall be pro-rated for any partial employment year.

The Company shall deduct from all compensation payable under this Agreement to the Employee any taxes or withholdings the Company is required to deduct pursuant to state and federal laws or by mutual agreement between the parties

5. Vacation. For and during each year of the Term and any extensions thereof, the Employee shall be entitled to reasonable paid vacation periods consistent with his positions with the Company. In addition, the Employee shall be entitled to such holidays consistent with the Company's standard policies or as the Company's Board of Directors may approve.

6. Expense Reimbursement. In addition to the compensation and benefits provided herein, the Company shall, upon receipt of appropriate documentation, reimburse the Employee each month for his reasonable travel, lodging, entertainment, promotion and other ordinary and necessary business expenses.

7. Termination.

- (a) For Cause. The Company may terminate this Agreement immediately for cause upon written notice to the Employee, in which event the Company

shall be obligated to pay the Employee that portion of the minimum base annual salary due him through the date of termination. Cause shall be limited to (i) the persistent failure to perform duties consistent with a commercially reasonable standard of care; (ii) the willful neglect of duties;

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(iii) criminal or other illegal activities involving dishonesty; or  
(iv) a material breach of this Agreement.

- (b) Without Cause. Either party may terminate this Agreement immediately without cause by giving written notice to the other. If the Company terminates under this Section 7(b), then it shall pay to the Employee an amount equal to the product of (i) the Employee's minimum annual base salary in effect as of the date of termination, plus the greater of either (x) the total annual bonus paid, payable, or which would have been payable to the Employee under this Agreement (had it been in effect) for 2000 and payable in 2001 or (y) the highest bonus paid for any year during which this Agreement was in effect ("Base Year Bonus"), times (ii) the number of years (including partial years) remaining in the Term or the number 2 (two), whichever is greater. The Company shall make such payment in a lump sum on or before the fifth day following the date of termination, or as otherwise directed by the Employee. In addition, all options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately and the Company shall maintain in full force and effect for the continued benefit of the Employee for the number of years (including partial years) remaining in the Term, all employee benefit plans and programs in which the Employee was entitled to participate immediately prior to the date of termination, provided that the Employee's continued participation is possible under the general terms and provisions of such plans and programs. In the event that the Employee's participation in any such plan or program is prohibited, the Company shall, at its expense, arrange to provide the Employee with benefits substantially similar to those which the Employee would otherwise have been entitled to receive under such plans and programs for which his continued participation is prohibited. If the Employee terminates under this Section 7(b), then the Company shall be obligated to pay the Employee the minimum annual base salary due him through the date of termination.
- (c) Disability. If the Employee fails to perform his duties hereunder on account of illness or other incapacity for a period of nine consecutive months, then the Company shall have the right upon written notice to the Employee to terminate this Agreement without further obligation by paying the Employee the minimum base annual salary, without offset, for the remainder of the Term in a lump sum or as

otherwise directed by the Employee.

- (d) Death. If the Employee dies during the Term, then this Agreement shall terminate immediately and the Employee's legal representatives shall be entitled to receive the minimum annual base salary for the remainder of the Term in a lump sum or as otherwise directed by the Employee's legal representative.

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- (e) Mitigation. The Employee shall not be required to mitigate the amount of any payment provided for in this Section 7 by seeking other employment or otherwise, nor shall any compensation or other payments received by the Employee after the date of termination reduce any payments due under this Section 7.
- (f) Effect of Termination. Termination for any reason or for no reason shall not constitute a waiver of the Company's rights under this Agreement nor a release of the Employee from any obligation hereunder except his obligation to perform his day-to-day duties as an employee.

#### 8. Severance Payment.

- (a) The Employee may terminate his employment hereunder for "Good Reason," which for purposes of this Agreement shall mean a "change in control of the Company." A "change in control of the Company," for purposes of this Agreement, shall be deemed to have occurred if (i) there shall be consummated (x) any consolidation or merger of the Company other than a consolidation or merger of the Company in which the holders of the Company's Common Stock immediately prior to the merger own more than 50% of the voting securities of the surviving corporation immediately after the merger, or (y) any sale, lease exchange or other transfer (in one transaction or a series of related transactions) of all, of substantially all, of the assets of the Company, or (ii) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company, or (iii) any "person" (such as that term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 (the "Exchange Act")), other than the Company or any "person" who, on the date hereof, is a director or officer of the Company, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), of securities of the Company representing 30% or more of the combined voting power of the Company's then outstanding securities, or (iv) during any period of two (2) consecutive years during the Term or any extensions thereof, individuals, who, at the beginning of such period, constitute the Board of Directors, cease for any reason to constitute at least a majority thereof, unless the election of each director who was not a director at the beginning of such period has been approved in advance

by directors representing at least two-thirds of the directors then in office who were directors at the beginning of the period.

- (b) If the Employee terminates his employment for Good Reason, or, if after a change in control of the Company, the Company shall terminate the Employee's employment in breach of this Agreement or pursuant to Section 7(b), then:

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- (i) The Company shall pay the Employee his minimum base annual salary due him through the date of termination.
- (ii) In lieu of any further salary and bonus payments or other payments due to the Employee for periods subsequent to the date of termination, the Company shall pay, as severance to the Employee, an amount equal to the product of (A) the Employee's minimum base annual salary in effect as of the date of termination plus the Base Year Bonus, multiplied by (B) the number of years (including partial years) remaining in the Term or the number 2 (two), whichever is greater.
- (iii) All options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately; and
- (iv) The Company shall maintain in full force and effect, for the continued benefit of the Employee for the number of years (including partial years) remaining in the Term, all employee benefit plans and programs in which the Employee was entitled to participate immediately prior to the date of termination, provided that the Employee's continued participation is possible under the general terms and provisions of such plans and programs. In the event that the Employee's participation in any such plan or program is prohibited, the Company shall, at its expense, arrange to provide the Employee with benefits substantially similar to those which the Employee would otherwise have been entitled to receive under such plans and programs from which his continued participation is prohibited.
- (c) For purposes of this Section 8 and Section 7 hereof, the Employee shall not be required to mitigate the amount of any payment provided for in Sections 7 and 8 by seeking other employment or otherwise, nor shall any compensation or other payments received by the Employee after the date of termination reduce any payments due under such Sections.

9. Indemnification for Taxes. The Company shall indemnify Employee for any and all taxes, penalties, additions to tax and interest on tax deficiencies

of any kind (collectively, "Taxes") with respect to any and all payments and benefits provided by this Agreement or other agreements with Employee which are subject (if at all) to the excise tax (Excess Tax") pursuant to Section 4999 of the Internal Revenue Code of 1986, as amended. This indemnification shall extend to any and all Taxes with respect to any and all reimbursements hereunder such that, on a net-after-tax basis, Employee is in the same position that Employee would have been in if no payments made by Company to Employee had been subject to the Excise Tax (and, therefore, no indemnification payments hereunder had been necessary).

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10. Non-Delegation of Employee's Rights. The obligations, rights and benefits of the Employee hereunder are personal and may not be delegated, assigned or transferred in any manner whatsoever, nor are such obligations, rights or benefits subject to involuntary alienation, assignment or transfer.

11. Confidential Information. The Employee acknowledges that in his capacity as an employee of the Company he will occupy a position of trust and confidence and he further acknowledges that he will have access to and learn substantial information about the Company and its operations that is confidential or not generally known in the industry including, without limitation, information that relates to purchasing, sales, customers, marketing, and the Company's financial position and financing arrangements. The Employee agrees that all such information is proprietary or confidential, or constitutes trade secrets and is the sole property of the Company. The Employee will keep confidential, and will not reproduce, copy or disclose to any other person or firm, any such information or any documents or information relating to the Company's methods, processes, customers, accounts, analyses, systems, charts, programs, procedures, correspondence or records, or any other documents used or owned by the Company, nor will the Employee advise, discuss with or in any way assist any other person, firm or entity in obtaining or learning about any of the items described in this Section 11. Accordingly, the Employee agrees that during the Term and at all times thereafter he will not disclose, or permit or encourage anyone else to disclose, any such information, nor will he utilize any such information, either along or with others, outside the scope of his duties and responsibilities with the Company.

12. Non-Competition During Employment Term. The Employee agrees that, during the term and any extensions thereof, he will devote substantially all his business time and effort, and give undivided loyalty, to the Company. He will not engage in any way whatsoever, directly or indirectly, in any business that is competitive with the Company or its affiliates, nor solicit, or in any other manner work for or assist any business which is competitive with the Company or its affiliates. In addition, during the Term and any extensions thereof, the Employee will undertake no planning for or organization of any business activity competitive with the work he performs as an employee of the Company, and the Employee will not combine or conspire with any other employee of the Company or

any other person for the purpose of organizing any such competitive business activity.

13. Non-Competition After Employment Term. The parties acknowledge that as an executive officer of the Company the Employee will acquire substantial knowledge and information concerning the business of the Company as a result of his employment. The parties further acknowledge that the scope of business in which the Company is engaged as of the Effective Date is national and very competitive and one in which few companies can successfully compete. Competition by an executive officer such as the Employee in that business after this Agreement is terminated would severely injure the Company. Accordingly, for a period of one year after this Agreement is terminated or the Employee leaves the employment of the Company for any reason whatsoever, except as otherwise stated herein below, the Employee agrees (i) not to become an employee,

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consultant, advisor, principal, partner or substantial shareholder of any firm or business that in any way competes with the Company in any of its presently-existing or then-existing products and markets; and (ii) not to solicit any person or business that was at the time of such termination and remains a customer or prospective customer, or an employee of the Company. Notwithstanding any of the foregoing provisions to the contrary, the Employee shall not be subject to the restrictions set forth in this Section 13 under the following circumstances:

- (a) If the Employee's employment with the Company is terminated by the Company without cause;
- (b) If the Employee's employment with the Company is terminated as a result of the Company's unwillingness to extend the Term of this Agreement; or,
- (c) If the Employee leaves the employment of the Company for Good Reason pursuant to Section 8, above.

14. Return of Company Documents. Upon termination of this Agreement, Employee shall return immediately to the Company all records and documents of or pertaining to the Company and shall not make or retain any copy or extract of any such record or document.

15. Other Employment and Location. Anything to the contrary hereinabove notwithstanding, Company acknowledges that Employee also serves and will in the future serve as a Director and/or Chairman of the Board of certain other companies and will direct a reasonable portion of his time to fulfilling his duties in such capacities. Company acknowledges that Employee serving as a Director and/or Chairman of the Board of other companies shall not constitute a violation of this Agreement or any provision hereof including but not limited to

Sections 11, 12 and 13, so long as Employee dedicates a reasonable amount of his time to his duties hereunder. The Employee shall not be required to move from Santa Barbara Count, California, to perform his duties hereunder during the Term without his written consent.

16. Improvements and Inventions. Any and all improvements or inventions, which the Employee may make or participate in during the period of his employment, shall be the sole and exclusive property of the Company. The Employee will, whenever requested by the Company, execute and deliver any and all documents which the Company shall deem appropriate in order to apply for and obtain patents for improvements or inventions or in order to assign and convey to the Company the sole and exclusive right, title and interest in and to such improvements, inventions, patents or applications.

17. Actions. The parties agree and acknowledge that the rights conveyed by this Agreement are of a unique and special nature and that the Company will not have an adequate remedy at law in the event of a failure by the Employee to abide by its terms and conditions nor will money damages adequately compensate for such injury. It is,

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therefore, agreed between the parties that, in the event of a breach by the Employee of any of his obligations contained in this Agreement, the Company shall have the right, among other rights, to damages sustained thereby and to obtain an injunction or decree of specific performance from any court of competent jurisdiction to restrain or compel the Employee to perform as agreed herein. The Employee agrees that this Section 17 shall survive the termination of his employment and he shall be bound by its terms at all times subsequent to the termination of his employment for so long a period as Company continues to conduct the same business or businesses as conducted during the Term or any extensions thereof. Nothing herein contained shall in any way limit or exclude any other right granted by law or equity to the Company.

18. Amendment. This Agreement contains, and its terms constitute, the entire agreement of the parties, and it may be amended only by a written document signed by both parties to this Agreement.

19. Governing Law. California law shall govern the construction and enforcement of this Agreement and the parties agree that any litigation pertaining to this Agreement shall be adjudicated in courts located in California. This Agreement supercedes and replaces any prior agreements or understandings between the parties with respect to the subject matter hereof.

20. Attorneys' Fees. If any party finds it necessary to employ legal counsel or to bring an action at law or other proceedings against the other party to enforce any of the terms hereof, the party prevailing in any such action or other proceeding shall be paid by the other party its reasonable

attorneys' fees as well as court costs, all as determined by the court and not a jury.

21. Severability. If any section, subsection or provision hereof is found for any reason whatsoever, to be invalid or inoperative, that section, subsection or provision shall be deemed severable and shall not affect the force and validity of any other provision of this Agreement. If any covenant herein is determined by a court to be overly broad thereby making the covenant unenforceable, the parties agree and it is their desire that such court shall substitute a reasonable judicially enforceable limitation in place of the offensive part of the covenant and that as so modified the covenant shall be as fully enforceable as if set forth herein by the parties themselves in the modified form. The covenants of the Employee in this Agreement shall each be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of the Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of the covenants in this Agreement.

22. Notices. Any notice, request, or instruction to be given hereunder shall be in writing and shall be deemed given when personally delivered or three (3) days after being sent by United States Certified Mail, postage prepaid, with Return Receipt Requested, to the parties at their respective addresses set forth below:

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To the Company: Fidelity National Financial, Inc.  
4050 Calle Real  
Santa Barbara, California 93110-3413  
Attention: Peter T. Sadowski  
Executive Vice President

To the Employee: Alan L. Stinson  
1133 Nirvana Road  
Santa Barbara, California 93101

23. Waiver of Breach. The Waiver by any party of any provisions of this Agreement shall not operate or be construed as a waiver of any prior or subsequent breach by the other party.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the date first set forth above.

FIDELITY NATIONAL FINANCIAL, INC.



By: /s/ Marlan C. Walker

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Marlan C. Walker

Its: Executive Vice President

ALAN L. STINSON

/s/ Alan L. Stinson

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## EMPLOYMENT AGREEMENT

This employment agreement (the "Agreement") is effective as of April 17, 2001 (the "Effective Date"), by and between FIDELITY NATIONAL FINANCIAL, INC., a Delaware corporation (the "Company"), and PETER T. SADOWSKI (the "Employee"). In consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Employment and Duties. Subject to the terms and conditions of this Agreement, the Company employs the Employee to serve in an executive and managerial capacity as Executive Vice President, General Counsel, and the Employee accepts such employment and agrees to perform such reasonable responsibilities and duties commensurate with the aforesaid positions as set forth in the Articles of Incorporation and the Bylaws of the Company and as directed by the Company's Chief Executive Officer.

2. Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of three (3) years ending April 17, 2004, subject to prior termination as set forth in Section 7, below (the "Term"). The Term may be extended at any time upon mutual agreement of the parties.

3. Salary. During the Term, the Company shall pay the Employee a minimum base annual salary, before deducting all applicable withholdings, of Three Hundred Thousand Dollars (\$300,000) per year, payable at the times and in the manner dictated by the Company's standard payroll policies. Such minimum base annual salary may be periodically reviewed and increased (but not decreased) at the discretion of the Compensation Committee of the Board of Directors to reflect, among other matters, cost of living increases and performance results.

4. Other Compensation and Fringe Benefits. In addition to any executive bonus, pension, deferred compensation and stock option plans which the Company may from time to time make available to the employee upon mutual agreement, the Employee shall be entitled to the following:

- (a) The standard Company benefits enjoyed by the Company's other top executives.
- (b) Payment by the Company of the Employee's initiation and membership dues in all social and/or recreational clubs as deemed necessary and appropriate by the Employee to maintain various business relationships on behalf of the Company; provided, however, that the Company shall not be obligated to pay for any of the Employee's personal purchases and expenses at such club.

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- (c) Provision by the Company during the Term and any extensions thereof to the Employee and his dependents of medical and other insurance coverage under the Company's Executive Medical Plan.
- (d) Provision by the Company of supplemental disability insurance sufficient to provide two-thirds of the Employee's pre-disability minimum base annual salary.
- (e) An annual incentive bonus for each calendar year included in this Agreement calculated pursuant to a formula substantially similar to (and the formula of which will not yield a bonus less than) the FY 2001 Incentive Plan adopted by the Compensation Committee of the Company with a target bonus based upon 100% of base annual salary, a copy of which is attached hereto as Exhibit A ("Incentive Bonus"); provided, however, that the Employer's stockholders approve an annual incentive bonus plan containing substantially the terms of the Incentive Bonus prior to its payment in accordance with Section 162(m) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder. The annual bonus shall be paid no later than March 15th of the following year and is fully vested at the end of each year in the event of a non-renewal of this Agreement by the Company. Subject to Section 7 below, the annual bonus shall be pro-rated for any partial employment year.

The Company shall deduct from all compensation payable under this Agreement to the Employee any taxes or withholdings the Company is required to deduct pursuant to state and federal laws or by mutual agreement between the parties

5. Vacation. For and during each year of the Term and any extensions thereof, the Employee shall be entitled to reasonable paid vacation periods consistent with his position with the Company. In addition, the Employee shall be entitled to such holidays consistent with the Company's standard policies or as the Company's Board of Directors may approve.

6. Expense Reimbursement. In addition to the compensation and benefits provided herein, the Company shall, upon receipt of appropriate documentation, reimburse the Employee each month for his reasonable travel, lodging, entertainment, promotion and other ordinary and necessary business expenses.

7. Termination.

- (a) For Cause. The Company may terminate this Agreement immediately for cause upon written notice to the Employee, in which event the Company shall be obligated to pay the Employee that portion of the minimum

base annual salary due him through the date of termination. Cause shall be

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limited to (i) the persistent failure to perform duties consistent with a commercially reasonable standard of care; (ii) the willful neglect of duties; (iii) criminal or other illegal activities involving dishonesty; or (iv) a material breach of this Agreement.

- (b) Without Cause. Either party may terminate this Agreement immediately without cause by giving written notice to the other. If the Company terminates under this Section 7(b), then it shall pay to the Employee an amount equal to the product of (i) the Employee's minimum annual base salary in effect as of the date of termination, plus the greater of either (x) the highest bonus paid for any year during which this Agreement was in effect, or (y) Employee's minimum base salary in effect as of the date of termination ("Base Year Bonus"), times (ii) the number of years (including partial years) remaining in the Term or the number 2 (two), whichever is greater. The Company shall make such payment in a lump sum on or before the fifth day following the date of termination, or as otherwise directed by the Employee. In addition, all options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately and the Company shall maintain in full force and effect for the continued benefit of the Employee for the number of years (including partial years) remaining in the Term, all employee benefit plans and programs in which the Employee was entitled to participate immediately prior to the date of termination, provided that the Employee's continued participation is possible under the general terms and provisions of such plans and programs. In the event that the Employee's participation in any such plan or program is prohibited, the Company shall, at its expense, arrange to provide the Employee with benefits substantially similar to those which the Employee would otherwise have been entitled to receive under such plans and programs for which his continued participation is prohibited. If the Employee terminates under this Section 7(b), then the Company shall be obligated to pay the Employee the minimum annual base salary due him through the date of termination.
- (c) Disability. If the Employee fails to perform his duties hereunder on account of illness or other incapacity for a period of nine consecutive months, then the Company shall have the right upon written notice to the Employee to terminate this Agreement without further obligation by paying the Employee the minimum base annual salary, without offset, for the remainder of the Term in a lump sum or as otherwise directed by the Employee.

- (d) Death. If the Employee dies during the Term, then this Agreement shall terminate immediately and the Employee's legal representatives shall be entitled to receive the minimum annual base salary for the remainder of

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the Term in a lump sum or as otherwise directed by the Employee's legal representative.

- (e) Mitigation. The Employee shall not be required to mitigate the amount of any payment provided for in this Section 7 by seeking other employment or otherwise, nor shall any compensation or other payments received by the Employee after the date of termination reduce any payments due under this Section 7.
- (f) Effect of Termination. Termination for any reason or for no reason shall not constitute a waiver of the Company's rights under this Agreement nor a release of the Employee from any obligation hereunder except his obligation to perform his day-to-day duties as an employee.

#### 8. Severance Payment.

- (a) The Employee may terminate his employment hereunder for "Good Reason," which for purposes of this Agreement shall mean a "change in control of the Company." A "change in control of the Company," for purposes of this Agreement, shall be deemed to have occurred if (i) there shall be consummated (x) any consolidation or merger of the Company other than a consolidation or merger of the Company in which the holders of the Company's Common Stock immediately prior to the merger own more than 50% of the voting securities of the surviving corporation immediately after the merger, or (y) any sale, lease exchange or other transfer (in one transaction or a series of related transactions) of all, of substantially all, of the assets of the Company, or (ii) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company, or (iii) any "person" (such as that term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 (the "Exchange Act")), other than the Company or any "person" who, on the date hereof, is a director or officer of the Company, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), of securities of the Company representing 30% or more of the combined voting power of the Company's then outstanding securities, or (iv) during any period of two (2) consecutive years during the Term or any extensions thereof, individuals, who, at the beginning of such period, constitute the Board of Directors, cease for any reason to constitute at least a majority thereof, unless the election of each director who was not a director at the beginning of such period has been approved in advance

by directors representing at least two-thirds of the directors then in office who were directors at the beginning of the period.

- (b) If the Employee terminates his employment for Good Reason, or, if after a change in control of the Company, the Company shall terminate the Employee's employment in breach of this Agreement or pursuant to Section 7(b), then:

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- (i) The Company shall pay the Employee his minimum base annual salary due him through the date of termination.
- (ii) In lieu of any further salary and bonus payments or other payments due to the Employee for periods subsequent to the date of termination, the Company shall pay, as severance to the Employee, an amount equal to the product of (A) the Employee's minimum base annual salary in effect as of the date of termination plus the Base Year Bonus, multiplied by (B) the number of years (including partial years) remaining in the Term or the number 2 (two), whichever is greater.
- (iii) All options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately; and
- (iv) The Company shall maintain in full force and effect, for the continued benefit of the Employee for the number of years (including partial years) remaining in the Term, all employee benefit plans and programs in which the Employee was entitled to participate immediately prior to the date of termination, provided that the Employee's continued participation is possible under the general terms and provisions of such plans and programs. In the event that the Employee's participation in any such plan or program is prohibited, the Company shall, at its expense, arrange to provide the Employee with benefits substantially similar to those which the Employee would otherwise have been entitled to receive under such plans and programs from which his continued participation is prohibited.
- (c) For purposes of this Section 8 and Section 7 hereof, the Employee shall not be required to mitigate the amount of any payment provided for in Sections 7 and 8 by seeking other employment or otherwise, nor shall any compensation or other payments received by the Employee after the date of termination reduce any payments due under such Sections.

9. Indemnification for Taxes. The Company shall indemnify Employee for any and all taxes, penalties, additions to tax and interest on tax deficiencies

of any kind (collectively, "Taxes") with respect to any and all payments and benefits provided by this Agreement or other agreements with Employee which are subject (if at all) to the excise tax ("Excess Tax") pursuant to Section 4999 of the Internal Revenue Code of 1986, as amended. This indemnification shall extend to any and all Taxes with respect to any and all reimbursements hereunder such that, on a net-after-tax basis, Employee is in the same position that Employee would have been in if no payments made by Company to Employee had been subject to the Excise Tax (and, therefore, no indemnification payments hereunder had been necessary).

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10. Non-Delegation of Employee's Rights. The obligations, rights and benefits of the Employee hereunder are personal and may not be delegated, assigned or transferred in any manner whatsoever, nor are such obligations, rights or benefits subject to involuntary alienation, assignment or transfer.

11. Confidential Information. The Employee acknowledges that in his capacity as an employee of the Company he will occupy a position of trust and confidence and he further acknowledges that he will have access to and learn substantial information about the Company and its operations that is confidential or not generally known in the industry including, without limitation, information that relates to purchasing, sales, customers, marketing, and the Company's financial position and financing arrangements. The Employee agrees that all such information is proprietary or confidential, or constitutes trade secrets and is the sole property of the Company. The Employee will keep confidential, and will not reproduce, copy or disclose to any other person or firm, any such information or any documents or information relating to the Company's methods, processes, customers, accounts, analyses, systems, charts, programs, procedures, correspondence or records, or any other documents used or owned by the Company, nor will the Employee advise, discuss with or in any way assist any other person, firm or entity in obtaining or learning about any of the items described in this Section 11. Accordingly, the Employee agrees that during the Term and at all times thereafter he will not disclose, or permit or encourage anyone else to disclose, any such information, nor will he utilize any such information, either along or with others, outside the scope of his duties and responsibilities with the Company.

12. Non-Competition During Employment Term. The Employee agrees that, during the term and any extensions thereof, he will devote substantially all his business time and effort, and give undivided loyalty, to the Company. He will not engage in any way whatsoever, directly or indirectly, in any business that is competitive with the Company or its affiliates, nor solicit, or in any other manner work for or assist any business which is competitive with the Company or its affiliates. In addition, during the Term and any extensions thereof, the Employee will undertake no planning for or organization of any business activity competitive with the work he performs as an employee of the Company, and the Employee will not combine or conspire with any other employee of the Company or

any other person for the purpose of organizing any such competitive business activity.

13. Return of Company Documents. Upon termination of this Agreement, Employee shall return immediately to the Company all records and documents of or pertaining to the Company and shall not make or retain any copy or extract of any such record or document.

14. Location. The Employee shall not be required to move from Santa Barbara County, California, to perform his duties hereunder during the Term without his written consent.

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15. Improvements and Inventions. Any and all improvements or inventions, which the Employee may make or participate in during the period of his employment, shall be the sole and exclusive property of the Company. The Employee will, whenever requested by the Company, execute and deliver any and all documents which the Company shall deem appropriate in order to apply for and obtain patents for improvements or inventions or in order to assign and convey to the Company the sole and exclusive right, title and interest in and to such improvements, inventions, patents or applications.

16. Actions. The parties agree and acknowledge that the rights conveyed by this Agreement are of a unique and special nature and that the Company will not have an adequate remedy at law in the event of a failure by the Employee to abide by its terms and conditions nor will money damages adequately compensate for such injury. It is, therefore, agreed between the parties that, in the event of a breach by the Employee of any of his obligations contained in this Agreement, the Company shall have the right, among other rights, to damages sustained thereby and to obtain an injunction or decree of specific performance from any court of competent jurisdiction to restrain or compel the Employee to perform as agreed herein. The Employee agrees that this Section 17 shall survive the termination of his employment and he shall be bound by its terms at all times subsequent to the termination of his employment for so long a period as Company continues to conduct the same business or businesses as conducted during the Term or any extensions thereof. Nothing herein contained shall in any way limit or exclude any other right granted by law or equity to the Company.

17. Amendment. This Agreement contains, and its terms constitute, the entire agreement of the parties, and it may be amended only by a written document signed by both parties to this Agreement.

18. Governing Law. California law shall govern the construction and enforcement of this Agreement and the parties agree that any litigation pertaining to this Agreement shall be adjudicated in courts located in California.



19. Attorneys' Fees. If any party finds it necessary to employ legal counsel or to bring an action at law or other proceedings against the other party to enforce any of the terms hereof, the party prevailing in any such action or other proceeding shall be paid by the other party its reasonable attorneys' fees as well as court costs, all as determined by the court and not a jury.

20. Notices. Any notice, request, or instruction to be given hereunder shall be in writing and shall be deemed given when personally delivered or three (3) days after being sent by United States Certified Mail, postage prepaid, with Return Receipt Requested, to the parties at their respective addresses set forth below:

To the Company: Fidelity National Financial, Inc.  
4050 Calle Real  
Santa Barbara, California 93110-3413  
Attention: Marlan C. Walker  
Executive Vice President

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To the Employee: Peter T. Sadowski  
1014 Via Los Padres  
Santa Barbara, CA 93111

21. Waiver of Breach. The Waiver by any party of any provisions of this Agreement shall not operate or be construed as a waiver of any prior or subsequent breach by the other party.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the date first set forth above.

FIDELITY NATIONAL FINANCIAL, INC.

By: /s/ Marlan C. Walker

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Marlan C. Walker

Its: Executive Vice President

PETER T. SADOWSKI

