FORM 8-K

Current report filing

Filing Date: **1994-01-04** | Period of Report: **1993-12-21**
SEC Accession No. 0000950129-94-000002

FILER

SOUTHDOWN INC

CIK:**313058**| IRS No.: **720296500** | State of Incorp.:**LA** | Fiscal Year End: **1231**
Type: **8-K** | Act: **34** | File No.: **001-06117** | Film No.: **94500321**
SIC: **3241** Cement, hydraulic

Mailing Address
1200 SMITH STREET SUITE 2400
HOUSTON TX 77002

Business Address
1200 SMITH ST STE 2400
HOUSTON TX 77002
7136506200

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the

Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 21, 1993

SOUTHDOWN, INC.
(Exact name of registrant as specified in its charter)

Louisiana	1-6117	72-0296500
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

1200 Smith Street Suite 2400 Houston, Texas	77002
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (713) 650-6200

_____

(Former name or former address, if changed since last report.)

Page 1 of ___. Exhibit Index on page 5.

Item 5. Other Events.

(a) Prior to the sale of the Company's oil and gas subsidiary, Pelto Oil Company, to Energy Development Corporation ("EDC") in 1989, Pelto entered into certain gas settlement agreements, including one with Transcontinental Gas Pipe Line Corporation ("Transco"). The Minerals Management Service ("MMS") of the Department of the Interior has reviewed the agreement entered into with Transco in 1988 to determine whether a payment to Pelto thereunder is associated with Federal or Indian leases and whether, in their view, any additional royalties may be due on that payment. MMS has advised EDC of a preliminary royalty underpayment determination resulting from its review, and that MMS proposes to direct EDC to compute any gas royalties attributable to what MMS characterizes as a "contract buydown." This does not constitute a final action by MMS; its stated purpose is to give an opportunity to comment or provide additional documentation that would refute or alter MMS's preliminary determination.

In late December 1993, the Company was notified by EDC that EDC was exercising its indemnification rights under the 1989 stock purchase agreement

for Pelto with respect to this matter. The Company is unable to determine what liability it may have, if any, with respect to this matter, but should the Company be required to make any payments to the MMS, such expenditures would result in a charge to discontinued operations.

(b) The Company owns two inactive cement kiln dust disposal sites in Ohio that were formerly owned by a division of USX Corporation ("USX"). In September 1993, the Company filed a complaint against USX alleging that with respect to the larger of these two sites (the "Site"), USX is a potentially responsible party and therefore jointly and severally liable for costs associated with cleanup of the Site. USX answered the complaint in November 1993 by filing a motion to dismiss the lawsuit. The Company filed a response to the motion to dismiss in December 1993. In late December 1993, the Company received a preliminary engineering cost estimate which reflects that, based on information developed to date, costs of Site remediation will probably range between $8 million and $32 million. As previously reported, counsel to the Company on this matter has advised that it appears there is a reasonable basis for the apportionment of cleanup costs relating to the Site between the Company and USX, with USX shouldering substantially all of the cleanup costs because, based on the facts known at this time, the Company itself disposed of no cement kiln dust at the Site and is potentially liable under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 because of its current ownership of the Site. See "Management's Discussion and Analysis of Financial Condition and Results of Operations -- Known Events, Trends and Uncertainties -- Environmental Matters" in the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 1993.

Item 7. Financial Statements and Exhibits.

(c) The following documents are filed as Exhibits to this Current Report:

<TABLE>
<CAPTION>

Exhibit Number	Description of Exhibit
<S>	<C>
4.1	Restated Articles of Incorporation of the Registrant, as amended.
4.2	Registration Rights and Lock Up Agreement dated November 22, 1993, among the Registrant, Richard C. Blum & Associates, Inc. and the Carpenters Pension Trust for Southern California.
4.3	Indenture dated as of October 15, 1991, between the Registrant and State Street Bank and Trust Company of Connecticut, National Association, as amended by First Supplemental Indenture dated as of December 10, 1993.
10.1	Restated and Amended Credit Agreement dated as of November 19, 1993, by and among the Registrant and the banks named therein.

</TABLE>

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 hereunto duly authorized.

SOUTHDOWN, INC.

(Registrant)

Date: January 4, 1994 By: /s/ JAMES L. PERSKY

James L. Persky
Senior Vice President-Finance

5

Exhibit Index

<TABLE>
<CAPTION>

Exhibit Number	Description of Exhibit	Page
<S>	<C>	
4.1	Restated Articles of Incorporation of the Registrant, as amended.	
4.2	Registration Rights and Lock Up Agreement dated November 22, 1993, among the Registrant, Richard C. Blum & Associates, Inc. and the Carpenters Pension Trust for Southern California.	
4.3	Indenture dated as of October 15, 1991, between the Registrant and State Street Bank and Trust Company of Connecticut, National Association, as amended by First Supplemental Indenture dated as of December 10, 1993.	
10.1	Restated and Amended Credit Agreement dated as of November 19, 1993, by and among the Registrant and the banks named therein.	

</TABLE>

RESTATED ARTICLES OF INCORPORATION
of
SOUTHDOWN, INC.

Southdown, Inc., a Louisiana corporation (the "corporation"), through its undersigned President and Secretary and by authority of its Board of Directors, does hereby certify that:

FIRST: The Restated Articles of Incorporation set forth in Paragraph Fourth below accurately copies the articles and all amendments and corrections thereto in effect at the date hereof without any substantive changes.

SECOND: Each amendment and correction has been effected in conformity with law.

THIRD: The date of incorporation of the corporation was April 4, 1930, and the date of these Restated Articles is September 15, 1983.

FOURTH: The Restated Articles of Incorporation of the corporation are as follows:

ARTICLE I

The name of this corporation shall be Southdown, Inc.

ARTICLE II

The corporation's purpose is to engage in any lawful activity for which corporations may be formed under the Business Corporation Law of Louisiana.

ARTICLE III

A. The Corporation has authority to issue 20,000,000 shares of Common Stock of the par value of $2.50 per share (the "Common Stock") and 5,000,000 shares of Preferred Stock of the par value of $0.10 per share (the "Preferred Stock").

B. Shares of the Preferred Stock may be issued from time to time in one or more classes or series, each of which shall have such distinctive designation or title and such voting rights, preferences and relative, optional or other special rights (including, without limitation, pre-emptive rights) and qualifications, limitations or restrictions as shall be fixed by the board of directors of the corporation prior to the issuance of any shares thereof by amendment to these Articles of Incorporation adopted by the board of directors.

C. Except to the extent otherwise provided by an amendment adopted by the board of directors in accordance with the provisions of Article III(B) hereof, no shareholder of this corporation shall by reason of his holding shares of any class have any

pre-emptive or preferential right to purchase or subscribe to any shares of any class of this corporation now or hereafter authorized or any notes, debentures, bonds, or other securities convertible into or carrying options or warrants to purchase shares of any class now or hereafter to be authorized, whether or not the issuance of any shares, or such notes, debentures, bonds or other securities would adversely affect dividend or voting rights of such shareholder, other than such rights, if any, as the board of directors in its discretion may fix; and the board of directors may issue shares of any class of this corporation, or any notes, debentures, bonds or other securities convertible into or carrying options or warrants to purchase shares of any class, without offering any such shares of any class, either in whole or in part, to the existing shareholders of any class.

ARTICLE IV

All of the corporate powers of this corporation shall be vested in and exercised by a board of directors consisting of the number of directors specified in the by-laws of the corporation or determined in the manner prescribed herein.

The Board of Directors shall be divided into three classes as nearly equal in number as may be, with the initial term of office of Class I expiring at the annual meeting of shareholders in 1971, of Class II expiring at the annual meeting of shareholders in 1972, and of Class III expiring at the annual meeting of shareholders in 1973.

At each annual meeting of shareholders, directors chosen to succeed those whose terms then expire shall be elected for a full term of office expiring at the third succeeding annual meeting of shareholders after their election. When the number of directors is increased by amendment to the by-laws of the corporation, and any newly created directorships are filled by the Board of Directors, there shall be no classification of such additional directors until the next annual meeting of shareholders. Subject to the foregoing, directors elected to fill a vacancy shall hold office for a term expiring at the annual meeting at which the term of the class to which they shall have been elected expires.

The shareholders, by the affirmative vote or consent of the holders of 80% of all classes of stock of this corporation entitled to vote in elections of directors, at any special meeting called for the purpose may remove from office any one or more of the directors, notwithstanding that his or their terms of office may not have expired, any may forthwith at such meeting proceed to elect a successor for the unexpired term.

ARTICLE V

Any director absent from the meeting of the board of directors or any

committee thereof may be represented by any other director or shareholder, who may cast the absent director's vote according to his written instructions, general or special.

ARTICLE VI

The board of directors may make and alter by-laws containing any provisions with respect to the government of the corporation, subject to the power of the shareholders to change or repeal any by-laws so made. The by-laws may contain any provision relating to the business of the corporation, the conduct of its affairs, its rights or powers, or the rights or powers of its shareholders, directors or officers, not inconsistent with law or these articles.

ARTICLE VII

No shareholder shall ever be held liable for the contracts, faults or debts of the corporation in any further sum than the unpaid balance, if any, remaining due on the stock for which he has subscribed, nor shall any informality in organization have the effect of rendering any subscriber or shareholder liable beyond the said unpaid amount, if any, remaining due on his stock.

ARTICLE VIII

Notwithstanding any other provision of this certificate of incorporation or the by-laws of this corporation (and in addition to any other vote that may be required by law, the Articles of Incorporation or the by-laws of this corporation), the affirmative vote of the holders of 80% of all classes of stock of this Corporation entitled to vote in elections of directors (considered for this purpose as one class) shall be required to amend, alter, change, or repeal Articles IV, VIII, VI, IX, X or XI of the Articles of Incorporation.

Except as provided in the Articles of Incorporation, or as required by statute, the Articles of Incorporation may be amended by the affirmative vote or consent of the holders of a majority of all classes of stock of this corporation entitled to vote in elections of directors, taken at an annual or special meeting of shareholders, the notice of which set forth the proposed amendment or a summary of the changes to be made thereby. If such an amendment would adversely affect the holders of shares of any class or series, then in addition to the vote required by the sentence immediately preceding, the holders of each class or series of shares so affected by the amendment shall be entitled to vote as a class upon such amendment, and a majority of the issued and outstanding shares of each class or series so affected by the amendment shall be necessary to the adoption thereof.

ARTICLE IX

(A) Except as set forth in Paragraph (D) of this Article IX, the affirmative vote or consent of the holders of 80% of all classes of stock of

this corporation entitled to vote in elections of directors, considered for the purposes of this Article IX as one class, shall be required:

4

(i) for a merger or consolidation with or into any other corporation, or

(ii) for any sale or lease of all or any substantial part of the assets of this corporation to any other corporation, person or other entity, or

(iii) any sale or lease to this corporation or any subsidiary thereof of any assets (except assets having an aggregate fair market value of less than $2,000,000) in exchange for voting securities (or securities convertible into voting securities or options, warrants, or rights to purchase voting securities or securities convertible into voting securities) of this corporation or any subsidiary by any other corporation, person or entity,

if as of the record date for the determination of shareholders entitled to notice thereof, and to vote thereon or consent thereto such other corporation, person or entity which is party to such a transaction is the beneficial owner, directly or indirectly, of 5% or more of the outstanding shares of stock of this corporation entitled to vote in elections of directors, considered for the purpose of this Article IX as one class. Such affirmative vote or consent shall be in addition to the vote or consent of the holders of the stock of this corporation otherwise required by law or any agreement between this corporation and any national securities exchange.

(B) For purposes of this Article IX any corporation, person or other entity shall be deemed to be the beneficial owner of any share of stock of this corporation,

(i) which it owns directly, whether or not of record, or

(ii) which it has the right to acquire pursuant to any agreement or understanding or upon exercise of conversion rights, warrants or options or otherwise, or

(iii) which are beneficially owned, directly or indirectly (including shares deemed to be owned through application of clause (ii) above, by any "affiliate" or "associate" as those terms are defined in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934 as in effect on July 1, 1970, or

(iv) which are beneficially owned, directly or indirectly (including shares deemed owned through application of clause (ii) above), by any other corporation, person or entity with which it or its "affiliate" or "associate" has any agreement or arrangement or understanding for the

purpose of acquiring, holding, voting or disposing of stock of this corporation.

For the purposes of this Article IX, the outstanding shares of any class of stock of this corporation shall include shares deemed owned through the application of clauses (B)(ii), (iii) and (iv) above, but shall not include any other shares which may be issuable pursuant to any agreement or upon exercise of conversion rights, warrants, options or otherwise.

(C) The Board of Directors shall have the power and duty to determine for the purposes of this Article IX on the basis of information known to this corporation, whether

(i) such other corporation, person or other entity beneficially owns more than 5% of the outstanding shares of stock of this corporation entitled to vote in elections of directors,

(ii) a corporation, person, or entity is an "affiliate" or "associate" (as defined in Paragraph (B) above) of another,

(iii) the assets being acquired by this corporation, or any subsidiary thereof, have an aggregate fair market value of less than $2,000,000, and

(iv) the memorandum of understanding referred to in paragraph (D) below is substantially consistent with the transaction covered thereby.

Any such determination shall be conclusive and binding for all purposes of this Article IX.

(D) The provisions of this Article IX shall not apply to,

(i) any merger or similar transaction with any corporation if the Board of Directors of this corporation has approved a memorandum of understanding with such other corporation with respect to such transaction prior to the time that such other corporation shall have become a beneficial owner of more than 5% of the outstanding shares of stock of this corporation entitled to vote in elections of directors; or

(ii) any merger or consolidation of this corporation with, or any sale or lease to this corporation or any subsidiary thereof of any assets of or sale or lease by this corporation or any subsidiary thereof of any its assets to (a) any corporation of which a majority of the outstanding shares of all classes of stock entitled to vote in elections of directors is owned of record or beneficially by this corporation and its subsidiaries or (b) Zapata Norness Incorporated, a Delaware corporation, or any successor, affiliate, associate or subsidiary.

(E) Except as may be otherwise provided by this Article IX or required by

statute, an agreement of merger or consolidation

may be approved by a majority vote of the shares issued and outstanding, taken at a meeting called for the purpose of such approval.

ARTICLE X

Special meetings of shareholders may be called by 80% or more of the Board of Directors or of the Executive Committee thereof or the President of this corporation and shall be called upon the written request of the holders of 80% or more of this corporation's stock outstanding and entitled to vote for directors as of the date of such request.

ARTICLE XI

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter or repeal the by-laws of the corporation by the affirmative vote of 80% of the entire Board of Directors. Such by-laws may be adopted, amended or repealed by the affirmative vote of the holders of 80% of this corporation's stock outstanding and entitled to vote at the meeting at which any by-law is adopted, amended or repealed. To the extent not determined by the Articles of Incorporation, the number, qualification, term of office, manner of election, time and place of meeting, compensation and powers and duties of the directors may be prescribed from time to time by the by-laws. The by-laws may contain any other provisons for the regulation and management of the affairs of the corporation not inconsistent with statute or the Articles of Incorporation.

ARTICLE XII

Cash, property or share dividends, shares issuable to shareholders in connection with a reclassification of stock, and the redemption price of redeemed shares of Preferred Stock, which are not claimed by the shareholders entitled thereto within one year after the dividend or redemption price became payable or the shares became issuable, despite reasonable efforts by the corporation to pay the dividend or redemption price or deliver the certificates for the shares to such shareholders within such time, shall, at the expiration of such time, revert to full ownership to the corporation, and the corporation's obligation to pay such dividend or redemption price or issue such shares, as the case may be, shall thereupon cease; provided that the board of directors may, at any time, for any reason satisfactory to it, but need not, authorize (a) payment of the amount of any cash or property dividend or redemption price, or (b) issuance of any shares, ownership of which has reverted to the corporation pur-

suant to this Article XII, to the person or entity who or which would be entitled thereto had such reversion not occurred.

Dated: September 15th 1983

SOUTHDOWN, INC.

By: /s/ LAURENCE E. HIRSCH

Laurence E. Hirsch,
President

By: /s/ E. B. SCHERICH

E. B. Scherich,
Secretary

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, personally came and appeared Laurence E. Hirsch and E. B. Scherich to me known to be the President and Secretary of Southdown, Inc. and the persons who executed the foregoing instrument in such capacities, and who, being duly sworn, acknowledged in my presence and in the presence of the undersigned witnesses that they were authorized to and did execute the foregoing instrument in such capacities for the said corporation, as its and their free act and deed.

IN WITNESS WHEREOF, the appearers and witnesses and I have hereunto affixed our signatures on this 15th day of September, 1983.

WITNESSES:

/s/ MICHELLE RAYMOND
- ----------

/s/ MARIE KALISEK
- ----------

/s/ MICHELLE RAYMOND
- ----------

/s/ MARIE KALISEK
- ----------

LAURENCE E. HIRSCH

Laurence E. Hirsch,
President

E. B. SCHERICH

E. B. Scherich,
Secretary

DANA LLOYD

NOTARY PUBLIC

DANA LLOYD
Notary Public in and for Harris County, Texas
My Commission Expires Feb. 2, 1984

9

<TABLE>

<S>	<C>	<C>
ARTICLES OF AMENDMENT TO RESTATED ARTICLES OF INCORPORATION OF SOUTHDOWN, INC.	))))))	STATE OF TEXAS COUNTY OF HARRIS CITY OF HOUSTON

</TABLE>

BE IT KNOWN, That on this 10th day of April, 1987,

BEFORE ME, Shawna Chisnell, a Notary Public, duly commissioned and qualified in and for the County of Harris, State of Texas, and in the presence of the witnesses hereinafter named and undersigned:

PERSONALLY CAME AND APPEARED:

CLARENCE C. COMER and WENDELL E. PHILLIPS, II, appearing herein and acting for Southdown, Inc. (of which Corporation they are, respectively, President and Secretary), a corporation organized and existing under the laws of the State of Louisiana, domiciled in the Parish of Orleans, State of Louisiana, organized by Articles of Incorporation effective April 4, 1930, which Articles, as amended, were restated pursuant to Restated Articles of Incorporation effective September 15, 1983, who declared that pursuant to Sections 24B(6) and 33A of the Louisiana Business Corporation Law, Article IIIB of the Restated Articles of Incorporation of the Corporation, and resolutions of the Board of Directors of the Corporation adopted at a special meeting of the Board of Directors of the Corporation held on April 7, 1987, they now appear for the purpose of executing this act of amendment and putting into authentic form the amendment so adopted by the Board of Directors of said Corporation.

AND THE SAID APPEARERS further declare that by unanimous vote of the Board of Directors of said Corporation, it was resolved that Article III of the Restated Articles of Incorporation of Southdown, Inc. be further amended as follows:

1. There is added as a new paragraph C of Article III the following:

C. Of the aforesaid 5,000,000 shares of Preferred Stock, 999,999 shares shall constitute a separate series of preferred shares designated "Preferred Stock, $1.40 Cumulative Convertible Series A" (hereinafter called the "Series A Preferred Stock"), which shall have a stated value of $20.00 per share. The preferences, limitations and relative rights of the Series A Preferred Stock are as follows:

PREFERRED STOCK,
$1.40 CUMULATIVE CONVERTIBLE SERIES A

(1) Dividends. The holders of the Series A Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors out of the funds of the Corporation legally available therefor and in preference to the holders of the Common Stock of the Corporation and any other capital stock of the Corporation ranking junior to the Series A Preferred Stock as to dividends, cumulative preferential dividends per share of Series A Preferred Stock in cash at the rate per annum of $1.40 and no more. Dividends on the Series A Preferred Stock will be cumulative, will accrue from the date of original issuance and will be paid (when and as declared by the Board of Directors of the Corporation) in cash quarterly, in arrears, on the last day of each March, June, September and December, commencing on the first such date to occur after the date of original issuance of the Series

A Preferred Stock. Each dividend on the Series A Preferred Stock shall be paid to the holders of record of shares of the Series A Preferred Stock as they appear on the stock register of the Corporation on such record date, not exceeding 30 days preceding the payment date thereof, as shall be fixed by the Board of Directors of the Corporation. Dividends on account of arrears for any past dividend periods may be declared and paid at any time, without reference to any regular dividend payment date, to holders of record on such date, not exceeding 45 days preceding the payment date thereof, as may be fixed by the Board of Directors of the Corporation. No dividend may be declared on any other series or class of stock ranking on a parity with the Series A Preferred Stock as to dividends in respect of any quarterly dividend period, unless there shall also be or have been declared on the Series A Preferred Stock like dividends for all quarters at the dividend rates fixed therefor. In the event that full cumulative dividends on the Series A Preferred Stock have not been declared and paid or set apart for payment, the Corporation may not declare or pay or set apart for payment any dividends or make any other distributions on, or make any payment on account of the purchase, redemption or retirement of, the Common Stock or any other stock of the Corporation ranking as to dividends or distributions of assets on liquidation, dissolution or winding up of the Corporation junior to the Series A Preferred Stock (other than, in the case of dividends or distributions, dividends or distributions paid in shares of Common Stock or such other junior ranking stock), until full cumulative dividends on the Series A Preferred Stock are declared and paid or set apart for payment.

(2) Redemption. Shares of Series A Preferred Stock shall be redeemable, at the option of the Corporation, in whole or in part at any time or from time to

time after April 30, 1989 at the redemption prices set forth below (expressed as percentages of the $20.00 stated value of each share of Series A Preferred Stock), plus an amount equal to accrued and unpaid dividends (whether or not declared) to the date fixed for redemption; provided that shares of Series A Preferred Stock may also be redeemed by the Corporation prior to May 1, 1989 in connection with the receipt of a Disapproval Notice (as defined in Paragraph (3) below) as provided in the third paragraph of this Paragraph (2). After April 30, 1997, the Series A Preferred Stock may be redeemed at 100% of its stated value.

If redeemed during the twelve-month period ending April 30,

<TABLE>
<CAPTION>

YEAR	PERCENTAGE	YEAR	PERCENTAGE
<S>	<C>	<C>	<C>
1990	140.00	1994	120.00
1991	135.00	1995	115.00
1992	130.00	1996	110.00
1993	125.00	1997	105.00

</TABLE>

In the event that the Corporation receives a Disapproval Notice, the Corporation shall be entitled to give notice of redemption and to redeem all shares of Series A Preferred Stock held by the holder giving or deemed to have given such Disapproval Notice at 100% of the stated value of each share of Series A Preferred Stock, plus an amount equal to accrued and unpaid dividends (whether or not declared) to the date fixed for redemption. Notice of redemption in response to a Disapproval Notice must be sent prior to the date of the meeting to which such Disapproval Notice relates. The Corporation must deposit the funds necessary to effect such redemption in response to a Disapproval Notice in a bank or trust company pursuant to the terms of the seventh paragraph of this Paragraph (2) contemporaneously with the giving of such notice of redemption and all such funds shall be paid or available for payment at such bank or trust company to holders of the Series A Preferred Stock prior to the consummation of the transaction to which the Disapproval Notice relates.

In case of the redemption of only part of the Series A Preferred Stock at the time outstanding (other than a redemption in response to a Disapproval Notice), such redemption shall be made pro rata; provided, however, that, except in the case of a redemption in response to a Disapproval Notice, if full cumulative dividends shall not have been paid or declared and set apart for payment for all quarterly dividends to and including the last dividend payment date, the Corporation shall not call for redemption any shares of Series A Preferred Stock unless all such shares then outstanding are called for simultaneous redemption.

Notice of any proposed redemption of Series A Preferred Stock shall be

given by the Corporation by mailing by first class mail a copy of such notice at least 10 days prior to the date fixed for such redemption to each holder of record of the shares to be redeemed at his address appearing on the books of the Corporation. Notice of redemption shall be deemed to have been given when deposited in the United States mails, first class postage prepaid, whether or not such notice is actually received. If on or before the redemption date specified in such notice all funds necessary for such redemption shall have been set aside by the Corporation, separate and apart from its other funds, in trust for the pro rata benefit of the holders of the shares so called for redemption, so as to be and continue to be available therefor, then from and after the date of redemption so designated, notwithstanding that any certificate representing shares of Series A Preferred Stock so called for redemption shall not have been surrendered for cancellation, the shares represented thereby shall no longer be deemed outstanding, the right to receive dividends thereon shall cease to accrue and all rights with respect to such shares of Series A Preferred Stock so called for redemption shall forthwith at the close of business on such redemption date cease and terminate, except only the right of the holders thereof to receive the redemption price of such shares so to be redeemed plus an amount equal to accrued and unpaid dividends (whether or not declared) up to the date fixed for redemption, but without interest thereon.

Any moneys so set aside by the Corporation and unclaimed at the end of three years from the date fixed for redemption shall revert to the general funds of the Corporation.

The Corporation may, however, prior to the redemption date specified in the notice of redemption, deposit in trust for the account of the holders of the shares of Series A Preferred Stock to be redeemed, with a bank or trust company in good standing organized under the laws of the United States of America or of any state thereof, having its principal office located in the continental United States, and having a capital, surplus and undivided profits aggregating at least $50 million, designated in such notice of redemption, all funds necessary for such redemption (including accrued and unpaid dividends up to the date fixed for redemption), together with irrevocable written instructions authorizing such bank or trust company, on behalf and at the expense of the Corporation, to cause the notice of redemption to be mailed as herein provided at least 10 days prior to the redemption date and to include in said notice of redemption a statement that all funds necessary for such redemption have been so deposited in trust and are immediately available, and on the redemption date, notwithstanding that any certificate representing shares of Series A Preferred Stock called for redemption shall not have been surrendered for cancellation, all shares of Series A Preferred Stock with respect to which such deposit shall have been made and which are outstanding on such redemption date shall no longer be deemed to be outstanding and all rights with respect to such shares of Series A Preferred Stock shall forthwith at the close of business on such redemption date cease and terminate, except only the right of the holders thereof to receive from such bank or trust company, at any time after the redemption date, the redemption price of such shares so to be redeemed plus accrued and unpaid dividends up to the date fixed for redemption. In the

event the holder of any such shares of Series A Preferred Stock shall not, within three years after the redemption date, claim the amount deposited for the redemption thereof, the depositary shall, upon the request of the Corporation expressed in a resolution of its Board of Directors, pay over to the Corporation such unclaimed amount.

If any shares of Series A Preferred Stock called for redemption are not issued and outstanding as of the date fixed for redemption, the amount set aside or deposited for the redemption thereof shall revert to or be paid over to the Corporation.

Any shares of Series A Preferred Stock which are redeemed or otherwise purchased or acquired by the Corporation or any subsidiary thereof shall be cancelled. The number of shares of Series A Preferred Stock shall be reduced by the number of shares so cancelled and such cancelled shares shall be restored to the status of authorized but unissued shares of Preferred Stock that are undesignated as to series. For the purposes of this paragraph, a subsidiary means a corporation of which a majority of the capital stock having voting power under ordinary circumstances to elect a majority of the board of directors is owned by (a) the Corporation, (b) the Corporation and one or more of its subsidiaries or (c) one or more of the Corporation's subsidiaries.

(3) Regarding Voting Rights. Each share of Series A Preferred Stock shall entitle the holder thereof to one vote for each share held and, except as provided herein, or by law, the Series A Preferred Stock and the Common Stock (and any other capital stock of the Corporation at any time entitled to vote) shall vote together as one class.

In addition to any provisions herein and any requirement of law, the Series A Preferred Stock shall vote as a single class with respect to any proposal (a) to change the dividend rate, liquidation preference, redemption price, voting rights or conversion rights of the shares of the Series A Preferred Stock or to increase the number of authorized shares of Series A Preferred Stock; (b) to increase the authorized amount of any class of capital stock of the Corporation unless the same ranks junior to the Series A Preferred Stock as to dividends and assets; (c) to authorize, create, issue or sell any shares of any class (or any series of any class) of capital stock of the Corporation that ranks pari passu with or prior to the Series A Preferred Stock as to dividends or distribution of assets upon liquidation (collectively, the "Priority Stock"); (d) for the merger or consolidation of the Corporation with or into, or the sale of substantially all of the assets of the Corporation to, any other entity; and (e) for the alteration, change or modification of the rights set forth in this paragraph.

Unless the vote of a larger percentage is required by law or the Restated Articles of Incorporation, the affirmative vote of the holders of a majority of the outstanding shares of Series A Preferred Stock shall be sufficient to take any action as to which a class vote of the holders of the Series A Preferred Stock is required by law or the Restated Articles of Incorporation. In the event that the holders of the Series A Preferred Stock are entitled to vote as a class with respect to any matter referred to in clause (d) of the preceding paragraph

("Clause (d) Matter"), the Corporation shall give the holders of the Series A Preferred Stock at least 30 days' notice of any meeting at which a Clause (d) Matter shall be submitted to shareholders, and each holder of Series A Preferred Stock shall be obligated to notify the Corporation in writing (by execution of a proxy or otherwise), by delivery of such notice to the Corporation, at least ten days prior to the date of any such meeting whether such holder intends to vote in support of or in opposition to the Clause (d) Matter. Simultaneously with the delivery of such notice and if the holder indicates that it intends to vote in support of the Clause (d) Matter, the holder shall deliver a legally binding and

irrevocable proxy authorizing the Corporation or officers thereof to so vote such holder's shares of Series A Preferred Stock. Any holder who actually receives the Corporation's notice of meeting with respect to a Clause (d) Matter and who indicates that it intends to vote in opposition to the Clause (d) Matter or who fails to deliver such notice together with such proxy within the required time period shall be deemed to have given a "Disapproval Notice" to the Corporation. If the Corporation elects to give notice of redemption and to redeem the Series A Preferred Stock held by a holder giving a Disapproval Notice as provided in the third paragraph of Paragraph (2) above, the holder of any such shares of Series A Preferred Stock shall, effective upon the deposit by the Corporation of the funds necessary to effect such redemption, be deemed to have granted an irrevocable proxy to the Corporation to vote all such shares of Series A Preferred Stock registered in the name of such holder in support of the Clause (d) Matter and to vote on all other matters in the manner determined by the Board of Directors of the Corporation at the meeting.

Whenever, at any time, dividends payable on the Series A Preferred Stock shall be in arrears for such number of dividend periods as shall in the aggregate contain not less than 540 calendar days, the holders of the Series A Preferred Stock shall have the exclusive right, voting separately as a class to elect by a majority of the votes cast two directors of the Corporation, who shall be a Class I director and a Class II director, respectively, (i) at the Corporation's next annual meeting of shareholders, (ii) at a special meeting held in place thereof, (iii) at a special meeting of the holders of shares of the Series A Preferred Stock called by the Secretary of the Corporation upon the written request of the holders of record of 25% or more of the total number of shares of Series A Preferred Stock then outstanding, to be held within 30 days after delivery of such request, or (iv) by written consent of the holders of a majority of the issued and outstanding shares of Series A Stock in lieu thereof, and at each succeeding meeting of shareholders thereafter at which directors shall be elected until such rights shall terminate as hereinafter provided. The Board of Directors of the Corporation hereby unanimously directs the Secretary of the Corporation to give notice of any special meeting of the shareholders of the Corporation required from time to time by the provisions of this Paragraph (3), in the manner prescribed by the Bylaws of the Corporation. At elections for such directors, each holder of the Series A Preferred Stock shall be entitled to one vote for each share held. Upon the vesting of such voting right in the holders of the Series A Preferred Stock, the maximum authorized number of

members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the Series A Preferred Stock as hereinabove set forth. The right of the holders of the Series A Preferred Stock, voting separately as a class, to elect members of the Board of Directors of the Corporation as aforesaid shall continue until such time as all dividends accumulated on the Series A Preferred Stock shall have been paid in full, at which time such right shall terminate, except as by law expressly provided, subject to revesting in the event of each and every subsequent default of the character above mentioned. Upon any termination of the right of the holders of the Series A Preferred Stock to vote for directors as herein provided, the term of office of all directors then in office elected by such series voting as a class shall terminate immediately. If the office of any director elected by the holders of the Series A Preferred Stock becomes vacant by reason of death, resignation, retirement, disqualification, removal from office, or otherwise, the remaining director elected by the holders of Series A Preferred Stock voting as a class may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred. Whenever the special voting powers vested in the holders of the Series A Preferred Stock shall have expired, the number of directors shall become such number as may be provided for in the By-Laws, or resolution of the Board of Directors thereunder, irrespective of any increase made pursuant to the

provisions of this Paragraph (3).

(4) Priority in Event of Dissolution. In the event of any liquidation, dissolution, or winding up of the affairs of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation (including any liquidation preferences payable in respect of capital stock of the Corporation ranking senior to the Series A Preferred Stock as to assets), the holders of the Series A Preferred Stock shall be entitled to receive, out of the remaining net assets of the Corporation, $20.00 in cash for each share of Series A Preferred Stock, plus an amount equal to all dividends accrued and unpaid on each such share (whether or not declared) up to the date fixed for distribution, before any distribution shall be made to the holders of the Common Stock of the Corporation or any other stock of the Corporation ranking junior to the Series A Preferred Stock as to assets. If upon any liquidation, dissolution or winding up of the affairs of the Corporation, the assets distributable among the holders of the Series A Preferred Stock (and any other capital stock of the Corporation ranking on a parity with the Series A Preferred Stock as to assets) shall be insufficient to permit the payment in full to the holders of all shares of such Series A Preferred Stock (and any other capital stock of the Corporation ranking on a parity with the Series A Preferred Stock as to assets) of all preferential amounts payable to all such holders, then the entire assets of the Corporation thus distributable shall be distributed ratably among the holders of the Series A Preferred Stock (and any other capital stock of the Corporation ranking on a parity with the Series A Preferred Stock as to assets) in proportion to the respective amounts that would be payable per share if such assets were sufficient to permit payment in full.

(5) Conversion. (a) Subject to and upon compliance with the provisions herein, at the option of the holder, shares of Series A Preferred Stock may, at any time on and after September 1, 1987, be converted into fully paid and nonassessable shares of Common Stock at the rate of .500 of a share of Common Stock for each share of Series A Preferred Stock to be converted (subject to the adjustment as hereinafter provided) ("conversion rate"); provided, however, that if the Corporation shall have given notice of redemption of any shares of Series A Preferred Stock pursuant to Paragraph (2) above, the right to convert such shares shall terminate at 5:00 p.m., Houston, Texas time, on the date fixed for redemption (unless the Corporation shall default in the payment due upon redemption in which case such conversion rights shall not expire). The result obtained by dividing $10.00 by the conversion rate in effect from time to time is herein referred to as the "conversion price." Whenever the conversion price is adjusted pursuant to the provisions of Subparagraph (d) below, the conversion rate shall be redetermined by dividing $10.00 by the then adjusted conversion price. The conversion rate and the conversion price in effect from time to time shall be calculated to four decimal places and rounded to the nearer thousandths.

(b) In order to exercise the right to convert, the holder of any shares of Series A Preferred Stock to be converted shall surrender the certificate representing such Series A Preferred Stock, accompanied (if so required by the Corporation) by the proper instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder thereof or by his attorney duly authorized in writing, to the Corporation at its principal executive office, and shall give written notice to the Corporation at such office that the holder elects to convert such Series A Preferred Stock. No payment or adjustment shall be made upon any conversion on account of regular cash dividends declared or accrued on the Common Stock or the Series A Preferred Stock surrendered for conversion. Series A Preferred Stock shall be deemed to have been converted immediately prior to the close of business on the date of the giving of such notice and of the surrender of such certificates for conversion in accordance with the

foregoing provisions, and at such time the rights of the holder of such Series A Preferred Stock as such holder shall cease, and the holder thereof shall be treated for all purposes as the record holder of Common Stock from and after such time. As promptly as practicable after receipt of such notice and the surrender of such certificates as aforesaid, the Corporation shall issue and deliver at such office a certificate or certificates for the number of full shares of Common Stock issuable upon conversion.

(c) No fractional share of Common Stock shall be issued upon conversion of Series A Preferred Stock. Instead of any fractional share of Common Stock which would otherwise be issuable upon conversion of any Series A Preferred Stock, the Corporation shall pay a cash adjustment equal to such fraction multiplied by the Price per share of the Common Stock on the trading day next preceding the date

of conversion. In determining the number of shares of Common Stock and the payment, if any, in lieu of fractional shares that a holder of Series A Preferred Stock shall receive, the total number of shares of Series A Preferred Stock surrendered for conversion by such holder shall be aggregated.

(d) The number and kind of securities issuable upon the conversion of the Series A Preferred Stock shall be subject to adjustment from time to time upon the happening of certain events occurring on or after the date of original issue of the shares of the Series A Preferred Stock as follows:

(i) In case of any reclassification or change of outstanding securities issuable upon exercise of the conversion rights (other than a change in par value, or from par value to no par value, or from no par value to par value or as a result of a subdivision or combination), or in case of any consolidation or merger of the Corporation with or into another corporation (other than a merger with another corporation in which the Corporation is the surviving Corporation and which does not result in any reclassification or change -- other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination -- of outstanding securities issuable upon exercise of these conversion rights), the holders of the Series A Preferred Stock shall have, and the Corporation, or such successor corporation, shall covenant in the constituent documents effecting any of the foregoing transactions that the holders of the Series A Preferred Stock do have, the right to obtain upon the exercise of these conversion rights, in lieu of each share of Common Stock theretofore issuable upon exercise of these conversion rights, the kind and amount of shares of stock, other securities, money and property receivable upon such reclassification, change, consolidation or merger by a holder of one share of Common Stock issuable upon exercise of these conversion rights as if they had been exercised immediately prior to such reclassification, change, consolidation or merger. The constituent documents effecting any reclassification, change, consolidation or merger shall provide for any adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Subparagraph (d). The provisions of this Subparagraph (d)(i) shall similarly apply to successive reclassifications, changes, consolidations or mergers.

(ii) If the Corporation at any time while any of the Series A Preferred Stock is outstanding, shall subdivide or combine its Common Stock, the conversion price shall be proportionately reduced, in case of subdivision of shares, as at the effective date of such subdivision, or if the Corporation shall take a record of holders of its Common Stock for the purpose of so subdividing, as at such record date, whichever is earlier, or shall be proportionately increased, in the case of combination of shares, as at the effective date of such

combination or, if the Corporation shall take a record of holders of its

Common Stock for the purpose of so combining, as at such record date, whichever is earlier.

(iii) If the Corporation at any time while any of the Series A Preferred Stock is outstanding shall:

(A) Pay a dividend payable in, or make any other distribution of, Common Stock, the conversion price shall be adjusted, as at the date the Corporation shall take a record of the holders of its Common Stock for the purpose of receiving such dividend or other distribution (or if no such record is taken, as at the date of such payment or other distribution), to that price determined by multiplying the conversion price in effect immediately prior to such record date (or if no such record is taken, then immediately prior to such payment or other distribution) by a fraction (1) the numerator of which shall be the total number of shares of Common Stock outstanding immediately prior to such dividend or distribution, and (2) the denominator of which shall be the total number of shares of Common Stock outstanding immediately after such dividend or distribution (plus in the event that the Corporation paid cash for fractional shares, the number of additional shares which would have been outstanding had the Corporation issued fractional shares in connection with said dividend, except to the extent such payment of cash is treated as a dividend payable out of earnings or surplus legally available for the payment of dividends under the laws of the State of Louisiana); or

(B) Make a distribution of its assets to the holders of its Common Stock as a dividend in liquidation or partial liquidation or by way of return of capital or other than as a dividend payable out of earnings or surplus legally available for dividends under the laws of the State of Louisiana, the holders of the Series A Preferred Stock shall, upon exercise of these conversion rights, be entitled to receive, in addition to the number of shares of Common Stock receivable thereupon, and without payment of any consideration therefor, a sum equal to the amount of such assets as would have been deliverable to them as owners of that number of shares of Common Stock of the Corporation receivable by exercise of these conversion rights, had they been the holders of record of such Common Stock on the record date for such distribution (or if no such record is taken, as of the date of such distribution); and an appropriate provision therefore shall be made a part of any such distribution.

(iv) If the Corporation at any time while any of the Series A Preferred Stock is outstanding shall issue any additional shares of Common Stock (otherwise than as provided in the foregoing Subparagraphs (i) through (iii) above) at a price per share less than the average Price per share of Common Stock for the 20 trading days immediately preceding the date of the authorization of such issuance by the Corporation's Board of Directors (the "Market Price") then the conversion price upon each such issuance shall be adjusted to that price determined by multiplying the conversion price by a fraction:

(A) the numerator of which shall be the sum of (1) the number of shares of Common Stock outstanding immediately prior to the issuance of such additional shares of Common Stock multiplied by the Market Price, and (2) the consideration, if any, received and deemed received by the Corporation upon the

issuance of such additional shares of Common Stock, divided by (3) the total number of shares of Common Stock outstanding immediately after the issuance of such additional shares of Common Stock, and

(B) the denominator of which shall be the Market Price.

No adjustment of the conversion price shall be made in an amount less than $.05 per share, but any such lesser adjustment shall be carried forward and shall be made at the time together with the next subsequent adjustment which, together with any adjustments so carried forward, shall amount to $.05 per share or more. Further, no adjustments of the conversion price shall be made under this Subparagraph (d)(iv) upon the issuance of any additional shares of Common Stock that (x) are issued pursuant to thrift plans, stock purchase plans, stock bonus plans, stock option plans, employee stock ownership plans and other incentive or profit sharing arrangements for the benefit of employees, provided such plans or arrangements have been approved by a majority of either the disinterested members of the Board of Directors of the Corporation or the Corporation's stockholders ("Employee Benefit Plans") or (y) are issued pursuant to any Common Stock Equivalent (as defined in Subparagraph (d)(v) below), if upon the issuance of any such Common Stock Equivalent, any such adjustments shall previously have been made pursuant to Subparagraph (d)(v) hereof or if no adjustment was required pursuant to Subparagraph (d)(v) hereof.

The Price per share of Common Stock on any day means the average (mean) of the reported "high" and "low" sales prices for such shares as reported in The Wall Street Journal's NYSE-Composite Transactions listing for such day (corrected for obvious typographical errors), or if such shares are not reported in such listing, then the average of the reported "high" and "low" sales prices on the largest national securities exchange (based on the aggregate dollar value of securities listed) on which such shares are listed or traded, or if such shares are not listed or traded on any national securities exchange, then the average of the reported "high" and "low" sales prices for such shares in the over-the-counter market, as reported on the National Association of Securities Dealers Automated Quotations System, or, if such prices shall not be reported thereon, the average between the closing bid and asked prices so reported, or, if such prices shall not be reported, then the average closing bid and asked prices reported by the National Quotation Bureau Incorporated, or, in all other cases, the value established by the Board of Directors of the Corporation in good faith. The "average" Price per share of the Common Stock for any period shall be determined by dividing the sum of the Prices determined for

the individual days in such period by the number of days in such period.

(v) In case the Corporation shall issue any security or evidence of indebtedness which is convertible into or exchangeable for Common Stock ("Convertible Security"), or any warrant, option or other right to subscribe for or purchase Common Stock or any Convertible Security, other than pursuant to Employee Benefit Plans, ("Common Stock Equivalent"), or if, after any such issuance, the price per share for which additional shares of Common Stock may be issuable thereunder is amended, then the conversion price upon each such issuance or amendment shall be adjusted as provided in Subparagraph (d)(iv) hereof on the basis that (i) the maximum number of additional shares of Common Stock issuable pursuant to all such Common Stock Equivalents shall be deemed to have been issued as of the earlier of (a) the date on which the

Corporation shall enter into a firm contract for the issuance of such Common Stock Equivalent, or (b) the date of actual issuance of such Common Stock Equivalent; and (ii) the aggregate consideration for such maximum number of additional shares of Common Stock shall be deemed to be the minimum consideration received and receivable by the Corporation for the issuance of such additional shares of Common Stock pursuant to such Common Stock Equivalent; provided, however, that no adjustment shall be made pursuant to this Subparagraph (d)(v) unless the consideration received and receivable by the Corporation per share of Common Stock for the issuance of such additional shares of Common Stock pursuant to such Common Stock Equivalent is less than the Market Price. No adjustment of the conversion price shall be made under this Subparagraph upon the issuance of any Convertible Security which is issued pursuant to the exercise of any warrants or other subscription or purchase rights therefor, if any adjustment shall previously have been made in the conversion price then in effect upon the issuance of such warrants or other rights pursuant to this Subparagraph (d)(v).

(vi) The following provisions shall be applicable to making of adjustments in the conversion price hereinbefore provided in this Subparagraph (d):

(A) The consideration received by the Corporation shall be deemed to be the following: to the extent that any additional shares of Common Stock or any Common Stock Equivalents shall be issued for cash consideration, the consideration received by the Corporation therefor, or, if such additional shares of Common Stock or Common Stock Equivalents are offered by the Corporation for subscription, the subscription price, or, if such additional shares of Common Stock or Common Stock Equivalents are sold to underwriters or dealers for public offering without a subscription offering, the initial public offering price, in any such case excluding any amounts paid or receivable for accrued interest or accrued dividends and without deduction of any

compensation, discounts or expenses paid or incurred by the Corporation for and in the underwriting of, or otherwise in connection with, the issue thereof; to the extent that such issuance shall be for a consideration other than cash, then, except as herein otherwise expressly provided, the fair market value of such consideration at the time of such issuance as determined in good faith by the Corporation's Board of Directors. The consideration for any additional shares of Common Stock issuable pursuant to any Common Stock Equivalents shall be the consideration received by the Corporation for issuing such Common Stock Equivalents, plus the additional consideration payable to the Corporation upon the exercise, conversion or exchange of such Common Stock Equivalents. In case of the issuance at any time of any additional shares of Common Stock or Common Stock Equivalents in payment or satisfaction of any dividend upon any class of stock other than Common Stock, the Corporation shall be deemed to have received for such additional shares of Common Stock or Common Stock Equivalents a consideration equal to the amount of such dividend so paid or satisfied. In any case in which the consideration to be received or paid shall be other than cash, the Board of Directors of the Corporation shall notify promptly each holder of the Series A Preferred Stock of its determination of the fair market value of such consideration.

(B) Upon the expiration of the right to convert, exchange or exercise any Common Stock Equivalent the issuance of which effected an adjustment in the conversion price, if any such Common Stock Equivalent shall not have been converted,

exercised or exchanged, the number of shares of Common Stock deemed to be issued and outstanding by reason of the fact that they were issuable upon conversion, exchange or exercise of any such Common Stock Equivalent shall no longer be computed as set forth above, and the conversion price shall forthwith be readjusted and thereafter be the price which it would have been (but reflecting any other adjustments in the conversion price made pursuant to the provisions of Subparagraph (d)(iv) after the issuance of such Common Stock Equivalent) had the adjustment of the conversion price made upon the issuance or sale of such Common Stock Equivalent been made on the basis of the issuance only of the number of additional shares of Common Stock actually issued upon exercise, conversion or exchange of such Common Stock Equivalents and thereupon only the number of additional shares of Common Stock actually so issued shall be deemed to have been issued and only the consideration actually received by the Corporation (computed as in Subparagraph (A) of this Subparagraph (d)(vi)) shall be deemed to have been received by the Corporation.

(C) The number of shares of Common Stock at any time outstanding shall not include any shares thereof then directly or indirectly owned or held by or for the account of the Corporation or its subsidiaries.

(e) Whenever the conversion price and the conversion rate are required to be adjusted as provided herein, the Corporation shall forthwith compute the adjusted conversion price and the adjusted conversion rate and shall prepare a certificate setting forth such adjusted conversion price and adjusted conversion rate and showing in detail the facts upon which such adjustment is based. A copy of such certificate shall forthwith be filed with the transfer agent or agents for the Series A Preferred Stock (if any) and for the Common Stock; and thereafter, until further adjusted, the adjusted conversion price and the adjusted conversion rate shall be as set forth in such certificate, provided that the computation of such adjusted conversion price and such adjusted conversion rate shall be reviewed at least annually by the independent public accountants regularly employed by the Corporation and said accountants shall file a corrected certificate, if required, with such transfer agent or agents. The Corporation shall mail or cause to be mailed to the holders of Series A Preferred Stock at the time of each quarterly dividend payment, a statement setting forth the adjustments, if any, made in the applicable conversion price and conversion rate and not theretofore reported to such holders, and the reasons for such adjustment.

(f) The Corporation will at all times reserve and keep available, out of its authorized and unissued Common Stock solely for the purpose of issuance upon the conversion of the Series A Preferred Stock as herein provided, free from preemptive and other subscription rights, such number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding Series A Preferred Stock. The Corporation shall ensure that all shares of Common Stock which shall be so issuable shall upon issue be duly and validly issued and fully paid and nonassessable.

(g) If any shares of Common Stock required to be reserved for the purposes of conversion of Series A Preferred Stock hereunder require registration with or approval of any governmental authority under any federal or state law, or listing upon any national securities exchange, before such shares may be issued upon conversion, the Corporation will in good faith and as expeditiously as possible endeavor to cause such shares to be duly registered, approved or listed, as the case may be.

(h) The issuance of certificates for shares of Common Stock upon the conversion of Series A Preferred Stock shall be made without charge to the holders thereof for any transfer or similar taxes that may be payable in respect of the issue, delivery or acquisition of such certificates. Such certificates shall be issued in the respective names of the holders of the Series A Preference Stock converted.

(6) Sinking Fund. The Series A Preferred Stock shall not be entitled to any mandatory redemption or prepayment (except on liquidation, dissolution or winding up of the affairs of the Corporation) or to the benefit of any sinking fund.

(7) Definition. If the day upon which any payment is to be made or any other action is to be taken or any event is scheduled to occur pursuant to the terms of Articles of Amendment is not a business day, the payment shall be made or the other action shall be taken on the next succeeding business day. A "business day" is defined as a day in the City of Houston, County of Harris, Texas, that is not a legal holiday or a day on which banking institutions are authorized or obligated by law to close.

(8) Notice. Any notice, demand or other communication shall be deemed given and received as of the date of delivery in person or receipt set forth on the return receipt. The inability to deliver because of rejection or other refusal to accept any notice, demand or other communication, shall be deemed to be receipt of such notice, demand or other communication as of the date of such inability to deliver or rejection or refusal to accept.

2. Paragraph C of Article III is relettered as paragraph D.

APPEARERS further stated that all of the shares of the Corporation have par value; that the Corporation is authorized to issue 25,000,000 shares, of which 20,000,000 are common shares of the par value of $2.50 per share and 5,000,000 are preferred shares of the par value of $0.10 per share; and that the Board of Directors of the Corporation has the authority to amend the articles to fix the preferences, limitations, and relative rights of the preferred shares, and to establish, and fix variations and relative rights and preferences as between series of preferred shares, all as more fully set out in Article III of the Restated Articles of Incorporation.

AND SAID APPEARERS having requested me, Notary, to note said amendment in authentic form, I do by these presents receive said amendments in the form of this public act to the end that said amendment may be promulgated and recorded and thus be read into the Restated Articles of Incorporation of Southdown, Inc., as hereinabove set forth.

THUS DONE AND PASSED, in my office at Houston, Harris County, State of Texas, on the day, month and year first above written, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after a due reading of the whole.

SOUTHDOWN, INC.

By: /s/ Clarence C. Comer

Clarence C. Comer
President

By: /s/ Wendell E. Phillips, II

Wendell E. Phillips, II
Secretary

21

WITNESSES:

_____

_____

_____
NOTARY PUBLIC

22

<TABLE>
<S> <C> <C>
ARTICLES OF AMENDMENT)
TO)
RESTATED) UNITED STATES OF AMERICA
ARTICLES OF INCORPORATION) STATE OF TEXAS
OF) COUNTY OF HARRIS
SOUTHDOWN, INC.)

</TABLE>

BE IT KNOWN, that on this 2nd day of December, 1987, BEFORE ME, Margaret Bassett, a Notary Public, duly commissioned and qualified, in and for the County of Harris, and in the presence of the witnesses hereinafter named and undersigned:

PERSONALLY CAME AND APPEARED:

Clarence C. Comer and Wendell E. Phillips, II, appearing herein and acting for Southdown, Inc. (of which corporation they are, respectively, President and Secretary), a corporation organized and existing under the laws of the State of Louisiana, domiciled in the Parish of Orleans, State of Louisiana, organized by Articles of Incorporation executed and acknowledged on April 4, 1930, and recorded on April 5, 1930 in the records of the Recorder of the Parish of Orleans and on April 7, 1930, in the Record of Charters Book 130, who declared that pursuant to resolution of the shareholders of the corporation, adopted at a special meeting of shareholders of the corporation held on December 2, 1987, at 2:00 p.m., at the offices of the corporation, 1200 Smith Street, Suite 2200, Houston, Texas, they now appear for the purpose of executing this act of amendment and putting into authentic form the amendment so agreed to by the vote of the shareholders of said corporation.

AND THE SAID APPEARERS further declared that by vote of the shareholders of the corporation, it was resolved that the Articles of Incorporated of the corporation be amended by adding a new Article XIII as follows:

"No director or officer of this corporation shall be personally liable to this corporation or its shareholders for monetary damages for breach of fiduciary duty as a director or officer, except for liability (i) for breach of the director's or officer's duty of loyalty to this corporation or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 92(D) of the Louisiana Business Corporation Law, or (iv) for any transaction from which the director or officer derived an improper personal benefit. If the Louisiana

Business Corporation Law is hereafter amended to authorize corporate action further limiting or eliminating the personal liability of directors or officers, then the liability of each director and officer of this corporation shall be limited or eliminated to the full extent permitted by the Louisiana Business Corporation Law as so amended from time to time. Neither the amendment nor repeal of this Article, nor the adoption of any provision of this corporation's Articles of Incorporation inconsistent with this Article, shall eliminate or reduce the effect of this Article, in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article, would accrue or arise, prior to such amendment, repeal or adoption of any inconsistent provision."

AND THE SAID APPEARERS further declared that 5,615,745 of the shares of the corporation were represented at said meeting and that 5,214,882 shares voted for the said amendment and that 400,863 shares voted against the said amendment.

AND THE SAID APPEARERS having requested me, Notary, to note said amendment in authentic form, I do by these presents receive said amendment in the form of this public act to the end that said amendment may be promulgated and recorded and thus be read into the original Restated Articles of Incorporation of Southdown, Inc., as hereinabove set forth.

THUS DONE AND PASSED, in my office at Houston, Texas, on the day, month and year first above written, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after a due reading of the whole.

SOUTHDOWN, INC.

By: /s/ CLARENCE C. COMER

Clarence C. Comer
President

By: /s/ WENDELL E. PHILLIPS, II

Wendell E. Phillips, II
Secretary

WITNESSES:

/s/ EDGAR J. MARSTON III

Edgar J. Marston III

/s/ DENNIS M. THIES

Dennis M. Thies

MARGARET BASSETT

Notary Public

MARGARET BASSETT
Notary Public State of Texas
My Commission Expires Aug. 4, 1

<TABLE>
<S> <C> <C>
ARTICLES OF AMENDMENT)
TO)
RESTATED ARTICLES OF) STATE OF TEXAS
INCORPORATION) COUNTY OF HARRIS
OF) CITY OF HOUSTON
SOUTHDOWN, INC.)

</TABLE>

BE IT KNOWN, That on this 23rd day of April, 1988,
BEFORE ME, W. Cleland Dade, a Notary Public, duly commissioned and qualified in and for the County of Harris, State of Texas, and in the presence of the witnesses hereinafter named and undersigned:

PERSONALLY CAME AND APPEARED:

CLARENCE C. COMER and WENDELL E. PHILLIPS, II, appearing herein and acting for Southdown, Inc. (of which Corporation they are, respectively, President and Secretary), a corporation organized and existing under the laws of the State of

Louisiana, domiciled in the Parish of Orleans, State of Louisiana, organized by Articles of Incorporation effective April 4, 1930, which Articles, as amended, were restated pursuant to Restated Articles of Incorporation effective September 15, 1983, who declared that pursuant to Sections 24B(6) and 33A of the Louisiana Business Corporation Law, Article IIIB of the Restated Articles of Incorporation of the Corporation, and resolutions of the Board of Directors of the Corporation adopted at a special meeting of the Board of Directors of the Corporation held on April 22, 1988, they now appear for the purpose of executing this act of amendment and putting into authentic form the amendment so adopted by the Board of Directors of said Corporation.

AND THE SAID APPEARERS further declare that by unanimous vote of the Board of Directors of said Corporation, it was resolved that Article III of the Restated Articles of Incorporation of Southdown, Inc. be further amended as follows:

1. There is added as a new paragraph D. of Article III the following:

D. Of the aforesaid 5,000,000 shares of Preferred Stock, 960,000 shares shall constitute a separate series of preferred shares designated "Preferred Stock, $3.75 Convertible Exchangeable Series B" (hereinafter called the "Series B Preferred Stock"), which shall have a stated value of $50.00 per share. The Corporation has fixed April 7, 1988 as the record date for the annual meeting of shareholders scheduled for May 19, 1988 ("Annual Meeting"). The Board of Directors of the Corporation has approved and has submitted to the shareholders for their approval at the Annual Meeting a proposal to split up the Corporation's authorized and issued common stock and preferred stock on a two-for-one basis. If the stock split is approved by the shareholders it is expected to become effective on May 27, 1988 ("Effective Date"). The shares of Series B Preferred Stock will not be split up on the Effective Date; however, on the Effective Date, the par value of the Series B Preferred Stock will be reduced from $.10 per share to $.05 per share and the number of shares of Common Stock issuable upon the conversion thereof will be increased pursuant to the provisions of paragraph 5(d)(ii) of these Articles of Amendment. The preferences, limitations and relative rights of the Series B Preferred Stock are as follows:

PREFERRED STOCK,
$3.75 CONVERTIBLE EXCHANGEABLE SERIES B

(1) Dividends. The holders of the Series B Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors out of the funds of the Corporation legally available therefor, subject to the prior and superior rights of the holders of the Corporation's Preferred Stock, $1.40 Cumulative Convertible Series A ("Series A Preferred Stock") to the payment of dividends, but in preference to the holders of the Common Stock of the Corporation and any other capital stock of the Corporation ranking junior to the Series B Preferred Stock as to dividends, cumulative preferential dividends per share of Series B Preferred Stock in cash at the rate per annum of $3.75 and no more. The Series B Preferred Stock is issuable upon the conversion of the

Corporation's 7 1/2% Special Convertible Subordinated Debentures Due 2013 ("Special Debentures"). Dividends on the Series B Preferred Stock will be cumulative, will accrue from the last date on which interest is paid on the Special Debentures and will be paid (when and as declared by the Board of Directors of the Corporation) in cash semiannually, in arrears, on the last day of each June and December, commencing on the first such date to occur after the date of original issuance of the Series B Preferred Stock. Each dividend on the Series B Preferred Stock shall be paid to the holders of record of shares of the Series B Preferred Stock as they appear on the stock register of the Corporation on such record date, not exceeding 30 days preceding the payment date thereof, as shall be fixed by the Board of Directors of the Corporation. Dividends on account of arrears for any past dividend periods may be declared and paid at any time, without reference to any regular dividend payment date, to holders of record on such date, not exceeding 45 days preceding the payment date thereof, as may be fixed by the Board of Directors of the Corporation. No dividend may be declared on any other series or class of stock ranking on a parity with the Series B Preferred Stock as to dividends in respect of any dividend period, unless there shall also be or have been declared on the Series B Preferred Stock like dividends for all periods at the dividend rates fixed therefor. In the event that full cumulative dividends on the Series B Preferred Stock have not been declared and paid or set apart for payment, the Corporation may not declare or pay or set apart for payment any dividends or make any other distributions on, or make any payment on account of the purchase, redemption or retirement of, the Common Stock or any other stock of the Corporation ranking junior to the Series B Preferred Stock as to dividends or distributions of assets on liquidation, dissolution or winding up of the Corporation (other than, in the case of dividends or distributions, dividends or distributions paid in shares of Common Stock or such other junior ranking stock), until full cumulative dividends on the Series B Preferred Stock are declared and paid or set apart for payment.

(2) Redemption. Shares of Series B Preferred Stock shall be redeemable, at the option of the Corporation, in whole or in part at any time or from time to time after June 30, 1993 at the stated value per share of Series B Preferred Stock, plus an amount equal to accrued and unpaid dividends (whether or not declared) to the date fixed for redemption.

In case of the redemption of only part of the Series B Preferred Stock at the time outstanding, such redemption shall be made pro rata, provided, however, that the Corporation shall not be required to effect the redemption in any manner that results in additional fractional shares being outstanding; if full cumulative dividends shall not have been paid or declared and set apart for payment for all semiannual dividends to and including the last dividend payment date prior to the date fixed for redemption, the Corporation shall not call for redemption any shares of Series B Preferred Stock unless

all such shares then outstanding are called for simultaneous redemption.

Notice of any proposed redemption of Series B Preferred Stock shall be given by the Corporation not less than 30 days nor more than 60 days prior to the date fixed for such redemption to each holder of record of the shares to be redeemed at his address appearing on the books of the Corporation. Notice of redemption shall be deemed to have been given when deposited in the United States mails, by registered or certified mail or delivered to a courier service, whether or not such notice is actually received. If on or before the redemption date specified in such notice all funds necessary for such redemption shall have been set aside by the Corporation, separate and apart from its other funds, in trust for the pro rata benefit of the holders of the shares so called for redemption, so as to be and continue to be available therefor, then from and after the date of redemption so designated, notwithstanding that any certificate representing shares of Series B Preferred Stock so called for redemption shall not have been surrendered for cancellation, the shares represented thereby shall no longer be deemed outstanding, the right to receive dividends thereon shall cease to accrue and all rights with respect to such shares of Series B Preferred Stock so called for redemption shall forthwith at the close of business on such redemption date cease and terminate, except only the right of the holders thereof to receive the redemption price of such shares so to be redeemed plus an amount equal to accrued and unpaid dividends (whether or not declared) up to the date fixed for redemption, but without interest thereon.

Any moneys so set aside by the Corporation and unclaimed at the end of three years from the date fixed for redemption shall revert to the general funds of the Corporation.

The Corporation may, however, prior to the redemption date specified in the notice of redemption, deposit in trust for the account of the holders of the shares of Series B Preferred Stock to be redeemed, with a bank or trust company in good standing organized under the laws of the United States of America or of any state thereof, having its principal office located in the continental United States, and having a capital, surplus and undivided profits aggregating at least $50 million, designated in such notice of redemption, all funds necessary for such redemption (including accrued and unpaid dividends up to the date fixed for redemption), together with irrevocable written instructions authorizing such bank or trust company, on behalf and at the expense of the Corporation, to cause the notice of redemption to be mailed as herein provided at least 30 days but not more than 60 days prior to the redemption date and to include in said notice of redemption a statement that all funds necessary for such redemption have been so deposited in trust and are immediately available, and on the redemption date, notwithstanding that any certificate representing shares of Series B Preferred Stock called for redemption shall not have been surrendered for cancellation, all shares of Series B Preferred Stock with respect to which such deposit shall have been made and which are outstanding on such redemption date shall no longer be deemed to be outstanding and all rights with respect to such shares of Series B Preferred Stock shall forthwith at the close of business on such redemption date cease and terminate, except only the right of the holders thereof to receive from such bank or trust company, at any time after the redemption date, the redemption price of such shares so to be redeemed plus accrued and unpaid dividends up to the date fixed for redemption. In the event the holder of any such shares of Series B Preferred Stock shall not, within three years after the redemption date, claim the amount deposited for the redemption thereof, the

depositary shall, upon the request of the Corporation expressed in a resolution of its Board of Directors, pay over to the Corporation such unclaimed amount after which

time the holders of the shares so called for redemption shall look only to the Corporation for the payment thereof.

If any shares of Series B Preferred Stock called for redemption are not issued and outstanding as of the date fixed for redemption, the amount set aside or deposited for the redemption thereof shall revert to or be paid over to the Corporation.

Any shares of Series B Preferred Stock which are redeemed or otherwise purchased or acquired by the Corporation or any subsidiary thereof shall be cancelled. The number of shares of Series B Preferred Stock shall be reduced by the number of shares so cancelled and such cancelled shares shall be restored to the status of authorized but unissued shares of Preferred Stock that are undesignated as to series. For the purposes of this paragraph, a subsidiary means a corporation of which a majority of the capital stock having voting power under ordinary circumstances to elect a majority of the board of directors is owned by (a) the Corporation, (b) the Corporation and one or more of its subsidiaries or (c) one or more of the Corporation's subsidiaries.

(3) Regarding Voting Rights. Each share of Series B Preferred Stock shall entitle the holder thereof to one vote for each share held and, except as provided herein or by law, the Series B Preferred Stock and the Common Stock (and any other capital stock of the Corporation at any time entitled to vote) shall vote together as a single class.

In addition to any provisions herein and any requirement of law, the Series B Preferred Stock shall vote as a single class with respect to any proposal (a) to change the dividend rate, liquidation preference, redemption price, voting rights or conversion rights of the shares of the Series B Preferred Stock or to increase the number of authorized shares of Series B Preferred Stock; (b) to increase the authorized amount, or authorize, issue, create or sell any shares of any class (or any series of any class) of capital stock of the Corporation that ranks prior to the Series B Preferred Stock as to dividends or distribution of assets upon liquidation; and (c) for the alteration, change or modification of the rights set forth in this paragraph. The affirmative vote of the holders of two-thirds of the outstanding shares of Series B Preferred Stock shall be required to take action with respect to any matter described in clauses (a) through (c) of the foregoing sentence.

Unless the vote of a larger percentage is required by law or the Restated Articles of Incorporation, the affirmative vote of the holders of a majority of the outstanding shares of Series B Preferred Stock shall be sufficient to take any action as to which a class vote of the holders of the Series B Preferred Stock is required by law or the Restated Articles of Incorporation.

Whenever, at any time, dividends payable on the Series B Preferred Stock shall be in arrears for more than 180 calendar days, the holders of the Series B Preferred Stock shall have the exclusive right, voting separately as a class, to elect by a majority of the votes cast two directors of the Corporation, who shall be a Class II director and a Class III director, respectively, (i) at the Corporation's next annual meeting of shareholders, (ii) at a special meeting held in place thereof, (iii) at a special meeting of the holders of shares of the Series B Preferred Stock called by the Secretary of the Corporation upon the written request of the holders of record of 25% or more of the total number of shares of Series B Preferred Stock then outstanding, to be held within 30 days after delivery of such

request, or (iv) by written consent of the holders of a majority of the issued and outstanding shares of Series B Preferred Stock in lieu thereof, and at each meeting of shareholders thereafter at which directors shall be elected until such rights shall terminate as hereinafter provided. The Board of Directors of the Corporation hereby unanimously directs the Secretary of the Corporation to give notice of any special meeting of the shareholders of the Corporation required from time to time by the provisions of this Paragraph (3), in the manner prescribed by the Bylaws of the Corporation. At elections for such directors, each holder of the Series B Preferred Stock shall be entitled to one vote for each share held. Upon the vesting of such voting right in the holders of the Series B Preferred Stock, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the Series B Preferred Stock as hereinabove set forth. The right of the holders of the Series B Preferred Stock, voting separately as a class, to elect members of the Board of Directors of the Corporation as aforesaid shall continue until such time as all dividends accumulated on the Series B Preferred Stock shall have been paid in full, at which time such right shall terminate, except as by law expressly provided, subject to revesting in the event of each and every subsequent default of the character above mentioned. Upon any termination of the right of the holders of the Series B Preferred Stock to vote for directors as herein provided, the term of office of all directors then in office elected by such series voting as a class shall terminate immediately. If the office of any director elected by the holders of the Series B Preferred Stock becomes vacant by reason of death, resignation, retirement, disqualification, removal from office, or otherwise, the remaining director elected by the holders of Series B Preferred Stock voting as a class may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred. Whenever the special voting powers vested in the holders of the Series B Preferred Stock shall have expired, the number of directors shall become such number as may be provided for in the ByLaws, or resolution of the Board of Directors thereunder, irrespective of any increase made pursuant to the provisions of this Paragraph (3).

(4) Priority in Event of Dissolution. In the event of any liquidation,

dissolution, or winding up of the affairs of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation (including any liquidation preferences payable in respect of the Corporation's Series A Preferred Stock and any other capital stock of the Corporation ranking senior to the Series B Preferred Stock as to assets), the holders of the Series B Preferred Stock shall be entitled to receive, out of the remaining net assets of the Corporation, $50.00 in cash for each share of Series B Preferred Stock, plus an amount equal to all dividends accrued and unpaid on each such share (whether or not declared) up to the date fixed for distribution, before any distribution shall be made to the holders of the Common Stock of the Corporation or any other stock of the Corporation ranking junior to the Series B Preferred Stock as to assets. If upon any liquidation, dissolution or winding up of the affairs of the Corporation, the assets distributable among the holders of the Series B Preferred Stock (and any other capital stock of the Corporation ranking on a parity with the Series B Preferred Stock as to assets) shall be insufficient to permit the payment in full to the holders of all shares of such Series B Preferred Stock (and any other capital stock of the Corporation ranking on a parity with the Series B Preferred Stock as to assets) of all preferential amounts payable to all such holders, then the entire assets of the Corporation thus distributable shall be distributed ratably among the holders of the Series B Preferred Stock (and any other capital stock of the Corporation ranking on a parity with the Series B Preferred Stock as to assets) in proportion to the

respective amounts that would be payable per share if such assets were sufficient to permit payment in full.

(5) Conversion. (a) Subject to and upon compliance with the provisions herein, at the option of the holder, shares of Series B Preferred Stock may, at any time be converted into fully paid and nonassessable shares of Common Stock at the rate of 1.25 shares of Common Stock for each share of Series B Preferred Stock to be converted (subject to adjustment as hereinafter provided) ("conversion rate"); provided, however, that if the Corporation shall have given notice of redemption of any shares of Series B Preferred Stock pursuant to Paragraph (2) above, the right to convert such shares shall terminate at 5:00 p.m., Houston, Texas time, on the date fixed for redemption (unless the Corporation shall default in the payment due upon redemption in which case such conversion rights shall not expire). The result obtained by dividing $50.00 by the conversion rate in effect from time to time is herein referred to as the "conversion price." Whenever the conversion price is adjusted pursuant to the provisions of Subparagraph (d) below, the conversion rate shall be redetermined by dividing $50.00 by the then adjusted conversion price. The conversion rate and the conversion price in effect from time to time shall be calculated to four decimal places and rounded to the nearer thousandth.

(b) In order to exercise the right to convert,

the holder of any shares of Series B Preferred Stock to be converted shall surrender the certificate representing such Series B Preferred Stock, accompanied (if so required by the Corporation) by the proper instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder thereof or by his attorney duly authorized in writing, to the Corporation at its principal executive office, and shall give written notice to the Corporation at such office that the holder elects to convert such Series B Preferred Stock. No payment or adjustment shall be made upon any conversion on account of regular cash dividends declared or accrued on the Common Stock or the Series B Preferred Stock surrendered for conversion. Series B Preferred Stock shall be deemed to have been converted immediately prior to the close of business on the later of (i) the date on which all applicable waiting periods, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and the rules and regulations thereunder have expired or been terminated and (ii) the date of the giving of such notice and of the surrender of such certificates for conversion in accordance with the foregoing provisions, and at such time the rights of the holder of such Series B Preferred Stock as such holder shall cease, and the holder thereof shall be treated for all purposes as the record holder of Common Stock from and after such time. As promptly as practicable after receipt of such notice, the surrender of such certificates and expiration or termination of any applicable waiting period as aforesaid, the Corporation shall issue and deliver at such office a certificate or certificates for the number of full shares of Common Stock issuable upon conversion.

(c) No fractional share of Common Stock shall be issued upon conversion of Series B Preferred Stock. Instead of any fractional share of Common Stock which would otherwise be issuable upon conversion of any Series B Preferred Stock, the Corporation shall pay a cash adjustment equal to such fraction multiplied by the Price per share of the Common Stock on the trading day next preceding the date of conversion. In determining the number of shares of Common Stock and the payment, if any, in lieu of fractional shares that a holder of Series B Preferred Stock shall receive, the total number of shares of Series B Preferred Stock surrendered for conversion by such holder shall be aggregated.

(d) The number and kind of securities issuable upon the conversion of the Series B Preferred Stock shall be subject to adjustment from time to time, upon the happening of certain events occurring after the date of these Articles of Amendment as follows:

(i) In case of any reclassification or change of outstanding securities issuable upon exercise of the conversion rights (other than a change in par value, or from par value to no par value, or from no par value to par value or as a result of a subdivision or combination), or in case of any consolidation or merger of the Corporation with or into another corporation (other than a merger with another corporation in which the Corporation is the surviving Corporation and which does not result in any reclassification or change -- other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination -- of outstanding securities issuable upon exercise of these conversion rights) or in the case of a sale or conveyance in a single

transaction or in a series of related transactions with the same purchaser of all or substantially all the assets of the Corporation as an entirety, the holders of the Series B Preferred Stock shall have, and the Corporation, or such successor corporation or purchaser, shall covenant in the constituent documents effecting any of the foregoing transactions that the holders of the Series B Preferred Stock do have, the right to obtain upon the exercise of these conversion rights, in lieu of each share of Common Stock theretofore issuable upon exercise of these conversion rights, the kind and amount of shares of stock, other securities, money and property receivable upon such reclassification, change, consolidation, merger, or conveyance or sale of assets by a holder of one share of Common Stock issuable upon exercise of these conversion rights as if they had been exercised immediately prior to such reclassification, change, consolidation, merger, or conveyance or sale of assets. The constituent documents effecting any reclassification, change, consolidation, merger or conveyance or sale of assets shall provide for any adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Subparagraph (d). The provisions of this Subparagraph (d)(i) shall similarly apply to successive reclassifications, changes, consolidations, mergers or conveyances or sales of assets.

(ii) If the Corporation at any time shall subdivide or combine its Common Stock, the conversion price shall be proportionately reduced, in case of subdivision of shares, as at the effective date of such subdivision, or if the Corporation shall take a record of holders of its Common Stock for the purpose of so subdividing, as at such record date, whichever is earlier, or shall be proportionately increased, in the case of combination of shares, as at the effective date of such combination or, if the Corporation shall take a record of holders of its Common Stock for the purpose of so combining, as at such record date, whichever is earlier.

(iii) If the Corporation shall:

(A) Pay to any holders of securities of the Corporation a dividend payable in, or make any other distribution of, Common Stock, the conversion price shall be adjusted, as at the date the Corporation shall take a record of the holders of its Common Stock for the purpose of receiving such dividend or other distribution (or if no such record is taken, as at the date of such payment or other distribution), to that price determined by multiplying the conversion price in effect immediately prior to such record date (or if no such record is taken, then immediately prior to such payment or other distribution) by a fraction (1) the numerator of which shall be the total number of shares of Common Stock outstanding immediately prior to such dividend or distribution, and (2) the denominator of which shall be the total number of shares of Common Stock outstanding immediately after such dividend or distribution (plus in the event that the Corporation paid cash for fractional shares, the number of additional shares which would have been outstanding had the Corporation issued fractional shares in connection with said dividend, except to the extent such payment of cash is treated as a dividend payable out of earnings or surplus legally available for the payment of dividends under the laws of the State of

Louisiana); or

33

(B) Make a distribution of its securities (other than Common Stock Equivalents as defined below) or assets to the holders of its Common Stock other than dividends payable in Common Stock or cash dividends from retained earnings of the Corporation, the Corporation shall reserve and shall deposit in trust, with a bank or trust company in good standing organized under the laws of the United States of America or any state thereof, having its principal office located in the United States, and having capital, surplus and undivided profits aggregating at least $50 million, for distribution to the holders of the Series B Preferred Stock who shall thereafter elect to convert shares of Series B Preferred Stock into Common Stock (or for release to the Corporation, as provided below) the amount and kind of securities or assets which such holders would have received if all such holders had, immediately prior to the record date for the distribution of securities or assets, converted such shares of Series B Preferred Stock into Common Stock. Any such holder converting shares of Series B Preferred Stock into Common Stock will receive from such trust upon such conversion, in addition to the shares of Common Stock to which such holder is entitled, a pro rata portion of the assets and securities then held in such trust. If after any such assets are placed in trust the shares of Series B Preferred Stock are exchanged for Debentures pursuant to Paragraph (6), such assets shall then be held by the trustee for distribution to the holders of the Debentures (as defined in Paragraph (6)) who shall thereafter elect to convert such Debentures into Common Stock (or for release to the Corporation, as provided below). To the extent that any shares of Series B Preferred Stock are redeemed or cancelled, a proportionate portion of such assets held in trust shall be released to the Corporation and shall no longer be subject to distribution to the holders of Series B Preferred Stock upon conversion thereof into Common Stock. Any taxes or expenses related to the assets so held in trust, the income therefrom, the creation or administration of the trust, the reasonable compensation of the trustee, or related matters shall be paid by the trustee from the trust estate.

(iv) If the Corporation shall issue any additional shares of Common Stock (otherwise than as provided in the foregoing Subparagraphs (i) through (iii) above) at a price per share less than the average Price per share of Common Stock for the 20 trading days immediately preceding the date of the authorization of such issuance by the Corporation's Board of Directors (the "Market Price") then the conversion price upon each such issuance shall be adjusted to that price determined by multiplying the conversion price by a fraction:

(A) the numerator of which shall be (1) the sum of (i) the number of shares of Common Stock outstanding immediately prior to the issuance of such additional shares of Common Stock multiplied by the Market Price, and (ii) the consideration, if any, received and deemed received by the Corporation upon the issuance of such additional shares of Common Stock; divided by (2) the total number of shares of Common Stock outstanding immediately after the issuance of such additional shares of Common Stock, and

(B) the denominator of which shall be the Market Price.

No adjustment of the conversion price shall be made in an amount less than $.05 per share, but any such lesser adjustment shall be carried forward and shall be made at the time together with the next subsequent adjustment which, together with any adjustments so carried forward, shall amount to $.05 per share or more. Further, no adjustments of the conversion price shall be made under this Subparagraph (d)(iv) upon the issuance of any additional shares of Common Stock that (x) are issued pursuant to thrift plans, stock purchase plans, stock bonus plans, stock option plans, employee stock ownership plans and other incentive or profit sharing arrangements for the benefit of employees, provided such plans or arrangements have been approved by a majority of either the disinterested members of the Board of Directors of the Corporation or the Corporation's shareholders ("Employee Benefit Plans") or (y) are issued pursuant to any Common Stock Equivalent (as defined in Subparagraph (d)(v) below), if upon the issuance of any such Common Stock Equivalent, any such adjustments shall previously have been made pursuant to Subparagraph (d)(v) hereof or if no adjustment was required pursuant to Subparagraph (d)(v) hereof.

The Price per share of Common Stock on any day means the average (mean) of the reported "high" and "low" sales prices for such shares as reported in The Wall Street Journal's NYSE-Composite Transactions listing for such day (corrected for obvious typographical errors), or if such shares are not reported in such listing, then the average of the reported "high" and "low" sales prices on the largest national securities exchange (based on the aggregate dollar value of securities listed) on which such shares are listed or traded, or if such shares are not listed or traded on any national securities exchange, then the average of the reported "high" and "low" sales prices for such shares in the over-the-counter market, as reported on the National Association of Securities Dealers Automated Quotations System, or, if such prices shall not be reported thereon, the average of the closing bid and asked prices so reported, or, if such prices shall not be reported, then the average closing bid and asked prices reported by the National Quotation Bureau Incorporated, or, in all other cases, the value established by the Board of Directors of the Corporation in good faith. The "average" Price per share of the Common Stock for any period shall be determined by dividing the sum of the Prices determined for the individual days in such period by the number of days in such period.

(v) In case the Corporation shall issue any security or evidence of indebtedness which is convertible into or exchangeable for Common Stock ("Convertible Security"), or any warrant, option or other right to subscribe for or purchase Common Stock or any Convertible Security, other than pursuant to Employee Benefit Plans, (together with Convertible Securities, "Common Stock Equivalent"), or if, after any such issuance, the price per share for which additional shares of Common Stock may be issuable thereunder is amended, then

the conversion price upon each such issuance or amendment shall be adjusted as provided in Subparagraph (d)(iv) hereof on the basis that (i) the maximum number of additional shares of Common Stock issuable pursuant to all such Common Stock Equivalents shall be deemed to have been issued as of the earlier of (a) the date on which the Corporation shall enter into a firm contract for the issuance of such Common Stock Equivalent, or (b) the date of actual issuance of such Common Stock Equivalent; and (ii) the aggregate consideration for such maximum number of additional shares of Common Stock shall be deemed to be the minimum consideration received and receivable by the Corporation for the issuance of such additional shares of Common Stock pursuant to such Common Stock Equivalent; provided, however, that no adjustment shall be made pursuant to this Subparagraph (d)(v) unless the consideration received and receivable by the Corporation per share of Common Stock for the issuance of such additional shares of Common Stock pursuant to such Common Stock Equivalent is less than the Market Price. No adjustment of the conversion price shall be made under this Subparagraph upon the issuance of any Convertible Security which is issued pursuant to the exercise of any warrants or other subscription or purchase rights therefor, if any adjustment shall previously have been made in the conversion price then in effect upon the issuance of such warrants or other rights pursuant to this Subparagraph (d)(v).

(vi) The following provisions shall be applicable to making of adjustments in the conversion price hereinbefore provided in this Subparagraph (d):

(A) The consideration received by the Corporation shall be deemed to be the following: to the extent that any additional shares of Common Stock or any Common Stock Equivalents shall be issued for cash consideration, the consideration received by the Corporation therefor, or, if such additional shares of Common Stock or Common Stock Equivalents are offered by the Corporation for subscription, the subscription price, or, if such additional shares of Common Stock or Common Stock Equivalents are sold to underwriters or dealers for public offering without a subscription offering, the initial public offering price, in any such case excluding any amounts paid or receivable for accrued interest or accrued dividends and without deduction of any compensation, discounts, commissions or expenses paid or incurred by the Corporation for and in the underwriting of, or otherwise in connection with, the issue thereof; to the

extent that such issuance shall be for a consideration other than cash, then, except as herein otherwise expressly provided, the fair market value of such consideration at the time of such issuance as determined in good faith by the Corporation's Board of Directors. The consideration for any additional shares of Common Stock issuable pursuant to any Common Stock Equivalents shall be the consideration received by the Corporation for issuing such Common Stock Equivalents, plus the additional consideration payable to the Corporation upon the exercise, conversion or exchange of

such Common Stock Equivalents. In case of the issuance at any time of any additional shares of Common Stock or Common Stock Equivalents in payment or satisfaction of any dividend upon any class of stock other than Common Stock, the Corporation shall be deemed to have received for such additional shares of Common Stock or Common Stock Equivalents a consideration equal to the amount of such dividend so paid or satisfied. In any case in which the consideration to be received or paid shall be other than cash, the Board of Directors of the Corporation shall notify promptly each holder of the Series B Preferred Stock of its determination of the fair market value of such consideration.

(B) Upon the expiration of the right to convert, exchange or exercise any Common Stock Equivalent the issuance of which effected an adjustment in the conversion price, if any such Common Stock Equivalent shall not have been converted, exercised or exchanged, the number of shares of Common Stock deemed to be issued and outstanding by reason of the fact that they were issuable upon conversion, exchange or exercise of any such Common Stock Equivalent shall no longer be computed as set forth above, and the conversion price shall forthwith be readjusted and thereafter be the price which it would have been (but reflecting any other adjustments in the conversion price made pursuant to the provisions of Subparagraph (d)(iv) after the issuance of such Common Stock Equivalent) had the adjustment of the conversion price made upon the issuance or sale of such Common Stock Equivalent been made on the basis of the issuance only of the number of additional shares of Common Stock actually issued upon exercise, conversion or exchange of such Common Stock Equivalent and thereupon only the number of additional shares of Common Stock actually so issued shall be deemed to have been issued and only the consideration actually received by the Corporation (computed as in Subparagraph (A) of this Subparagraph (d)(vi)) shall be deemed to have been received by the Corporation.

(C) The number of shares of Common Stock at any time outstanding shall not include any shares thereof then directly or indirectly owned or held by or for the account of the Corporation or its subsidiaries.

(e) Whenever the conversion price and the conversion rate are required to be adjusted as provided herein, the Corporation shall forthwith compute the adjusted conversion price and the adjusted conversion rate and shall prepare a certificate setting forth such adjusted conversion price and adjusted conversion rate and showing in detail the facts upon which such adjustment is based. A copy of such certificate shall forthwith be filed with the transfer agent or agents for the Series B Preferred Stock (if any) and for the Common Stock; and thereafter, until further adjusted, the adjusted conversion price and the adjusted conversion rate shall be as set forth in such certificate, provided that the computation of such adjusted

conversion price and such adjusted conversion rate shall be reviewed at least annually by the independent public accountants regularly employed by the

Corporation and said accountants shall file a corrected certificate, if required, with such transfer agent or agents. The Corporation shall mail or cause to be mailed to the holders of Series B Preferred Stock at the time of each semiannual dividend payment, a statement setting forth the adjustments, if any, made in the applicable conversion price and conversion rate and not theretofore reported to such holders, and the reasons for such adjustment.

(f) The Corporation will at all times reserve and keep available, out of its authorized and unissued Common Stock solely for the purpose of issuance upon the conversion of the Series B Preferred Stock as herein provided, free from preemptive and other subscription rights, such number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding Series B Preferred Stock. The Corporation shall ensure that all shares of Common Stock which shall be so issuable shall upon issue be duly and validly issued and fully paid and nonassessable.

(g) If any shares of Common Stock required to be reserved for the purposes of conversion of Series B Preferred Stock hereunder require registration with or approval of any governmental authority under any federal or state law, or listing upon any national securities exchange, before such shares may be issued upon conversion, the Corporation will in good faith and as expeditiously as possible endeavor to cause such shares to be duly registered, approved or listed, as the case may be.

(h) The issuance of certificates for shares of Common Stock upon the conversion of Series B Preferred Stock shall be made without charge to the holders thereof for any transfer or similar taxes that may be payable in respect of the issue, delivery or acquisition of such certificates. Such certificates shall be issued in the respective names of the holders of the Series B Preferred Stock converted.

(6) Exchange. The Series B Preferred Stock outstanding is exchangeable in whole at the option of the Corporation at any time after July 25, 1990 for the Corporation's 7 1/2% Convertible Subordinated Debentures due 2013 (the "Debentures"). Holders of outstanding shares of Series B Preferred Stock will be entitled to receive $50.00 principal amount of Debentures plus an amount in cash equal to accrued and unpaid dividends (whether or not declared) to the date fixed for exchange, in exchange for each share of Series B Preferred Stock held by them at the time of exchange; provided that the Debentures will be issuable in denominations of $1,000 and integral multiples thereof and an amount in cash shall be paid to such holders for any excess principal amount otherwise issuable. The Corporation will mail to each record holder of the Series B Preferred Stock written notice of its intention to exchange not less than 30 nor more than 60 days prior to the date fixed for exchange. The notice shall specify the effective date of the exchange, the place where certificates for shares of Series B Preferred Stock are to be surrendered for Debentures and state that dividends on Series B Preferred Stock will cease to accrue on such date fixed for exchange. Prior to giving notice of intention to exchange, the Corporation shall execute and deliver with a bank or trust company selected by the Corporation an Indenture substantially in the form attached as an exhibit to the Securities Purchase Agreement dated as of April 18, 1988 among the Corporation and the purchasers named therein, with such changes as may be required by law,

stock exchange rule or as may be necessary to qualify such Indenture under the Trust Indenture Act of 1939. The Corporation will cause the Debentures to be authenticated and such accrued and unpaid dividends to be

set aside, separate and apart from the other funds of the Corporation, in trust for the benefit of the holders of the Series B Preferred Stock, for payment on the date on which the exchange is effective; at such time the rights of the holders of the Series B Preferred Stock as shareholders of the Company shall cease and the shares of Series B Preferred Stock shall no longer be deemed outstanding and shall represent only the right to receive the Debentures and such accrued and unpaid dividends but without interest thereon. Any moneys set aside by the Corporation and unclaimed at the end of three years from the date fixed for exchange shall revert to the general funds of the Corporation. Notwithstanding the foregoing, if notice of exchange has been given pursuant to this Paragraph (6) and any holder of shares of Series B Preferred Stock shall, prior to the close of business on the date fixed for exchange, give written notice to the Corporation pursuant to Paragraph (5) of the conversion of any or all of the shares to be exchanged held by such holder (accompanied by a certificate or certificates for such shares, duly endorsed or assigned to the Corporation), then such exchange shall not become effective as to such shares to be converted and such conversion shall become effective as provided in Paragraph (5). The Debentures and such accrued and unpaid dividends will be delivered to the persons entitled thereto upon surrender to the Corporation or its agent appointed for that purpose of the certificates for the share of Series B Preferred Stock being exchanged therefor.

(7) Sinking Fund. The Series B Preferred Stock shall not be entitled to any mandatory redemption or prepayment (except on liquidation, dissolution or winding up of the affairs of the Corporation) or to the benefit of any sinking fund.

(8) Definition. If the day upon which any payment is to be made or any other action is to be taken or any event is scheduled to occur pursuant to the terms of these Articles of Amendment is not a business day, the payment shall be made or the other action shall be taken on the next succeeding business day. A "business day" is defined as a day in the City of Houston, County of Harris, Texas, that is not a legal holiday or a day on which banking institutions are authorized or obligated by law to close.

(9) Notice. Except as otherwise provided herein, any notice, demand or other communication shall be deemed given and received as of the date of delivery in person or receipt set forth on the return receipt. The inability to deliver because of rejection or other refusal to accept any notice, demand or other communication, shall be deemed to be receipt of such notice, demand or other communication as of the date of such inability to deliver or rejection or refusal to accept.

2. Paragraph D. of Article III of the Restated Articles of Incorporation is

designated as paragraph E.

APPEARERS further stated that all of the shares of the Corporation have par value; that the Corporation is authorized to issue 25,000,000 shares, of which 20,000,000 are common shares of the par value of $2.50 per share and 5,000,000 are preferred shares of the par value of $0.10 per share; and that the Board of Directors of the Corporation has the authority to amend the articles to fix the preferences, limitations, and relative rights of the preferred shares, and to establish, and fix variations and relative rights and preferences as between series of preferred shares, all as more fully set out in Article III of the Restated Articles of Incorporation.

AND SAID APPEARERS having requested me, Notary, to note said amendment in authentic form, I do by these presents receive said amendments in the form

of this public act to the end that said amendment may be promulgated and recorded and thus be read into the Restated Articles of Incorporation of Southdown, Inc., as hereinabove set forth.

THUS DONE AND PASSED, in my office at Houston, Harris County, State of Texas, on the day, month and year first above written, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after a due reading of the whole.

SOUTHDOWN, INC.

By: /s/ Clarence C. Comer

Clarence C. Comer
President

By: /s/ Wendell E. Phillips, II

Wendell E. Phillips, II
Secretary

WITNESSES:

_____

_____

_____
NOTARY PUBLIC

<TABLE>

ARTICLES OF AMENDMENT TO RESTATED ARTICLES OF INCORPORATION OF SOUTHDOWN, INC.	))))))	STATE OF TEXAS COUNTY OF HARRIS CITY OF HOUSTON

</TABLE>

BE IT KNOWN, That on this 23rd day of May, 1988,

BEFORE ME, Shawna Chisnell, a Notary Public, duly commissioned and qualified in and for the County of Harris, State of Texas, and in the presence of the witnesses hereinafter named and undersigned:

PERSONALLY CAME AND APPEARED:

EDGAR J. MARSTON III and WENDELL E. PHILLIPS, II, appearing herein and acting for Southdown, Inc. (of which Corporation they are, respectively, Executive Vice President and Secretary), a corporation organized and existing under the laws of the State of Louisiana, domiciled in the Parish of Orleans, State of Louisiana, organized by Articles of Incorporation effective April 4, 1930, which Articles, as amended, were restated pursuant to Restated Articles of Incorporation effective September 15, 1983, who declared that pursuant to resolutions of the shareholders of the Corporation adopted at an annual meeting of the shareholders of the Corporation held on May 19, 1988 at 10:15 a.m., at the Doubletree Hotel, 400 Dallas Street, Houston, Texas 77002, they now appear for the purpose of executing this act of amendment and putting into authentic form the amendment so agreed to by the shareholders of said Corporation, which amendment shall become effective at 5:00 p.m., Central Daylight Savings Time, on May 27, 1988.

AND THE SAID APPEARERS further declare that by vote of the shareholders of said Corporation it was:

RESOLVED, that Article III of the Restated Articles of Incorporation of Southdown, Inc. be amended so that:

(1) Paragraph A. is amended to read in its entirety as follows:

> The Corporation has authority to issue 40,000,000 shares of Common Stock of the par value of $1.25 per share (the "Common Stock") and 10,000,000 shares of Preferred Stock of the par value of $.05 per share (the "Preferred Stock"). Upon the effectiveness of the amendments contained in these Articles of Amendment (the "Effective Date") each share of common stock of the Corporation issued at the close of business on the Effective Date shall be changed and split-up into two shares of Common Stock without change in the aggregate amount of capital represented by the issued shares, such two-for-one split to be accomplished by issuing to each holder of the

Corporation's common stock of record at the close of business on the Effective Date a certificate of certificates at the rate of one additional share of Common Stock for each share of the common stock held of record on the stock transfer records of the Corporation at the close of business on the Effective Date.

(2) The first sentence of Paragraph C. is deleted and there is substituted in its place the following:

Of the aforesaid 10,000,000 shares of Preferred Stock, 1,999,998 shares shall constitute a separate series of preferred shares designated "Preferred Stock, $.70 Cumulative Convertible Series A" (hereinafter called the "Series A Preferred Stock"), which shall have a stated value of $10.00 per share. Upon the Effective Date, in lieu of any adjustment of the conversion price or conversion rate applicable to the Corporation's Preferred Stock, $1.40 Cumulative Convertible Series A (the "Old Series A Preferred Stock") that would otherwise result from the foregoing two-for-one stock split of the Corporation's common stock under Article III C. of the Restated Articles of Incorporation, each share of the Old Series A Preferred Stock issued at the close of business on the Effective Date shall be changed and split-up into two shares of Series A Preferred Stock without change in the aggregate amount of capital represented by the issued shares, such two-for-one split to be accomplished by issuing to each holder of Old Series A Preferred Stock of record at the close of business on the Effective Date a certificate or certificates at the rate of one additional share of Series A Preferred Stock for each share of Old Series A Preferred Stock held of record on the stock transfer records of the Corporation at the close of business on the Effective Date.

(3) The first sentence of Subparagraph (1) of Paragraph C. is amended to read in its entirety as follows:

The holders of the Seriews A Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors out of the funds of the Corporation legally available therefor and in preference to the holders of the Common Stock of the Corporation and any other capital stock of the Corporation ranking junior to the Series A Preferred Stock as to dividends, cumulative preferential dividends per share of Series A Preferred Stock in cash at the rate per annum of $.70 and no more.

(4) The first sentence of Subparagraph (4) of Paragraph C. is amended to read in its entirety as follows:

In the event of any liquidation, dissolution or weinding up of the affairs of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation (including any liquidation preferences payable in respect of capital stock of the Corporation ranking senior to the Series A Preferred Stock as to assets), the holders of the

Series A Preferred Stock shall be entitled to receive, out of the remaining net assets of the Corporation, $10.00 in cash for each share of Series A Preferred Stock, plus an amount equal to all dividends accrued and unpaid on each such share (whether or not declared) up to the date fixed for distribution, before any distribution shall be made to the holders of the Common Stock of the Corporation or any other stock of the Corporation ranking junior to the Series A Preferred Stock as to assets.

(5) The second and third sentences of Subparagraph (5) of Paragraph C. are amended to read in their entirety as follows:

The result obtained by dividing $5.00 by the conversion rate in effect from time to time is herein referred to as the conversion price." Whenever the conversion price is adjusted pursuant to the provisions of Subparagraph (d) below, the conversion rate shall be redetermined by dividing $5.00 by the then adjusted conversion price.

(6) Wherever the phrase "$20.00 stated value" appears in Article III C., such phrase be and it hereby is amended to read "$10.00 stated value."

(7) Wherever the term "Preferred Stock, $1.40 Cumulative Convertible Series A" appears in Article III C., such term shall be and it hereby is amended to read "Preferred Stock, $.70 Cumulative Convertible Series A."

AND SAID APPEARERS further declared that of the outstanding shares of capital stock of the Corporation 5,353,803 were represented at said meeting and that 4,913,251 shares were voted for the said amendment and that 440,522 shares were voted against the said amendment or abstained from voting thereon.

AND SAID APPEARERS further declared that 712,000 shares of the Series A Preferred Stock of the Corporation were represented at said meeting, and that 712,000 shares were voted for the said amendment and that no shares were voted against the said amendment.

APPEARERS FURTHER stated that all of the shares of the Corporation have par value; that the Corporation is authorized to issue 50,000,000 shares, of which 40,000,000 are common shares of the par value of $1.25 per share and 10,000,000 are preferred shares of the par value of $0.05 per share; that of the preferred shares, 1,999,998 shares have been designated as the Series A Preferred Stock and 960,000 shares have been designated as the Series B Preferred Stock; and that the Board of Directors of the Corporation has the authority to amend the Articles to fix the preferences, limitations, and relative rights and preferences as between, series of preferred shares, all as more fully set out in Article III of the Articles of Incorporation.

AND SAID APPEARERS having requested me, Notary, to note said amendment in authentic form, I do by these presents receive said amendments in the form of this public act to the end that said amendment may be promulgated and recorded

and thus be read into the Restated Articles of Incorporation of Southdown, Inc., as hereinabove set forth.

THUS DONE AND PASSED, in my office at Houston, Harris County, State of Texas, on the day, month and year first above written, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after a due reading of the whole.

SOUTHDOWN, INC.

By: /s/ Edgar J. Marston III

Edgar J. Marston III
Executive Vice President

By: /s/ Wendell E. Phillips, II

Wendell E. Phillips, II
Secretary

WITNESSES:

_____

_____

_____

NOTARY PUBLIC

ARTICLES OF AMENDMENT
TO RESTATED ARTICLES OF
INCORPORATION OF SOUTHDOWN, INC.

ARTICLES OF AMENDMENT) STATE OF TEXAS

TO	)	
RESTATED ARTICLES OF	)	COUNTY OF HARRIS
INCORPORATION OF	)	
SOUTHDOWN, INC.	)	CITY OF HOUSTON

BE IT KNOWN, That on this 4th day of March, 1991,

BEFORE ME, JoAnn M. Pavlock, a Notary Public, duly commissioned and qualified in and for the County of Harris, State of Texas, and in the presence of the witnesses hereinafter named and undersigned:

PERSONALLY CAME AND APPEARED:

CLARENCE C. COMER and WENDELL E. PHILLIPS, II, appearing herein and acting for Southdown, Inc. (of which Corporation they are, respectively, President and Secretary), a corporation organized and existing under the laws of the State of Louisiana, domiciled in the Parish of Orleans, State of Louisiana, organized by Articles of Incorporation effective April 4, 1930, which Articles, as amended, were restated pursuant to Restated Articles of Incorporation effective September 15, 1983, who declared that pursuant to Section 24B(6) and 33A of the Louisiana Business Corporation Law, Article IIIB of the Restated Articles of Incorporation of the Corporation, and resolutions of the Board of Directors of the Corporation adopted at a special meeting of the Board of Directors of the Corporation held on March 4, 1991, they now appear for the purpose of executing this act of amendment and putting into authentic form the amendment so adopted by the Board of Directors of said Corporation.

AND THE SAID APPEARERS further declare that by vote of the Board of Directors of said Corporation, it was resolved that Article III of the Restated Articles of Incorporation of Southdown, Inc. be further amended as follows:

1. There is added as a new paragraph E of Article III the following:

E. Of the aforesaid 10,000,000 shares of Preferred Stock, 400,000 shares shall constitute a separate series of preferred shares designated

"Preferred Stock, Cumulative Junior Participating Series C" (the "Series C Preferred Stock"). The preferences, limitations and relative rights of the Series C Preferred Stock are as follows:

PREFERRED STOCK,
CUMULATIVE JUNIOR PARTICIPATING SERIES C

1. Dividends. (A) The holders of the Series C Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors out of the funds of the Corporation legally available therefor, subject to the prior and superior rights of the holders of the Corporation's Preferred Stock, $.70 Cumulative Convertible Series A ("Series A Preferred Stock"), the Corporation's Preferred Stock, $3.75 Convertible Exchangeable Series B ("Series B Preferred Stock") and any other shares of any series of Preferred Stock ranking senior to the shares of Series C Preferred Stock as to dividends, but in preference to the holders of the Common Stock, par value $1.25 per share, of the Corporation (the "Common Stock") and any other capital stock of the Corporation ranking junior to the Series C Preferred Stock as to dividends, cumulative preferential dividends per share of Series C Preferred Stock payable in cash on the last day of March, June, September and December in each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series C Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) $2.00 or (b) subject to the provision for adjustment hereinafter set forth, the Adjustment Number (as defined below) times the aggregate per share amount of all cash dividends, and the Adjustment Number times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions other than a dividend or distribution payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series C Preferred Stock. The "Adjustment Number" shall initially be 100. In the event the Corporation shall at any time after March 4, 1991 (i) declare any dividend on Common Stock payable in shares of Common Stock, (ii) subdivide the outstanding Common Stock or (iii) combine the outstanding Common Stock into a smaller number of shares, then in each such case the Adjustment Number in effect immediately prior to such event shall be adjusted by multiplying such Adjustment Number by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(B) Dividends shall begin to accrue and be cumulative on outstanding shares of Series C Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares of Series C Preferred Stock, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such

shares shall accrue and be cumulative from the date of issue of such shares, or

unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series C Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date.

(C) Each dividend on the Series C Preferred Stock shall be paid to the holders of record of shares of the Series C Preferred Stock as they appear on the stock register of the Corporation on such record date, not exceeding 30 days preceding the payment date thereof, as shall be fixed by the Board of Directors of the Corporation. Dividends on account of arrears for any past dividend periods may be declared and paid at any time, without reference to any regular dividend payment date, to holders of record on such date, not exceeding 45 days preceding the payment date thereof, as may be fixed by the Board of Directors of the Corporation. No dividend may be declared on any other series or class of stock ranking on a parity with the Series C Preferred Stock as to dividends in respect of any dividend period, unless there shall also be or have been declared on the Series C Preferred Stock like dividends for all periods in the amounts provided therefor in paragraph 1(A) above. In the event that full cumulative dividends on the Series C Preferred Stock have not been declared and paid or set apart for payment, the Corporation may not declare or pay or set apart for payment any dividends or make any other distributions on, or make any payment on account of the purchase, redemption or retirement of, the Common Stock or any other stock of the Corporation ranking junior to the Series C Preferred Stock as to dividends or distributions of assets on liquidation, dissolution or winding up of the Corporation (other than, in the case of dividends or distributions, dividends or distributions paid in shares of Common Stock or such other junior ranking stock), until full cumulative dividends on the Series C Preferred Stock are declared and paid or set apart for payment. Further, the Corporation shall not declare a dividend or distribution on the Common Stock unless it also declares a dividend or distribution on the Series C Preferred Stock as provided in paragraph (A) above immediately after it declares a dividend or distribution on the Common Stock (other than a dividend or distribution payable in shares of Common Stock); provided that, in the event no dividend or distribution shall have been declared on the Common Stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date, a dividend of $2.00 per share on the Series C Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

2. Redemption. (A) The Corporation, at its option, may redeem shares of Series C Preferred Stock in whole at any time and in part from time to time, at a redemption price equal to the Adjustment Number times the current per share market price (as such term is hereinafter defined) of the Common Stock on the date of the mailing of the notice of redemption, together with accrued and unpaid dividends to the date of such redemption. The "current per share market price" on any date shall be deemed to be the average of the closing price per share of such Common Stock for the ten consecutive Trading Days (as such term

46
is hereinafter defined) immediately prior to such date; provided, however, that in the event that the current per share market price of the Common Stock is determined during a period following the announcement of (A) a dividend or distribution on the Common Stock other than a regular quarterly cash dividend or (B) any subdivision, combination or reclassification of such Common Stockand the ex- dividend date for such dividend or distribution, or the record date for such subdivision, combination or reclassification, shall not have occurred prior to the commencement of such ten Trading Day period, then, and in each such case, the current per share market price shall be properly adjusted to take into account ex-dividend or ex-distribution trading. The closing price for each day shall be the last sales price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange, or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, as reported in the principal transaction reporting system with respect to securities listed on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if the Common Stock is not listed or admitted to trading on any national securities exchange, the last quoted sales price or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the National Association of Securities Dealers, Inc. Automated Quotations System or such other self-regulatory organization or registered securities information processor (as such terms are used under the Securities Exchange Act of 1934, as amended) that then reports information concerning the Common Stock or, if on any such date the Common Stock is not quoted by any such entity, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the Common Stock selected by the Board of Directors of the Corporation. If on any such date no such market maker is making a market in the Common Stock, the fair value of the Common Stock on such date as determined in good faith by the Board of Directors of the Corporation shall be used. The term "Trading Day" shall mean a day on which the principal national securities exchange on which the Common Stock is listed or admitted to trading is open for the transaction of business or, if the Common Stock is not listed or admitted to trading on any national securities exchange, a business day.

(B) In case of the redemption of only part of the Series C Preferred Stock at the time outstanding, such redemption shall be made pro rata, provided, however, that the Corporation shall not be required to effect the redemption in any manner that results in fractional shares being outstanding (unless immediately prior to such time fractional shares were outstanding, in which case the Corporation shall not be required to effect the redemption in any manner that results in fractions of shares, other than one-hundredths of shares, being outstanding); if full cumulative dividends shall not have been paid or declared and set apart for payment for all quarterly dividends to and including the last Quarterly Dividend Payment Date

prior to the date fixed for redemption, the Corporation shall not:

47

(i) call for redemption (except for redemptions in accordance with subparagraph 2(B)(iii) below) any shares of Series C Preferred Stock unless all such shares then outstanding are called for simultaneous redemption; or

(ii) redeem or purchase or otherwise acquire (except for redemptions, purchases or acquisitions in accordance with subpargraph 2(B)(iii) below) for consideration shares of any stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with Series C Preferred Stock, provided that the Corporation may at any time redeem, purchase or otherwise acquire shares of any such parity stock in exchange for shares of any stock of the Corporation ranking junior (both as to dividends and upon dissolution, liquidation or winding up) to Series C Preferred Stock; or

(iii) redeem or purchase or otherwise acquire (except for redemptions, purchases or acquisitions in accordance with subparagraphs 2(B)(i) and 2(B)(ii) above) for consideration any shares of Series C Preferred Stock, or any shares of stock ranking on a parity with Series C Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares of parity stock and Series C Preferred Stock upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(C) Notice of any proposed redemption of Series C Preferred Stock shall be given by the Corporation not less than 15 days nor more than 60 days prior to the date fixed for such redemption to each holder of record of the shares to be redeemed at his address appearing on the books of the Corporation. Notice of redemption shall be deemed to have been given when deposited in the United States mails, by first class mail, whether or not such notice is actually received. If on or before the redemption date specified in such notice all funds necessary for such redemption shall have been set aside by the Corporation, separate and apart from its other funds, in trust for the pro rata benefit of the holders of the shares so called for redemption, so as to be and continue to be

available therefor, then from and after the date of redemption so designated, notwithstanding that any certificate representing shares of Series C Preferred Stock so called for redemption shall not have been surrendered for cancellation, the shares represented thereby shall no longer be deemed outstanding, the right to receive dividends thereon shall cease to accrue and all rights with respect to such shares of Series C Preferred Stock so called for redemption shall forthwith at the close of business on such redemption date cease and terminate, except only the right of the holders thereof to receive the redemption price of such shares so to be redeemed plus an amount equal to accrued and unpaid dividends (whether or not declared) up to the date fixed for redemption, but without interest thereon.

(D) The Corporation may, however, prior to the redemption date specified in the notice of redemption, deposit in trust for the account of the holders of the shares of Series C Preferred Stock to be redeemed, with a bank or trust company in good standing organized under the laws of the United States of America or of any state thereof, having its principal office located in the continental United States, and having a capital, surplus and undivided profits aggregating at least $50 million, designated in such notice of redemption, all funds necessary for such redemption (including accrued and unpaid dividends up to the date fixed for redemption), together with irrevocable written instructions authorizing such bank or trust company, on behalf and at the expense of the Corporation, to cause the notice of redemption to be mailed as herein provided at least 15 days but not more than 60 days prior to the redemption date and to include in said notice of redemption a statement that all funds necessary for such redemption have been so deposited in trust and are immediately available, and on the redemption date, notwithstanding that any certificate representing shares of Series C Preferred Stock called for redemption shall not have been surrendered for cancellation, all shares of Series C Preferred Stock with respect to which such deposit shall have been made and which are outstanding on such redemption date shall no longer be deemed to be outstanding and all rights with respect to such shares of Series C Preferred Stock shall forthwith at the close of business on such redemption date cease and terminate, except only the right of the holders thereof to receive from such bank or trust company, at any time after the redemption date, the redemption price of such shares so to be redeemed plus accrued and unpaid dividends up to the date fixed for redemption.

(E) If any shares of Series C Preferred Stock called for redemption are not issued and outstanding as of the date fixed for redemption, the amount set aside or deposited for the redemption thereof shall revert to or be paid over to the Corporation.

(F) Any shares of Series C Preferred Stock which are redeemed or otherwise purchased or acquired by the Corporation or any

subsidiary thereof shall be cancelled. The number of shares of Series C Preferred Stock shall be reduced by the number of shares so cancelled and such cancelled shares shall be restored to the status of authorized but unissued shares of Preferred Stock that are undesignated as to series. For the purposes of this paragraph, a subsidiary means a corporation of which a majority of the capital stock having voting power under ordinary circumstances to elect a majority of the board of directors is owned by (a) the Corporation, (b) the Corporation and one or more of its subsidiaries or (c) one or more of the Corporation's subsidiaries.

3. Regarding Voting Rights. The holders of shares of Series C Preferred Stock shall have the following voting rights:

(A) Each share of Series C Preferred Stock shall entitle the holder thereof to a number of votes equal to the Adjustment Number for each share held and, except as otherwise provided herein or by law, the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock and the

Common Stock (and any other capital stock of the Corporation entitled to vote) shall vote together as a single class.

(B) Unless the vote of a larger percentage is required by law or the Restated Articles of Incorporation, the affirmative vote of the holders of a majority of the outstanding shares of Series C Preferred Stock shall be sufficient to take any action as to which a class vote of the holders of the Series C Preferred Stock is required by law or the Restated Articles of Incorporation.

(C) Whenever, at any time, dividends payable on the Series C Preferred Stock shall be in arrears for such number of dividend payments as shall include not less than 540 calendar days, the holders of all Preferred Stock (including holders of the Series C Preferred Stock) upon which these or like voting rights have been conferred (without limiting the generality of the foregoing, not including the Series A Preferred Stock and the Series B Preferred Stock) and are exercisable (the "Voting Preferred Stock") with dividends in arrears for such number of dividend payments as shall include not less than 540 calendar days, shall have the exclusive right, voting separately as a class, irrespective of series, to elect by a majority of the votes cast two directors of the Corporation, (i) at the Corporation's next annual meeting of shareholders, (ii) at a special meeting held in place thereof, (iii) at a special meeting of the holders of shares of the Voting Preferred Stock called by the Secretary of the Corporation upon the written request of the holders of record of 25% or more of the total number of shares of Voting Preferred Stock then outstanding, to be held within 30 days after

delivery of such request, or (iv) by written consent of the holders of a majority of the issued and outstanding shares of Voting Preferred Stock in lieu thereof, and at each meeting of shareholders thereafter at which directors shall be elected until such rights shall terminate as hereinafter provided. The Board of Directors of the Corporation hereby unanimously directs the Secretary of the Corporation to give notice of any special meeting of the shareholders of the Corporation required from time to time by the provisions of this paragraph, in the manner prescribed by the Bylaws of the Corporation. Upon the vesting of such voting right in the holders of the Voting Preferred Stock, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the Voting Preferred Stock as hereinabove set forth. The right of the holders of the Voting Preferred Stock, voting separately as a class, to elect members of the Board of Directors of the Corporation as aforesaid shall continue until such time as all dividends accumulated on the Series C Preferred Stock shall have been paid in full, at which time such right shall terminate, except as by law expressly provided, subject to revesting in the event of each and every subsequent default of the character above mentioned. Upon any termination of the right of the holders of the Voting Preferred Stock to vote for directors as herein provided, the term of office of all directors then in office elected by such Voting Preferred Stock voting as a class shall terminate immediately. If the office of any director elected by the holders of the Voting Preferred Stock becomes vacant by reason of death, resignation, retirement, disqualification, removal from office, or otherwise, the remaining director elected by the holders of Voting Preferred Stock voting as a class may choose a successor who shall hold office for the unexpired

term in respect of which such vacancy occurred. Whenever the special voting powers vested in the holders of the Voting Preferred Stock shall have expired, the number of directors shall become such number as may be provided for in the Bylaws, or resolution of the Board of Directors thereunder, irrespective of any increase made pursuant to the provisions of this paragraph 3.

(D) At any time that any shares of Series C Preferred Stock are outstanding, the Restated Articles of Incorporation, as amended, of the Corporation shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of Series C Preferred Stock so as to affect them adversely without the affirmative vote of the holders of a majority or more of the outstanding shares of Series C Preferred Stock, voting separately as a class.

4. Priority in Event of Dissolution. (A) Upon any liquidation (voluntary or otherwise), dissolution or winding up of the Corporation, no distribution shall be made to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series C Preferred Stock unless, prior thereto, the holders of shares of Series C Preferred Stock shall have received $100 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon,

whether or not declared, to the date of such payment (the "Series C Liquidation Preference"). Following the payment of the full amount of the Series C Liquidation Preference, no additional distributions shall be made to the holders of shares of Series C Preferred Stock unless, prior thereto, the holders of shares of Common Stock shall have received an amount per share (the "Common Adjustment") equal to the quotient obtained by dividing (i) the Series C Liquidation Preference by (ii) the Adjustment Number. Following the payment of the full amount of the Series C Liquidation Preference and the Common Adjustment in respect of all outstanding shares of Series C Preferred Stock and Common Stock, respectively, holders of Series C Preferred Stock and holders of shares of Common Stock shall receive their ratable and proportionate share of the remaining assets to be distributed in the ratio of the Adjustment Number to 1 with respect to such Series C Preferred Stock and Common Stock, on a per share basis, respectively.

(B) In the event, however, that there are not sufficient assets available to permit payment in full of the Series C Liquidation Preference and the liquidation preferences of all other series of Preferred Stock, if any, that rank on a parity with Series C Preferred Stock, then such remaining assets shall be distributed ratably to the holders of such parity shares (including the Series C Preferred Stock) in proportion to their respective liquidation preferences.

5. Consolidation, Merger, etc. In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case the shares of Series C Preferred Stock shall at the same time be similarly exchanged or changed in an amount per share equal to the Adjustment Number times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case

may be, into which or for which each share of Common Stock is changed or exchanged.

6. Ranking. The Series C Preferred Stock shall rank junior to the Series A Preferred Stock and Series B Preferred Stock as to the payment of dividends and distribution of assets, and shall also rank junior to all other series of the Corporation's Preferred Stock as to the payment of dividends and the distribution of assets, unless the terms of any such series shall provide otherwise.

7. Fractional Shares. The Series C Preferred Stock may be issued in fractions of a share that shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series C Preferred Stock.

8. Sinking Fund. The Series C Preferred Stock shall not be entitled to any mandatory redemption or prepayment (except on liquidation, dissolution or winding up of the affairs of the Corporation) or to the benefit of any sinking fund.

9. Amount. The number of shares of Series C Preferred Stock may be increased or decreased by resolution of the Board of Directors; provided, however, that no decrease shall reduce the number of shares of Series C Preferred Stock to less than the number of shares then issued and outstanding plus the number of shares issuable upon exercise of outstanding rights, options or warrants or upon conversion of outstanding securities issued by the Corporation.

10. Definition. If the day upon which any payment is to be made or any other action is to be taken or any event is scheduled to occur pursuant to the terms of these Articles of Amendment is not a business day, the payment shall be made or the other action shall be taken on the next succeeding business day. A "business day" is defined as a day in the City of Houston, County of Harris, Texas, that is not a legal holiday or a day on which banking institutions are authorized or obligated by law to close.

11. Notice. Except as otherwise provided herein, any notice, demand or other communication shall be deemed given and received as of the date of delivery in person or receipt set forth on the return receipt. The inability to deliver because of rejection or other refusal to accept any notice, demand or other communication, shall be deemed to be receipt of such notice, demand or other communication as of the date of such inability to deliver or rejection or refusal to accept.

2. Paragraph E of Article III is relettered as paragraph F.

APPEARERS further stated that all of the shares of the Corporation have par value; that the Corporation is authorized to issue 50,000,000 shares, of which 40,000,000 are common shares of the par value of $1.25 per share and 10,000,000 are preferred shares of the par value of $0.05 per share; that of the

preferred shares, 1,999,998 shares have been designated as the Series A Preferred Stock, 960,000 have been designated as the Series B Preferred Stock, and 400,000 have been designated as the Series C Preferred Stock; and that the Board of Directors of the Corporation has the authority to amend the Articles to fix the preferences, limitations, and relative rights of the preferred shares, and to establish, and fix variations and relative rights and preferences as between series of preferred shares, all as more fully set out in Article III of the Restated Articles of Incorporation.

AND SAID APPEARERS having requested me, Notary, to note said amendment in authentic form, I do by these presents receive said amendment in the form of this public act to the end that said amendment may be promulgated and recorded and thus be read into the Restated Articles of Incorporation of Southdown, Inc., as hereinabove set forth.

THUS DONE AND PASSED, in my office at Houston, Harris County, State of Texas, on the day, month and year first above written, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after a due reading of the whole.

SOUTHDOWN, INC.

By: /s/ CLARENCE C. COMER

_____

Clarence C. Comer
President

By: /s/ WENDELL E. PHILLIPS, II

_____

Wendell E. Phillips, II
Secretary

WITNESSES:

_____

_____

_____

NOTARY PUBLIC

REGISTRATION RIGHTS AND LOCK UP AGREEMENT

REGISTRATION RIGHTS AND LOCK UP AGREEMENT, dated November 22, 1993 (the "Agreement"), by and among Southdown, Inc. (the "Company"), Richard C. Blum & Associates, Inc. ("RCBA") and The Carpenters Pension Trust for Southern California (the "Trust") (collectively, the "Parties").

WHEREAS, RCBA is the beneficial owner, on behalf of the Trust, of 2,521,600 shares of common stock, par value $1.25 of the Company ("Common Stock"), including 2,363,600 shares of Common Stock (the "Common Shares") and 63,200 shares of the Company's Preferred Stock, $3.75 Convertible Exchangeable Series B (the "Series B Shares") which are convertible into 158,000 shares of Common Stock; and

WHEREAS, RCBA and the Trust have expressed their desire to sell the Common Shares and the Series B Shares; and

WHEREAS, the Company is considering the public offering of a newly created series of convertible preferred stock (the "Preferred Stock Offering"); and

WHEREAS, the Company is willing to prepare and file a registration statement with respect to a firm commitment public offering of the Common Shares and the shares of Common Stock into which the Series B Shares are convertible (collectively, the "Shares"); and

WHEREAS, in connection with such registration statement and to facilitate the Preferred Stock Offering, RCBA and the Trust are willing to "lock up" the Shares and the Series B Shares for a period of time set forth herein, in partial consideration for which the Company will grant them the certain registration rights set forth herein.

NOW, THEREFORE, for and in consideration of the recitals set forth above and the mutual agreements and transactions contemplated by this Agreement, the Parties hereby agree as follows:

1. Registration Rights.

a. As promptly as practicable after the date of this Agreement, the Company will prepare and file with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-3 (or such other form as shall then be in use and which the Company is eligible to file) covering a firm commitment

underwritten public offering (the "Offering") of such number of the Shares as shall be specified in writing by RCBA, and, subject to the other provisions of this Agreement, will use its best efforts to cause the registration statement to become effective under the Securities Act of 1933, as amended (the "Act"). The representatives of the underwriters of the Offering shall be Merrill Lynch & Co., Kidder, Peabody & Co. Incorporated, Lehman Brothers, or such additional or different underwriters of national stature as shall be determined by the Company. If RCBA and the Trust include all of their Shares in the Offering, the Company will include in the registration statement relating to the Offering 378,240 shares of Common Stock to be sold by the Company, solely to cover over-allotments, if any. The Company shall have no obligation to request that the registration statement relating to the Offering be declared effective until such time as either (i) the Company and any underwriters of the Preferred Stock Offering are prepared to have any registration statement with respect to the Preferred Stock Offering declared effective, to price the Preferred Stock Offering and to sign an underwriting agreement with respect thereto or (ii) the Company determines to abandon the Preferred Stock Offering, in which event it will promptly give written notice to RCBA.

b. If less than all of the Shares have been sold in the Offering prior to the expiration of the period set forth in Section 3, then after that date and prior to March 1, 1995, RCBA and the Trust may give written notice to the Company of the exercise of their one demand registration right under this Agreement. Upon receipt of such notice, the Company will, as promptly as practicable, prepare and file with the Commission a registration statement with respect to the public offering of the remaining Shares (the "Demand Offering"); provided that after March 1, 1995, the Company shall have no obligation to file such a registration statement, shall not be obligated to use its efforts to cause any such registration statement to become effective, may deregister any securities covered by any such registration statement previously declared effective and terminate the related registration statement, and may withdraw any such registration statement previously filed which has not become effective.

2. General Registration Procedures.

a. When the Company is required to file a registration statement under this Agreement with respect to the Offering or the Demand Offering, the Company, subject to Section 1.a and the last provision of Section 1.b, will:

(i) as promptly as practicable, prepare and file with the Commission a registration statement (which shall be on Form S-3 to the extent the Company is entitled to use such form) with respect to such offering, and use its best efforts to cause such registration statement to become effective as promptly as practicable thereafter and remain effective for such period ending on or prior to March 1, 1995 (A) as may be required by the Underwriting Agreement or (B) if the Demand Offering is not underwritten, as may be required for the period of the distribution contemplated thereby;

(ii) prepare and file with the Commission such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective for such period ending on or prior to March 1, 1995 (A) as may be required by the Underwriting Agreement or (B) if the Demand Offering is not underwritten, as may be required for the period of the distribution contemplated thereby;

(iii) furnish to RCBA and the Trust and to each underwriter such number of copies of such registration statement and the prospectus included therein (including each preliminary prospectus and each document incorporated by reference therein to the extent then required by the rules and regulations of the Commission) as such persons may reasonably request in order to facilitate the Offering or the Demand Offering, as the case may be;

(iv) use its best efforts to register or qualify the shares covered by such registration statement under the securities or blue sky laws of such jurisdictions as may be required by the Underwriting Agreement or, if the Demand Offering is not underwritten, as may be reasonably requested by RCBA and the Trust;

(v) immediately notify RCBA and the Trust and such underwriters as may be required under the Underwriting Agreement, at any time when a prospectus relating to the Shares is required to be delivered under the Act, of the happening of any event as a result of which the prospectus contained in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing;

(vi) cause to be delivered to the underwriters

under the Underwriting Agreement such opinions of counsel and letters of independent public accountants as are reasonably required by the Underwriting Agreement;

(vii) make available for inspection by representatives of RCBA and the Trust, any underwriter participating in the Offering or the Demand Offering and any attorney, accountant or other agent retained by such representative of RCBA and the Trust or underwriter, all reasonably requested financial and other records, pertinent corporate documents and properties of the Company, and cause the Company's officers, directors and employees to supply all information reasonably requested by any such representative of RCBA and the Trust, underwriter, attorney, accountant or agent in connection with such registration statement; and

(viii) make every reasonable effort to obtain the withdrawal of any order suspending the effectiveness of such registration statement at the earliest possible time.

b. In connection with any such registration statement, RCBA and the Trust will furnish promptly to the Company in writing such information with respect to themselves and the related offering as shall be necessary in order to ensure compliance with federal and applicable state securities laws.

c. Subject to the other provisions of this Agreement, in connection with the Offering or an underwritten Demand Offering, RCBA, the Trust and the Company agree to enter into a written underwriting agreement with the managing underwriter or underwriters in such form and containing such provisions as are customary in the securities business for such an arrangement between major underwriters, selling shareholders and companies of the Company's size and investment stature (the "Underwriting Agreement"); provided that (i) such agreement shall not contain any such provision applicable to the Company that is inconsistent with the provisions hereof; (ii) the time and place of the closing under such agreement shall be as mutually agreed upon among the Company, RCBA and the Trust and such managing underwriter; and (iii) if the Company elects to sell no shares of Common Stock in the Offering, such agreement shall not call for the sale of any such shares by the Company. The Underwriting Agreement shall contain customary provisions pursuant to which the Company, RCBA and the Trust, and the underwriters each indemnify the others for customary matters, as well as related contribution provisions.

d. In connection with the Offerings, any Demand Offering and the related registration statements, the Company shall pay all fees and

disbursements of its counsel and independent public accountants. The Company and RCBA and the Trust shall each bear the federal and state registration and filing fees and the underwriting discounts and selling commissions with respect to the shares to be sold by them. RCBA and the Trust shall promptly pay (or, if the Company has paid, reimburse the Company for), upon request, all other third party expenses incurred by the Company in connection with the Offering, any Demand Offering, and the related registration statements, including, without limitation, blue sky fees and expenses, printing expenses, listing fees, fees of the National Association of Securities Dealers, Inc. and fees of transfer agents and registrars. RCBA and the Trust shall pay for the fees and disbursements of their counsel and any transfer taxes on the Shares.

e. (i) In the event of a registration of any Shares under the Act pursuant to this Agreement, the Company will indemnify and hold harmless RCBA and the Trust and each underwriter of Shares thereunder and each person who controls RCBA and the Trust or such underwriter within the meaning of the Act and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), against any losses, claims, damages or liabilities (including reasonable attorneys' fees), joint or several, to which RCBA and the Trust or such underwriter or controlling person may become subject under the Act, the Exchange Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in a registration statement under which such Shares were registered under the Act pursuant to this Agreement, any preliminary or final prospectus contained therein, or any amendment or supplement thereof, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse RCBA or the Trust, each such underwriter and each such controlling person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Company will not be liable in any such case if and to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission so made in conformity with information furnished by RCBA or the Trust, such underwriter or such controlling person in writing

specifically for use in such registration statement or prospectus.

(ii) RCBA and the Trust will indemnify and hold harmless

the Company and each person who controls the Company within the meaning of the Act and the Exchange Act, each officer of the Company who signs a registration statement under which Shares were registered under the Act pursuant to this Agreement, each director of the Company, each underwriter and each person who controls any underwriter within the meaning of the Act and the Exchange Act, against any losses, claims, damages or liabilities (including reasonable attorney's fees), joint or several, to which the Company or such officer or director or underwriter or controlling person may become subject under the Act, the Exchange Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in a registration statement under which Shares were registered under the Act pursuant to this Agreement, any preliminary or final prospectus contained therein, or any amendment or supplement thereof, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse the Company and each such officer, director, underwriter and controlling person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that RCBA and the Trust will be liable hereunder in any such case if and only to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with information pertaining to RCBA or the Trust, furnished in writing to the Company by RCBA or the Trust specifically for use in such registration statement or prospectus; and provided further that the liability of RCBA and the Trust hereunder shall be limited to the proportion of any such loss, claim, damage, liability or expense which is equal to the proportion that the public offering price of Shares sold by RCBA and the Trust under such registration statement bears to the total public offering price of all securities sold thereunder, but not to exceed the amount of the proceeds received by RCBA and the Trust from the sale of the Shares covered by such registration statement.

(iii) Promptly after receipt by an indemnified party hereunder of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party hereunder, notify the indemnifying party in writing thereof, but the omission so to notify the indemnifying party shall not relieve it from any liability which it

may have to any indemnified party other than under this Section 2.e. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate in and, to the extent it shall wish, to assume and undertake the defense thereof with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party) and, after notice from the indemnifying party to such indemnified party of its election so to assume and undertake the defense thereof, the indemnifying party shall not be liable to such indemnified party under this Section 2.e for any legal expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation.

(iv) If the indemnification provided for in this Section 2.e is unavailable or insufficient to hold harmless an indemnified party under subparagraph (i) or (ii) thereof in respect of any losses, claims, damages or liabilities or actions in respect thereof, referred to therein, then each indemnifying party shall in lieu of indemnifying such indemnified party contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities or actions in such proportion as is appropriate to reflect the relative fault of the Company, on the one hand, and RCBA and the Trust, on the other, in connection with the statements or omission which resulted in such losses, claims, damages, liabilities or actions as well as any other relevant equitable considerations, including the failure to give any required notice. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company, on the one hand, or RCBA or the Trust on the other, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and RCBA and the Trust agree that it would not be just and equitable if contribution pursuant to this subparagraph 2.e(iv) were determined by pro rata allocation or by any other

method of allocation which does not take account of the equitable considerations referred to above in this subparagraph 2.e(iv). The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or actions in respect thereof referred to above in this subparagraph 2.e(iv) shall be deemed to include any legal or other expenses reasonably incurred by such

indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subparagraph 2.e(iv), the amount that RCBA and the Trust shall be required to contribute shall not exceed the total price at which the securities sold by them were offered to the public. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

3. No Other Offers or Sales. RCBA and the Trust agree that until (A) the earlier of (i) 90 days after the effective date of the registration statement with respect to the Preferred Stock Offering or (ii) the date on which the Company gives written notice to RCBA that it has abandoned the Preferred Stock Offering or (B) March 1, 1994 (but only if neither the registration statement relating to the Preferred Stock Offering has become effective nor has the Company given to RCBA written notice that it has abandoned the Preferred Stock Offering prior to March 1, 1994), neither RCBA nor the Trust nor any of their "affiliates" or "associates" (as such terms are defined in Rule 12b-2 of the Exchange Act) will, directly or indirectly, sell, contract or agree to sell, offer to sell or solicit any offer to purchase or otherwise dispose of any of the Shares or the Series B Shares or any right or option to purchase or acquire the same (except a sale of Shares by RCBA and the Trust to the underwriters of the Offering pursuant to the Underwriting Agreement contemporaneously with the sale of shares of a newly created series of preferred stock by the Company to the underwriters of the Preferred Stock Offering).

4. Expenses. Each of the Parties shall bear its own expenses in connection with the negotiation, execution and delivery of this Agreement. The fees and expenses in connection with the Offering, the Demand Offering and the related registration statements shall be borne by the Parties as set forth in Section 2.d.

5. Representations and Warranties.

a. RCBA and the Trust. RCBA and the Trust represent and warrant to, and covenant and agree with, the Company that:

(i) They have full corporate and trust power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, and RCBA has full power and authority to bind the Trust and the Shares hereto by RCBA's execution of this Agreement for and on behalf of the Trust;

(ii) The execution, delivery and performance of this Agreement by them (A) has been duly authorized by all necessary corporate or trust action, as the case may be, (B) will not conflict with or result in a breach, default or violation of (1) any of the terms or provisions of the charter or bylaws or other organizational documents of RCBA or the Trust or (2) any judgment, decree, order, permit, certificate, applicable law or regulation or material agreement, instrument or license, to which either of them is a party or by which either of them or their property is bound, and (C) will not require any consent or approval of any third party which has not been obtained; and

(iii) Neither RCBA nor the Trust owns of record or beneficially, directly or indirectly, any shares of Common Stock or any other equity security of the Company or any option or warrant or other right to acquire any such equity security, or any security convertible into or exchangeable for any such equity security, except for the Common Shares and the Series B Shares and except for options to purchase 15,000 shares of Common Stock granted to Ronald N. Tutor, a director of the Company and Co-Chairman of the Trust, pursuant to the Company's 1991 Non-Qualified Stock Option Plan for Non- Employee Directors.

b. The Company. The Company represents and warrants to, and covenants and agrees with, RCBA and the Trust that:

(i) It has full corporate power and authority to enter in to this Agreement and to consummate the transactions contemplated hereby; and

(ii) The execution, delivery and performance of this Agreement by it (A) has been duly authorized by all necessary corporate action, (B) will not conflict with or result in a breach, default or violation of (1) any of the terms or provisions of its charter or bylaws or (2) any judgment, decree, order, permit, certificate, applicable law or regulation or material agreement, instrument or license, to which it is a party or by which it or its property is bound, and (C) will not require any consent or approval of any third party which has not been obtained, other than the Securities and

Exchange Commission and applicable state securities commissions.

6. Miscellaneous Provisions

a. Notices. Any notice, consent or other communication required or permitted hereunder must be in writing to be effective and shall be deemed delivered and received (i) if personally delivered, delivered by overnight courier, or delivered by telex or telecopy with electronic confirmation, when actually received by the Party to whom sent, or (ii) if delivered by mail (whether actually received or not), at the close of business on the third business day next following the day when placed in the federal mail, postage prepaid, certified or registered mail, return receipt requested, addressed as follows:

If to the Company:

Southdown, Inc.
Attn: Edgar J. Marston III
1200 Smith Street
Suite 2400
Houston, Texas 77002
Facsimile: 713-653-8010

with a copy to:

Bracewell & Patterson, L.L.P.
Attn: R. Daniel Witschey, Jr.
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781
Facsimile: 713-221-1212

If to RCBA:

Richard C. Blum & Associates, Inc.
Attn: Susan Barnes
909 Montgomery Street
Suite 400
San Francisco, California 94132
Facsimile: 415-434-3130

with a copy to:

Wilmer, Cutler & Pickering
Attn: Michael R. Klein
2445 M Street, N.W.
Washington, D.C. 20037-1420
Facsimile: 202-663-6454

If to the Trust:

Carpenters Pension Trust
for Southern California
Attn: Ron Schoen
520 South Virgil Avenue
Los Angeles, California 90020
Facsimile: 213-739-9318

with a copy to:

DeCarlo, Connor & Selvo
Attn: Mr. John DeCarlo
500 South Virgil Avenue
Suite 320
Los Angeles, California 90020
Facsimile: 213-738-1813

(or to such other address as either Party shall specify by written notice so given).

b. Binding Effect; Benefits. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and may not be assigned. Section 3 of this Agreement shall also inure to the benefit of and be enforceable by any underwriters of the Preferred Stock Offering.

c. Entire Agreement. This Agreement constitutes the final written expression of all of the agreements between the Parties with respect to the subject matter hereof, and is a complete and exclusive statement of those terms. Except as specifically included or referred to herein, this Agreement supersedes all understandings and negotiations concerning the matters specified herein. Any promises or statements made by any Party that differ in any way from the terms of this written agreement shall be given no force or effect (except as specifically included or referred to herein). The Parties specifically represent, each to the other, that there are no additional or supplemental agreements between them related in any way to the matters herein contained unless specifically included or referred

to herein. No addition to or modification of any provision hereof shall be binding upon any Party unless made in writing and signed by all Parties.

d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas (exclusive of

the conflict of law provisions thereof).

e. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

f. Headings. The headings of the Sections of this Agreement are for the convenience of the Parties only, and shall be given no substantive or interpretive effect whatsoever.

g. Waivers. The Company, on the one hand, and RCBA and the Trust, on the other, may, by written notice to the other: (1) waive any inaccuracies in the representations or warranties of the other contained herein or in any document delivered pursuant hereto; (2) waive compliance with any of the conditions or covenants of the other contained herein; or (3) waive performance of any of the obligations of the other hereunder. Except as provided in the preceding sentence, no action taken pursuant hereto, including without limitation any investigation by or on behalf of any Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representations, warranties, covenants or agreements contained herein. No failure or delay on the part of any Party in exercising any right, privilege, power, or remedy under this Agreement, and no course of dealing among the Parties, shall operate as a waiver of such right, privilege, power, or remedy; nor shall any single or partial exercise of any right, privilege, power or remedy under this Agreement preclude any other or further exercise of such right, privilege, power, or remedy, or the exercise of any other right, privilege, power or remedy. No notice to or demand on any Party in any case shall entitle such party to any other or further notice or demand in any similar or other circumstances or constitute a waiver of the right of the Party giving such notice or making such demand to take any other or further action in any circumstances without notice or demand.

h. Severability If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby, and the intent of

this Agreement shall be enforced to the greatest extent permitted by law.

i. Drafting. Each Party acknowledges that its legal counsel participated in the preparation of this Agreement. The Parties therefore stipulate and agree that the rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the

interpretation of this Agreement to favor either Party against the other.

j. References. The use of the words "hereof," "herein," "hereunder," "herewith," "hereto," "hereby," and words of similar import shall refer to this entire Agreement, and not to any particular article, section, subsection, clause, or paragraph of this Agreement, unless the context clearly indicates otherwise.

k. Cumulative Rights. All rights and remedies specified herein are cumulative and are in addition to, not in limitation of, any rights or remedies the Parties may have by statute, at law, in equity, or otherwise, and all such rights and remedies may be exercised singularly or concurrently.

l. Enforcement; Proper Court. Each of the Parties acknowledges and agrees that irreparable harm would occur if any provision of this Agreement were not performed in accordance with the terms thereof, or were otherwise breached, and that such harm could not be remedied by an award of money damages. Accordingly, the Parties hereto agree that any non-breaching Party shall be entitled to an injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of competent jurisdiction, within the State of Texas. More specifically, each of the Parties hereto hereby consents to the personal jurisdiction and venue of the United States District Court for the Southern District of Texas, Houston Division or any other court of competent jurisdiction in the State of Texas, for and in respect of any action, suit or proceeding arising under this Agreement, and each Party hereto agrees further that service of process or notice in any action, suit or proceeding shall be effective if given in the manner set forth in Section 6.a hereof.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective duly authorized officers or signatories, to be effective as of the date first above written.

SOUTHDOWN, INC.

By: _____
Authorized Officer

RICHARD C. BLUM & ASSOCIATES, INC.

By: _____
Authorized Officer

THE CARPENTERS PENSION TRUST FOR SOUTHERN CALIFORNIA

By: _____
Authorized Signatory

15

November 22, 1993

To: Southdown, Inc.

Pursuant to Section 1.a of the Registration Rights and Lock Up Agreement of even date herewith among Southdown, Inc., Richard C. Blum & Associates, Inc. and the Carpenters Pension Trust for Southern California, we advise you that the Offering (as defined in such Agrement) and the related registration statement should cover 1,250,000 Common Shares (as defined in such Agreement), plus 187,500 Common Shares solely to cover over-allotments.

Richard C. Blum & Associates, Inc.

By:_____
Authorized Officer

==========

SOUTHDOWN, INC.

and

STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT,
NATIONAL ASSOCIATION, TRUSTEE

_____

Indenture

Dated as of October 15, 1991

_____

$125,000,000 Aggregate Principal Amount of
14% Senior Subordinated Notes Due 2001, Series B

==========

SOUTHDOWN, INC.

Reconciliation and tie between Trust Indenture Act of 1939
and Indenture, dated as of
October 15, 1991

<TABLE>
<CAPTION>

Trust Indenture Act Section		Indenture Section
<S>		<C>
Section	310(a)(1)	7.10
	(a)(2)	7.10
	(a)(3)	Not Applicable
	(a)(4)	Not Applicable
	(b)	7.08; 7.10; 11.02
Section	311(a)	7.11
	(b)	7.11
	(c)	Not Applicable
Section	312(a)	2.05
	(b)	11.03
	(c)	11.03
Section	313(a)	7.06
	(b)	7.06
	(c)	7.06; 11.02
	(d)	7.06
Section	314(a)	4.09; 4.13; 11.02
	(b)	Not Applicable
	(c)(1)	11.04
	(c)(2)	11.04
	(c)(3)	Not Applicable
	(d)	Not Applicable
	(e)	11.05

Section	315(a)	7.01(b)
	(b)	7.05; 11.02
	(c)	7.01(a)
	(d)	7.01(c)
	(e)	6.11
Section	316(a) (last sentence)	2.09
	(a)(1)(A)	6.05
	(a)(1)(B)	6.04
	(a)(2)	Not Applicable
	(b)	6.07
	(c)	Not Applicable
Section	317(a)(1)	6.08
	(a)(2)	6.09
	(b)	2.04
Section	318(a)	11.01

</TABLE>

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

TABLE OF CONTENTS

<TABLE>
<CAPTION>

<TABLE>
<CAPTION>

</TABLE>

<TABLE>
<CAPTION>

ARTICLE 11

MISCELLANEOUS

</TABLE>

INDENTURE dated as of October 15, 1991, between SOUTHDOWN, INC., a Louisiana corporation (the "Company"), and STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, NATIONAL ASSOCIATION, a national banking association (the "Trustee").

The parties agree as follows each for the benefit of the other and for the equal and ratable benefit of the Holders of the Company's 14% Senior Subordinated Notes Due 2001, Series B:

ARTICLE 1

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01. Definitions.

"Affiliate" of any specified person means any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, "control," when used with respect to any person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Agent" means any Registrar, Paying Agent or co-Registrar of the Securities.

"Asset Disposition" means any sale, lease, transfer or other disposition (or series of related sales, leases, transfers or dispositions) of Capital Stock of a Subsidiary of the Company (other than directors' qualifying shares and other than sales of equity interests in a Permitted Joint Venture), property or other assets (each referred to for the purposes of this definition as a "disposition") by the Company or any of its Subsidiaries, whether for cash or other consideration (other than (i) a disposition by a Subsidiary of the Company to the Company or a Subsidiary of the Company, (ii) a disposition of property or assets in the ordinary course of business (provided, however, that in no event shall a disposition of a cement manufacturing facility be deemed to be in the ordinary course of business) or (iii) a disposition that is governed by Article 5).

"Board of Directors" means the Board of Directors of the Company or any committee thereof duly authorized to act on behalf of the Board of Directors.

"Business Day" means a day that is not a Legal Holiday.

"Capital Stock" of any person means any and all shares, interests, participations or other equivalents (however designated) of, or rights, warrants or options to purchase, corporate stock or any other equity interest

(however designated) of or in such person.

"Change of Control" means the occurrence of one or more of the following events: (i) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of the Company to any person or related group for purposes of Section 13(d) of the Securities Exchange Act (a "Group"), together with any Affiliates thereof (whether or not otherwise in compliance with the provisions of this Indenture), but not including any such sale, lease, exchange or other transfer that is governed by

Article 5 (except for a merger, consolidation or similar transaction under clause (iii) below); (ii) the shareholders of the Company shall approve any plan or proposal for the liquidation or dissolution of the Company whether or not otherwise in compliance with the provisions of this Indenture; (iii) any person or Group, together with any Affiliates thereof, shall, as a result of a tender or exchange offer, a merger, consolidation or similar transaction, open market purchases, privately negotiated purchases or otherwise, have become the beneficial owner (within the meaning of Rule 13d-3 under the Securities Exchange Act), directly or indirectly, of securities of the Company representing at least a majority of the Voting Stock of the Company; or (iv) a majority of the members of the Board of Directors shall not constitute Continuing Directors. For purposes of this definition, "Board of Directors" does not include any committee thereof.

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

"Commission" means the Securities and Exchange Commission.

"Common Stock" means the Company's common stock, par value $1.25 per share.

"Company" means Southdown, Inc., the party named as such in this Indenture, until a successor replaces it pursuant to and in compliance with the terms of this Indenture, and thereafter means such successor.

"Consolidated Interest Expense" means, for any period, the sum of, without duplication, (i) the aggregate interest expense on Indebtedness of the Company and its Subsidiaries for such period, on a consolidated basis, plus (ii) that portion of capital lease rentals of the Company and its Subsidiaries on a consolidated basis representative of the interest factor for such period, in each case as determined in accordance with generally accepted accounting principles.

"Consolidated Net Income" means, for any period, the net income or loss of the Company and its Subsidiaries for such period on a consolidated basis as determined in accordance with generally accepted accounting principles adjusted by excluding the after-tax effect of (i) net extraordinary gains or net extraordinary losses, as the case may be, (ii) net gains or losses in respect of dispositions of assets other than in the ordinary course of business, (iii) the net income of any Subsidiary of the Company to the extent that dividends or distributions by such Subsidiary to the Company in the amount of such net income are restricted or prohibited, (iv) the net income or loss of any person in which the Company or any of its Subsidiaries has a joint interest with a third party (which interest does not constitute a majority interest in such person) except to the extent of the amount of dividends, distributions or other payments actually paid to the Company or any Subsidiary of the Company, and (v) any gains or losses attributable to write-ups or write-downs of assets.

"Consolidated Net Tangible Assets" means, at any date, the total assets shown on the balance sheet of the Company and its Subsidiaries on a consolidated basis in accordance with generally accepted accounting principles, less (i) all current liabilities (excluding the current portion of long-term debt) and amounts applicable to minority interests and (ii) Intangible Assets shown on such balance sheet.

"Consolidated Net Worth" means, at any date, the consolidated shareholders' equity of the Company and its Subsidiaries at such date

determined in accordance with generally

accepted accounting principles, plus the amount of the transition obligation recognized after the Initial Issuance Date pursuant to Statement of Financial Accounting Standards No. 106.

"Consolidated Operating Income" means, for any period, the operating earnings of the Company and its Subsidiaries for such period determined on a consolidated basis in accordance with generally accepted accounting principles.

"Consolidated Tax Expense" of the Company means for any period the aggregate federal, state, local and foreign tax expense of the Company and its Subsidiaries for such period determined on a consolidated basis in accordance with generally accepted accounting principles.

"Continuing Director" means, at any time, (i) any member of the Board of Directors who was a director of the Company at the Initial Issuance Date and (ii) any person who becomes a member of the Board of Directors after the Initial Issuance Date if such person was appointed or nominated for election to the Board of Directors by a majority of the Continuing Directors, but excluding any such person originally proposed for election in opposition to the Board of Directors in office at the Initial Issuance Date in an actual or threatened election contest relating to the election of the directors of the Company (as such terms are used in Rule 14a-11 under the Securities Exchange Act) and whose initial assumption of office resulted from such contest or the settlement thereof.

"Convertible Subordinated Debentures" means the 7-1/2% Convertible Subordinated Debentures due 2013 of the Company issuable upon exchange of the Series B Preferred Stock.

"Corporate Trust Office" means the office or agency of the Trustee in New York, New York at any particular time, which office or agency at the date of this Indenture is located at 61 Broadway, New York, New York 10006.

"Default" means any event which is, or after notice or passage of time, or both, would be, an Event of Default.

"Disqualified Stock" means (i) any Capital Stock of the Company that, by its terms, matures, or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part on, or prior to, the stated maturity of the Securities, (ii) any preferred stock of a Subsidiary of the Company and (iii) any Capital Stock of the Company which is convertible into or exchangeable for any stock described in clauses (i) and (ii) above.

"Fixed Charge Coverage Ratio" means for any period the ratio of (i) the sum of (A) Consolidated Net Income before dividends on the preferred stock of the Company paid in cash, plus (B) Consolidated Interest Expense, plus (C) Consolidated Tax Expense, plus (D) all depreciation, and without duplication, all amortization, plus (E) other non-cash items charged against income, in each case, for such period, of the Company and its Subsidiaries on a consolidated basis, all as determined in accordance with generally accepted accounting principles, to (ii) the sum of (X) Consolidated Interest Expense for such period, plus (Y) dividends on the preferred stock of the Company paid in cash for such period. In making such computation, all components above shall be adjusted on a pro forma basis, to the extent appropriate, to reflect the incurrence at the beginning of such period of the Funded Indebtedness proposed to be incurred and any other Funded Indebtedness incurred subsequent to the end of such period and the similar

application of the proceeds therefrom and the income or loss generated by any

assets to be acquired in connection with the transaction in which any such Funded Indebtedness was or is proposed to be incurred.

"Funded Indebtedness" of a person means, without duplication, the principal of (1) indebtedness of such person for money borrowed, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (2) guarantees by such person of indebtedness for money borrowed by any other person, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (3) indebtedness evidenced by notes, debentures, bonds, or other instruments of indebtedness for the payment of which such person is responsible or liable, by guarantees or otherwise, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (4) obligations of such person under any agreement to lease, or any lease of, any real or personal property which, in accordance with generally accepted accounting principles, is classified upon such person's consolidated balance sheet as a liability, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (5) obligations of such person for repayment or other reimbursement whether existing on the date of execution of this Indenture or at any time thereafter arising under any agreement, application or instrument executed by such person on or before the date of execution of this Indenture or at any time thereafter in connection with any letter of credit issued by any bank at the request or instruction of such person, or upon application by such person to any such issuing bank, or pursuant to an agreement between such person and such issuing bank, that, in the case of any such application or agreement, provides for the obligations of such person to reimburse such issuing bank (whether for its own account or the account of any participant); provided, however, that obligations described in this clause (5) shall constitute Funded Indebtedness only to the extent the related letters of credit secure Funded Indebtedness; and (6) obligations of such person under interest rate swaps, caps, calls and similar arrangements and foreign currency hedges entered into in respect of any indebtedness or obligation; provided, however, that obligations described in this clause (6) shall constitute Funded Indebtedness only to the extent such obligations are shown as long-term liabilities on the balance sheet of the Company in accordance with generally accepted accounting principles; and, provided further, that Funded Indebtedness shall not include any liability or obligation with respect to (i) the B Guarantee dated December 29, 1983 by Moore McCormack Resources, Inc. in favor of General Electric Credit Corporation of Georgia, (ii) the C Guarantee dated as of December 15, 1983 by Moore McCormack Resources, Inc. in favor of General Electric Credit Corporation of Georgia, (iii) the Keepwell Agreement dated December 29, 1983 between Moore McCormack Resources, Inc. and The Interlake Steamship Company, (iv) the Promissory Note dated December 29, 1983, executed by The Connecticut National Bank, not in its individual capacity but solely as owner trustee under the Trust Agreement dated as of December 15, 1983 for the benefit of the owner participant named therein in the original principal amount of $10,057,000 payable to the order of Manufacturers Hanover Trust Company, as amended, (v) the Guaranty Agreement dated October 9, 1975, as supplemented on October 13, 1978, between Moore McCormack Resources, Inc. and the United States Maritime Administration, or (vi) any other guarantees or obligations related to the estimated liabilities of discontinued operations of Moore McCormack Resources, Inc., except to the extent that the amounts relating to the matters referred to in items (i) through (vi) above that are reflected on the Company's consolidated balance sheet exceed $21.7 million.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Holder" or "Securityholder" means the person in whose name a Security is registered on the Securities Register.

"Indebtedness" of a person means, without duplication, the principal of and accrued and unpaid interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to such person whether or not a claim for post-filing interest is allowed in such proceeding) in respect of (1) indebtedness of such person for money borrowed, whether outstanding on the date of execution of this Indenture or thereafter

created, incurred or assumed, (2) express written guarantees by such person of indebtedness for money borrowed by any other person, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (3) indebtedness evidenced by notes, debentures, bonds, or other instruments of indebtedness for the payment of which such person is responsible or liable, by guarantees or otherwise, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (4) obligations of such person under any agreement to lease, or any lease of, any real or personal property which, in accordance with generally accepted accounting principles, is classified upon such person's consolidated balance sheet as a liability, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (5) obligations of such person for repayment or other reimbursement whether existing on the date of execution of this Indenture or at any time thereafter arising under any agreement, application or instrument executed by such person on or before the date of execution of this Indenture or at any time thereafter in connection with any letter of credit issued by any bank at the request or instruction of such person, or upon application by such person to any such issuing bank, or pursuant to an agreement between such person and such issuing bank, that, in the case of any such application or agreement, provides for the obligations of such person to reimburse such issuing bank (whether for its own account or the account of any participant) and (6) obligations of such person under interest rate swaps, caps, calls and similar arrangements and foreign currency hedges entered into in respect of any such indebtedness or obligation.

"Indenture" means this Indenture, as amended, supplemented or modified from time to time in compliance with the terms hereof.

"Initial Issuance Date" means October 31, 1991.

"Intangible Assets" means, with respect to any person at any date, all intangible assets of such person and its Subsidiaries, on a consolidated basis, as determined in accordance with generally accepted accounting principles.

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in New York, New York, Hartford, Connecticut or Boston, Massachusetts are not required to be open for business.

"Leverage Ratio" means at any date the ratio of (i) Funded Indebtedness at such date to (ii) the sum of (A) Consolidated Net Worth at the end of the last calendar month prior to such date, adjusted for events occurring after the end of such month other than net earnings and losses attributable to operations, and (B) Funded Indebtedness at such date. In calculating such ratio, all components shall be adjusted on a pro forma basis, to the extent appropriate, to reflect the incurrence of the Funded Indebtedness proposed to be incurred, the similar application of the proceeds thereof and the sale of and proceeds from any sale of Capital Stock issued or

sold in connection with the transaction in which such Funded Indebtedness is proposed to be incurred.

"Net Cash Proceeds" means, with respect to any Asset Disposition, the proceeds therefrom in the form of cash, including payments in respect of deferred payment obligations when received in the form of cash, net of: (i) the direct costs and expenses incurred by the Company or any of its Subsidiaries in connection with such Asset Disposition, including, without limitation, all underwriting discounts and commissions or private placement fees, brokerage commissions and accounting, appraisal, legal, title and recording fees and all other fees and expenses directly related to such Asset Disposition, all as reflected in an Officers' Certificate delivered to the Trustee; (ii) provisions for all taxes payable as a direct result of such Asset Disposition; and (iii) payments made to retire Indebtedness where payment of such Indebtedness is required in connection with such Asset Disposition; but in any event, only to the extent of the Company's consolidated interest therein determined in accordance with generally accepted accounting principles.

"Net Proceeds" means, with respect to any Asset Disposition or issuance or sale of Capital Stock of the Company, the proceeds therefrom whether in the form of cash, securities or other property or assets, net of (i) the direct

costs and expenses incurred by the Company or any of its Subsidiaries in connection with such Asset Disposition or issuance or sale of Capital Stock, including, without limitation, all underwriting discounts and commissions or private placement fees, brokerage commissions and accounting, appraisal, legal, title and recording fees and all other fees and expenses directly related to such transaction; and (ii) provisions for all taxes payable as a direct result of such Asset Disposition or issuance or sale; but in any event, only to the extent of the Company's consolidated interest therein determined in accordance with generally accepted accounting principles.

"1987 Indenture" means that Indenture dated as of May 1, 1987, as amended, between the Company and Texas Commerce Bank National Association, as trustee, relating to the Company's 12% Senior Subordinated Notes due 1997.

"Officer" means the Chairman of the Board, the President, any Vice President, the Chief Financial Officer, the Treasurer or the Secretary of the Company.

"Officers' Certificate" means a certificate signed by two Officers or by an Officer and an Assistant Treasurer or Assistant Secretary of the Company; provided that such certificate shall be signed by one Officer other than the Treasurer or Secretary.

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

"Original Notes" means the 14% Senior Subordinated Notes Due 2001 issued by the Company under an Indenture dated as of October 15, 1991 between the Company and State Street Bank and Trust Company of Connecticut, National Association, as Trustee.

"Paying Agent" has the meaning provided in Section 2.03, except that for the purposes of Articles 3 and 8 and Sections 4.11 and 4.12 the Paying Agent shall not be the Company or any Subsidiary of the Company.

"Permitted Indebtedness" means, without duplication, (i) Funded Indebtedness of the Company or any of its Subsidiaries outstanding on the Initial Issuance Date; (ii) Funded Indebtedness of the Company pursuant to the Securities and the Original Notes and all other obligations and liabilities of the Company under the Indenture and the indenture under which the Original Notes were issued that constitute Funded Indebtedness; (iii) Funded Indebtedness of the Company or any of its Subsidiaries permitted under clauses (i) and (ii) of Section 4.06 or the analogous provisions of the indenture under which the Original Notes were issued at the time such Indebtedness was incurred; (iv) Funded Indebtedness of any Subsidiary of the Company outstanding on or prior to the date on which such Subsidiary was acquired by the Company or another Subsidiary of the Company, provided that such Funded Indebtedness is without recourse to the Company; (v) Funded Indebtedness of the Company in an aggregate amount not to exceed $255,000,000 under the Senior Credit Facility (or under any other loan agreement or other facility or facilities from any source or sources in renewal, extension, substitution, refinancing, replacement or refunding of all or a portion of any Senior Credit Facility), less any amount of outstanding asset-backed securities (including dutch-auction preferred stock) issued by a special purpose finance Subsidiary of the Company which are secured by liens on receivables, or in connection with which receivables are pledged, sold or otherwise used to support such issuance; (vi) additional Funded Indebtedness of the Company or any of its Subsidiaries not otherwise permitted and incurred under this clause (vi), the aggregate principal amount of which outstanding at any time does not exceed $50,000,000; (vii) Funded Indebtedness of the Company to a Subsidiary of the Company or of a Subsidiary of the Company to the Company or a Subsidiary of the Company; (viii) to the extent the same constitutes Funded Indebtedness, any liability or obligation with respect to the matters referred to in (i) - (vi) of the final proviso in the definition of Funded Indebtedness (without giving effect to the exception clause ending such proviso); and (ix) any renewals, extensions, substitutions, refinancings, replacements or refundings of any Permitted Indebtedness if the aggregate amount of Permitted Indebtedness represented thereby is not increased by such renewal, extension, substitution, refinancing,

replacement or refunding.

"Permitted Joint Venture" means a person (i) prohibited by the terms of its articles of incorporation, certificate of incorporation or other organizational documents from entering into a line of business other than the cement or concrete products industry or the hazardous or non-hazardous waste treatment, storage or disposal industries; (ii) no debt or equity interest in which is or will be held by an officer or director of the Company or of any of its Subsidiaries, or any spouse, immediate family member of, or other relative having the same principal residence as, any such officer or director, or any trust the beneficiary of which is any of the foregoing parties or any other Affiliate of the Company (except the Company or a Wholly Owned Subsidiary of the Company); and (iii) the Company's equity interest in which shall be held by a Permitted Joint Venture Subsidiary.

"Permitted Joint Venture Disposition" means any Asset Disposition by the Company or any Subsidiary of the Company to a Permitted Joint Venture if, after giving effect to such Asset Disposition, the aggregate book value of all assets of the Company and its Subsidiaries (determined on the date of transfer) transferred since the Initial Issuance Date to Permitted Joint Ventures would not exceed 15% of the total assets of the Company and its consolidated Subsidiaries (determined as of the end of the Company's most recent fiscal quarter ending at least 30 days prior to the date of determination).

"Permitted Joint Venture Subsidiary" means any Wholly Owned Subsidiary of the Company that has no material assets other than an equity interest in a Permitted Joint Venture.

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

"principal" of a debt security means the stated principal of the security, plus, where appropriate, the premium, if any, thereon.

"Principal Property" means any (i) cement or concrete products manufacturing or processing facility or associated assets, (ii) property interest in sand, gravel, limestone or other minerals applicable to cement and concrete manufacturing or processing, (iii) warehouse, office building, transfer station, terminal or other interest in real property related to the cement or concrete products industry or the hazardous or non-hazardous waste treatment, storage or disposal industries, (iv) hazardous or non-hazardous waste treatment, storage or disposal facility or associated assets, and (v) any short-term investment pending reinvestment in a Principal Property of a type described in clauses (i) - (iv) above or other working capital items related thereto, in each case located in the United States.

"Purchase Agreement" means that certain Securities Purchase Agreement dated as of October 31, 1991, relating to, among other things, the Original Notes, by and among the Company and the purchasers named on the execution pages thereof, as amended, modified or supplemented from time to time in compliance with the terms thereof.

"redemption date", when used with respect to any Security to be redeemed, means the date fixed by the Company for such redemption pursuant to this Indenture and the Securities.

"redemption price", when used with respect to any Security to be redeemed, means the price fixed for such redemption pursuant to this Indenture and the Securities.

"Registration Rights Agreement" means that certain Registration Rights Agreement dated as of October 31, 1991, relating to, among other things, the Original Notes, by and among the Company and the purchasers named on the execution pages thereof, as amended, modified or supplemented from time to time in compliance with the terms thereof.

"Representative" means the indenture trustee or other trustee, agent or representative for an issue of Senior Indebtedness.

"Securities" means the 14% Senior Subordinated Notes Due 2001, Series B of the Company, and any of them, as amended or supplemented from time to time in accordance with this Indenture, that are issued under this Indenture.

"Securities Act" means the Securities Act of 1933, as amended from time to time, and the rules and regulations of the Commission promulgated thereunder.

"Securities Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and the rules and regulations of the Commission promulgated thereunder.

"Senior Credit Facility" means the Amended and Restated Credit Agreement dated as of April 30, 1991 among the Company, the financial institutions set forth therein and Wells

Fargo Bank, N.A., as agent, as in effect from time to time, and all renewals, extensions, substitutions, refinancings, replacements or refundings of any Senior Credit Facility in whole or in part, whether from the same or other sources.

"Senior Indebtedness" means (a) the principal of and premium, if any, and accrued and unpaid interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company whether or not a claim for post-filing interest is allowed in such proceeding) in respect of (1) indebtedness of the Company for money borrowed, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (2) express written guarantees by the Company of indebtedness for money borrowed by any other person, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (3) indebtedness evidenced by notes, debentures, bonds, or other instruments of indebtedness for the payment of which the Company is responsible or liable, by guarantees or otherwise, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (4) obligations of the Company under any agreement to lease, or any lease of, any real or personal property which, in accordance with generally accepted accounting principles, is classified upon the Company's consolidated balance sheet as a liability, whether outstanding on the date of execution of this Indenture or thereafter created, incurred or assumed, (5) obligations of the Company for repayment or other reimbursement whether existing on the date of execution of this Indenture or at any time thereafter arising under any agreement, application or instrument executed by the Company on or before the date of execution of this Indenture or at any time thereafter in connection with any letter of credit issued by any bank at the request or instruction of the Company, or upon application by the Company to any such issuing bank, or pursuant to an agreement between the Company and such issuing bank, that, in the case of any such application or agreement, provides for the obligations of the Company to reimburse such issuing bank (whether for its own account or the account of any participant) and (6) obligations of the Company under interest rate swaps, caps, calls and similar arrangements and foreign currency hedges entered into in respect of any such indebtedness or obligation and (b) modifications, renewals, extensions, replacements and refundings of any such indebtedness, obligations or guarantees; unless, in the instrument creating or evidencing the same or pursuant to which the same is outstanding, it is provided that such indebtedness, obligations or guarantees, or such modifications, renewals, extensions or refundings thereof, are not superior in right of payment to the Securities; provided, however, that Senior Indebtedness shall not be deemed to include (i) any obligation of the Company to any of its Subsidiaries and (ii) any other indebtedness, guarantee or obligation of the Company of the type set forth in clauses (a) or (b) above which is subordinate or junior in any respect to any other indebtedness, guarantee or obligation of the Company.

"Senior Subordinated Indebtedness" means the Securities, the Original Notes, the Company's 12% Senior Subordinated Notes due 1997 issued under the 1987 Indenture, and any other indebtedness, guarantee or obligation of the Company that ranks pari passu with the Securities.

"Series B Preferred Stock" means the Company's Preferred Stock, $3.75

Convertible Exchangeable Series B, par value $.05 per share.

"Subsidiary" means, with respect to any person, (i) a corporation a majority of whose Capital Stock with voting power, under ordinary circumstances, to elect directors is at the time, directly or indirectly, owned by such person, by one or more Subsidiaries of such person or by such person and one or more Subsidiaries thereof or (ii) any other person (other than a corporation) in which such person, one or more Subsidiaries thereof or such person and one or

more Subsidiaries thereof, directly or indirectly, at the date of determination thereof has at least a majority ownership interest with the power to elect or direct the election of a majority of the board of directors or other governing body of such person.

"TIA" means the Trust Indenture Act of 1939, as amended (15 U.S. Code Section Section 77aaa-77bbbb), as in effect on the date of this Indenture, except as provided in Section 10.03.

"Trustee" means the party named as such in this Indenture until a successor replaces such party in accordance with the provisions of this Indenture, and thereafter means such successor.

"Trust Officer" means any officer or assistant officer of the Trustee assigned by the Trustee to administer its corporate trust matters.

"Voting Stock" means, with respect to any person, Capital Stock of any class or classes if the holders of such Capital Stock are ordinarily, in the absence of contingencies, entitled to vote for the election of the directors (or other persons performing similar functions) of such person even if the right to so vote has been suspended by the happening of such a contingency.

"Warrant Agreement" means the Warrant Agreement dated as of October 31, 1991 between the Company and First City, Texas-Houston, N.A., as warrant agent, as the same may be amended, supplemented or modified in accordance with its terms.

"Wholly Owned Subsidiary" of any person shall mean any Subsidiary of such person of which all of the outstanding shares of Capital Stock (other than directors' qualifying shares, if required by law) are owned, directly or indirectly, by such person or by one or more Wholly Owned Subsidiaries of such person or by such person and one or more of its Wholly Owned Subsidiaries.

SECTION 1.02. Other Definitions.

<TABLE>
<CAPTION>

Term	Defined in Section
<S>	<C>
Bankruptcy Law	6.01
covenant defeasance option	8.01
Custodian	6.01
Event of Default	6.01
legal defeasance option	8.01
Notice of Default	6.01
Offer	4.12(a)
Offer Amount	4.12(a)
Paying Agent	2.03
Purchase Date	4.11(b)
Purchase Price	4.11(a)
Registrar	2.03
Required Payment Date	4.12(a)
Required Purchase Price	4.12(a)
Restricted Payments	4.08(a)
Securities Register	2.03

</TABLE>

17

U. S. Government Obligations	8.02

SECTION 1.03. Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

"indenture securities" means the Securities;

"indenture security holder" means a Holder or a Securityholder;

"indenture to be qualified" means this Indenture;

"indenture trustee" or "institutional trustee" means the Trustee; and

"obligor" on the indenture securities means the Company or any other obligor on the Securities.

All other TIA terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by Commission rule and not otherwise defined herein have the meanings assigned to them therein.

SECTION 1.04. Rules of Construction.

Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in the United States as in effect from time to time;

(3) "or" is not exclusive;

(4) "including" means including, without limitation;

(5) words in the singular include the plural, and words in the plural include the singular; and

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

18

ARTICLE 2

THE SECURITIES

SECTION 2.01. Form and Dating.

The Securities and the Trustee's certificate of authentication shall be substantially in the form set forth in Exhibit A, which is incorporated in and forms a part of this Indenture. The Securities may have notations, additional legends or endorsements required by law, securities exchange rule or usage. Each Security shall be dated the date of its authentication.

All calculations of interest payable on the Securities shall be based on a 360-day year of twelve 30-day months.

SECTION 2.02. Execution and Authentication; Aggregate Principal Amount.

Two Officers shall sign the Securities for the Company by facsimile or manual signature. The Company's seal shall be impressed, affixed, imprinted or reproduced on the Securities and may be in facsimile form.

If a person whose signature is on a Security as an Officer was an Officer at the time of execution and no longer holds that office at the time the Trustee authenticates the Security, the Security shall be valid nevertheless.

A Security shall not be valid until a Trust Officer of the Trustee manually signs the certificate of authentication on the Security. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

The Trustee shall authenticate and deliver to the Company or at its order Securities for original issue in the aggregate principal amount of up to $125,000,000 upon a written order of the Company signed by two Officers or by an Officer and an Assistant Treasurer or an Assistant Secretary of the Company; provided that such written order shall be signed by one Officer other than the Treasurer or the Secretary. The order shall specify the amount of Securities to be authenticated and the date on which the original issue of Securities is to be authenticated. The aggregate principal amount of Securities outstanding at any time may not exceed $125,000,000, except as provided in Section 2.07.

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

The Securities shall be issuable only in registered form without coupons and only in denominations of $1,000 and any integral multiple thereof.

SECTION 2.03. Registrar and Paying Agent.

The Company shall maintain an office or agency where Securities may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where

Securities may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Securities and of their transfer and exchange ("Securities Register"). The Company may have one or more co-Registrars and one or more additional Paying Agents. The term "Paying Agent" includes any additional Paying Agent.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-Registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such Agent. The Company shall give prompt written notice to the Trustee of the name and address of any such Agent and any change in the identity or address of such Agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee shall act as such.

The Company initially appoints the Trustee as Registrar and Paying Agent. The Company or a Subsidiary of the Company may act as Registrar, co-Registrar or Paying Agent, except that, for purposes of Articles 3 and 8 and Sections 4.11 and 4.12, neither the Company nor any Subsidiary of the Company shall act as Paying Agent. In the event that the Company or a Subsidiary of the Company does act as Registrar, co-Registrar or Paying Agent, the Trustee shall have the right to inspect the Securities Register at all reasonable times, and to obtain copies thereof.

SECTION 2.04. Paying Agent To Hold Money in Trust.

If the Company is not acting as Paying Agent, the Company will, on or before each due date of the principal of or accrued and unpaid interest on any Securities, deposit with the Paying Agent a sum in same day funds sufficient to pay the principal or interest so becoming due, such sum to be held in trust for the benefit of the persons entitled to such principal or interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of such action or any failure so to act. Any money then held by the Company in trust for the payment of the principal of or interest on any Security and remaining unclaimed for two years after such principal or interest has become due and payable shall be discharged from such trust, and all liability of the Company as trustee of such trust shall thereafter cease.

The Company shall require each Paying Agent other than the Trustee to agree in writing that such Paying Agent shall hold in trust for the benefit of Securityholders or the Trustee all money held by the Paying Agent for the payment of principal of or interest on the Securities (whether such money has been paid to it by the Company or any other obligor on the Securities), and shall notify the Trustee of any default by the Company (or any other obligor on the Securities) in making any such payment. If the Company or a Subsidiary of the Company acts as Paying Agent, it shall segregate the money and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and account for any funds disbursed, and the Trustee may at any time during the continuance of any payment default, upon written request to a Paying Agent, require such Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed. Upon doing so, the Paying Agent (other than the Company) shall have no further liability for the money so paid over to the Trustee.

SECTION 2.05. Securityholder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Securityholders. If the Trustee is

not the Registrar, the Company shall furnish to the Trustee on or before each semiannual interest payment date and at such other times as the Trustee may request in writing a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Securityholders (including such a list as of each regular record date for the payment of interest) and the Trustee shall have the right to rely on such information.

SECTION 2.06. Transfer and Exchange.

Subject to the last paragraph of this Section 2.06, when Securities are presented to the Registrar or a co-Registrar with a request to register the transfer or to exchange them for an equal principal amount of Securities of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements for such transactions are met. To permit registrations of transfer and exchanges, the Company shall execute and the Trustee shall authenticate Securities at the Registrar's request. No service charge shall be made for any registration of transfer or exchange, but the Company may require from the transferring or exchanging Securityholder payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchanges pursuant to (i) Section 2.10, 3.07 or 10.05 or (ii) to the extent such exchange relates to any unpurchased part of the Security surrendered in an offer made pursuant to Section 4.11 or 4.12).

The Company shall not be required to make and the Registrar need not register the transfer or exchange of (a) any Securities selected for redemption in whole or in part, except for the unredeemed portion thereof, or (b) any Securities for a period of 15 days before a selection of Securities to be redeemed.

SECTION 2.07. Replacement Securities.

If a mutilated Security is surrendered to the Trustee or Registrar or if the Holder of a Security claims that the Security has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall authenticate a replacement Security if the Trustee's requirements are met. If and as required by the Trustee or the Company, the Holder applying for a substituted Security shall furnish a letter of indemnification or an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee or any Agent from any loss which any of them may suffer if a Security is replaced. The Company may charge such Holder for its expenses in replacing a Security. Every replacement Security shall be an additional obligation of the Company.

SECTION 2.08. Outstanding Securities.

Securities outstanding at any time are all Securities that have been authenticated by the Trustee, except for those cancelled by it, those delivered to it for cancellation and those described in this Section as not outstanding. A Security does not cease to be outstanding because the Company or one of its Affiliates holds the Security.

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

If the Paying Agent (other than the Company or a Subsidiary of the Company) holds, on a redemption date or maturity date, money sufficient to pay all Securities payable on that date and is not prohibited from paying such money to the Holders thereof, then on and after that date such Securities cease to be outstanding and interest on them ceases to accrue.

If a Security is called for redemption or if the Company has satisfied its obligation to pay the Security in accordance with Article 8 of this Indenture, the Company and the Trustee need not treat the Security as outstanding in determining whether Holders of the required principal amount of Securities have concurred in any direction, waiver or consent.

SECTION 2.09. Voting Securities.

In determining whether the Holders of the required principal amount of outstanding Securities have given any request, demand, authorization, direction or notice or concurred in any amendment, supplement, waiver or consent or taken any other action hereunder, Securities owned by the Company or any of its Subsidiaries, any other obligor upon the Securities or any Affiliate of the Company or any of its Subsidiaries or such other obligor, shall be disregarded and deemed not to be outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, amendment, supplement, waiver, consent or action, only Securities which the Trustee knows are so owned shall be so disregarded.

SECTION 2.10. Temporary Securities.

Until definitive Securities are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Securities. Temporary Securities shall be substantially in the form of definitive Securities but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Securities in exchange for temporary Securities.

SECTION 2.11. Cancellation.

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for transfer, exchange or payment. The Trustee and no one else shall cancel all Securities surrendered for transfer, exchange, payment or cancellation and, unless otherwise instructed by

the Company, the Trustee shall destroy cancelled Securities and deliver a certificate of destruction to the Company. The Company may not issue new Securities to replace Securities it has paid or delivered to the Trustee for cancellation.

SECTION 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Securities, it shall pay the defaulted interest, plus, to the extent permitted by law, any interest payable on the defaulted interest to the persons who are Securityholders on a subsequent special record date. Such record date shall be the tenth day next preceding the date fixed by the Company for the payment of defaulted interest, whether or not such preceding tenth day is a Business Day. At least 15 days before the special record date, the Company shall mail to each Securityholder and the Trustee a notice that states the special record date, the payment date (which shall be a Business Day) and the amount of defaulted interest to be paid. Notwithstanding the foregoing, any interest which

is paid prior to the expiration of the 30-day period set forth in Section 6.01(1) shall be paid to Holders of Securities as of the record date for the interest payment date for which interest has not been paid.

SECTION 2.13. Home Office Payment Agreements.

The Company may pay interest on any Security to the Holder thereof by check mailed to the address of such Holder as reflected on the Securities Register (as of the applicable regular or special record date for any such interest payment).

SECTION 2.14. Legends.

Each Security issued hereunder shall bear a legend substantially as follows:

"FOR FEDERAL INCOME TAX PURPOSES, THIS NOTE CONSTITUTES THE CONTINUATION OF THE COMPANY'S 14% SENIOR SUBORDINATED NOTES DUE 2001 THAT WERE ORIGINALLY ISSUED ON OCTOBER 31, 1991. THE FOLLOWING TAX INFORMATION, ORIGINALLY INCLUDED ON SUCH 14% SENIOR SUBORDINATED NOTES, CONTINUES TO BE APPLICABLE TO THIS NOTE: (i) THE ISSUE DATE OF THIS SECURITY IS OCTOBER 31, 1991; (ii) THE YIELD TO MATURITY IS 14.5803%; (iii) THE ORIGINAL ISSUE DISCOUNT PER $1,000 PRINCIPAL AMOUNT IS $30; (iv) THE APPROXIMATE METHOD HAS BEEN USED TO DETERMINE YIELD FOR THE ACCRUAL PERIOD BEGINNING OCTOBER 31, 1991 AND ENDING APRIL 15, 1992; AND (v) THE AMOUNT OF ORIGINAL ISSUE DISCOUNT PER $1,000 PRINCIPAL AMOUNT ALLOCABLE TO THE ACCRUAL PERIOD BEGINNING OCTOBER 31, 1991 AND ENDING APRIL 15, 1992 IS $0.65."

ARTICLE 3

REDEMPTION

SECTION 3.01. Redemption.

(a) The Securities may be redeemed at the option of the Company, in whole or from time to time in part, at any time on or after October 15, 1996, at the redemption prices set forth below, together with accrued and unpaid interest to the redemption date:

<TABLE>
<CAPTION>

	If redeemed during the 12-month period beginning October 15,
Year	Percentage
<S>	<C>
1996	105.25%

1997	103.50%
1998	101.75%
1999 and thereafter	100.00%

</TABLE>

(b) Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder of Securities to be redeemed at his address as it appears on the Securities Register. Securities in denominations larger than $1,000 may be redeemed in part but only in whole multiples of $1,000. On and after the redemption date interest will cease to accrue on Securities or on the portions thereof called for redemption, as the case may be.

SECTION 3.02. Notices to Trustee.

If the Company elects to redeem all or any of the Securities pursuant to the redemption provisions of this Article 3 and paragraph 4 of the Securities, it shall notify the Trustee by an Officers' Certificate at least 45 days before the redemption date (unless a shorter notice shall be satisfactory to the Trustee) of the redemption date and the principal amount of Securities to be redeemed. If less than all the Securities are to be redeemed, the Company shall give such notice to the Trustee at least 15 days before the notice of redemption is to be mailed to the Holders of Securities to be redeemed.

SECTION 3.03. Selection of Securities To Be Redeemed.

If less than all the Securities are to be redeemed, the particular Securities or portions thereof to be redeemed shall be selected pro rata not more than 75 days prior to the redemption date by the Trustee from the Securities not previously called for redemption.

The Trustee shall make the selection from the Securities outstanding, subject to redemption and not previously called for redemption. Securities in denominations of $1,000 principal amount may only be redeemed in whole. The Trustee may select for redemption portions (equal to $1,000 principal amount or any integral multiple thereof) of the principal of Securities that have denominations larger than $1,000 principal amount. Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption.

The Trustee shall promptly notify the Company and the Registrar of the Securities or portions thereof selected for redemption.

SECTION 3.04. Notice of Redemption.

At least 30 days but not more than 60 days before a redemption date, the Company shall mail a notice of redemption by first class mail to each Holder whose Securities are to be redeemed at its address as it appears in the Securities Register.

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

(1) the redemption date;

(2) the redemption price and the amount of accrued interest, if any, to be paid;

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

(4) that Securities called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(5) that, unless the Company defaults in making the redemption payment, interest on Securities called for redemption ceases to accrue on and after the redemption date and the only remaining right of the Holders is to receive payment of the redemption price upon surrender to the Paying Agent of the Securities; and

(6) if any Security is being redeemed in part, the portion of the principal amount (equal to $1,000 or any integral multiple thereof) of such Security to be redeemed and that, on and after the redemption date, upon surrender of such Security, a new Security or Securities in principal amount equal to the principal amount of the unredeemed portion thereof will be issued.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense. In such event, the Company shall provide the Trustee with the information required by clauses (1) through (3) above.

SECTION 3.05. Effect of Notice of Redemption.

Once notice of redemption is mailed, and deposit of the redemption price with the Paying Agent has been made as provided in Section 3.06, Securities called for redemption become due and payable on the redemption date and at the redemption price and shall cease to bear interest from and after the redemption date (unless the Company shall default in the payment of the redemption price or accrued and unpaid interest). Upon surrender to the Paying Agent, such Securities shall be paid at the redemption price, plus accrued and unpaid interest to the redemption date.

SECTION 3.06. Deposit of Redemption Price.

On or prior to each redemption date, the Company shall deposit with the Paying Agent in immediately available funds money sufficient to pay the redemption price of and accrued and unpaid interest on all Securities to be redeemed on that date other than Securities or portions thereof called for redemption on that date which have been delivered by the Company to the Trustee for cancellation.

SECTION 3.07. Securities Redeemed in Part.

Upon surrender of a Security that is redeemed in part, the Company shall issue and the Trustee shall authenticate for the Holder a new Security in principal amount equal to the principal amount of the unredeemed portion of the Security surrendered.

ARTICLE 4

COVENANTS

SECTION 4.01. Payment of Principal and Interest.

The Company shall duly and punctually pay the principal of and interest on the Securities in accordance with the terms of the Securities and this Indenture. Principal and interest shall be considered paid on the due date if the Trustee or the Paying Agent (other than

the Company or any of its Subsidiaries) holds on such date money sufficient to pay all principal and accrued and unpaid interest then due and the Trustee or the Paying Agent, as the case may be, is not prohibited from paying such money to the Securityholders on that date pursuant to the terms of this Indenture.

The Company shall pay interest on overdue principal at the rate borne by the Securities plus 4% per annum, and it shall pay interest on overdue installments of interest (without regard to any applicable grace periods) at the same rate to the extent lawful.

SECTION 4.02. Maintenance of Office or Agency.

The Company will maintain an office or agency in New York, New York where Securities may be presented or surrendered for payment and where Securities may be surrendered for registration of transfer or exchange and will maintain an office or agency where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The office of the Trustee at its Corporate Trust Office shall be such office or agency of the Company, unless the Company shall designate and maintain some other office or agency for one or more of such purposes. The Company will give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

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

SECTION 4.03. Corporate Existence; Payment of Taxes.

(a) The Company shall do or cause to be done all things necessary to preserve and keep in full force and effect the corporate existence of the Company and each Subsidiary and shall use its good faith best efforts to preserve and keep in full force and effect the rights (charter and statutory) and franchises of the Company and each Subsidiary; provided, however, that the Company shall not be required to preserve any such right or franchise or the corporate existence of any Subsidiary if the Company shall determine that the preservation thereof is no longer necessary in the conduct of the business of the Company and its Subsidiaries taken as a whole and that the loss thereof is not disadvantageous in any material respect to the Holders; provided, further, that the Company and its Subsidiaries may take any action permitted by Article 5.

(b) The Company will, and will cause each of its Subsidiaries to, pay prior to delinquency (1) all taxes, assessments, charges and governmental levies and (2) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the property of the Company or any of its Subsidiaries; provided, however, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge, levy or claim (i) whose amount, applicability or validity is being contested in good faith by appropriate proceedings and, with respect to clause (1) above only, for which an adequate reserve has been established if required in conformity with generally accepted accounting principles or

(ii) if the failure to so pay or discharge would not reasonably be likely to have a material adverse effect on the business, earnings, properties, assets, financial condition, results of operations or prospects of the Company and its Subsidiaries taken as a whole.

SECTION 4.04. Maintenance of Properties.

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

respect to the Holders.

SECTION 4.05. Insurance.

The Company shall, and shall cause each of its Subsidiaries to, maintain with insurers the Company believes are financially sound and reputable such insurance as may be required by law and such other insurance (including self-insurance), to such extent and against such hazards and liabilities, as it in good faith determines is customarily maintained by companies similarly situated with like properties.

SECTION 4.06. Limitation on Company and Subsidiary Funded Indebtedness.

The Company shall not, and shall not permit any of its Subsidiaries to, create, incur, assume, or guarantee the payment of, any Funded Indebtedness, unless (i) the Company's Fixed Charge Coverage Ratio for the twelve full calendar months immediately preceding such event, taken as one period, is equal to or greater than 1.5 to 1, and (ii) the Company's Leverage Ratio, as of the end of the Business Day immediately preceding such event, is less than 0.55 to 1; provided, that the Company and any of its Subsidiaries may at any time create, incur, assume or guarantee the payment of, Permitted Indebtedness.

SECTION 4.07. Restriction on Subsidiary Funded Indebtedness.

The Company will not permit any of its Subsidiaries to issue, guarantee, assume or incur directly or indirectly any Funded Indebtedness or preferred stock except:

(i) Funded Indebtedness or preferred stock issued to and held by the Company or a Subsidiary of the Company;

(ii) Funded Indebtedness issued, guaranteed, assumed or incurred, or preferred stock issued and outstanding, by a Subsidiary of the Company on or prior to the date on which such Subsidiary was acquired by the Company or any of its Subsidiaries and outstanding on such date;

(iii) Funded Indebtedness issued, guaranteed, assumed or incurred or preferred stock issued and outstanding on or prior to the Initial Issuance Date;

(iv) Funded Indebtedness incurred with respect to obligations that are tax-exempt pursuant to Section 103 of the Code, and that are issued in connection with pollution control or other facilities of such Subsidiary;

(v) Funded Indebtedness incurred to finance the payment of all or any part of the purchase price of any assets acquired after the Initial Issuance Date, provided that such Funded Indebtedness is incurred and any liens securing such Funded Indebtedness are created within 90 days of acquisition of such assets and such Funded Indebtedness is not secured by a lien on any other assets;

(vi) Asset-backed securities (including dutch-auction preferred stock) issued by a special purpose finance Subsidiary of the Company which are secured by liens on receivables, or in connection with which receivables are pledged, sold or otherwise used to support such issuance, in an aggregate amount at any one time outstanding not to exceed $50,000,000;

(vii) Funded Indebtedness incurred to renew, extend, substitute, replace, refund or refinance the Funded Indebtedness referred to in clauses (ii), (iii), (iv) and (v) above and this clause (vii); provided, however, that in the case of any Funded Indebtedness incurred as a result of a refunding or refinancing of Funded Indebtedness permitted by clause (v), such resulting Funded Indebtedness is not secured by a lien on any assets other than the assets which secured the Funded Indebtedness being refunded or

refinanced; and

(viii) Funded Indebtedness or preferred stock issued, guaranteed, assumed or incurred in an aggregate amount which, together with all other Funded Indebtedness and preferred stock of all Subsidiaries, other than Funded Indebtedness or preferred stock permitted by this Section 4.07, does not exceed 10% of the difference between Consolidated Net Worth and Intangible Assets.

SECTION 4.08. Limitation on Restricted Payments.

(a) The Company will not, and will not permit any of its Subsidiaries to, directly or indirectly, (i) declare or pay any dividend on, or make any distribution in respect of, the Capital Stock of the Company other than dividends or distributions payable in Capital Stock of the Company (excluding Disqualified Stock), (ii) redeem, purchase, retire or otherwise acquire for value (other than value represented by Capital Stock of the Company (excluding Disqualified Stock)) any Capital Stock of the Company or (iii) acquire for value or exchange (other than value represented by, or an exchange for, Capital Stock of the Company or any of its Subsidiaries (excluding Disqualified Stock)), prior to scheduled maturity, any Indebtedness of the Company (other than the Securities or the Original Notes) that is pari passu with or subordinated in right of payment to, and has a simultaneous or longer maturity than the Securities unless it is acquired for Indebtedness that is pari passu with (provided the Indebtedness acquired or exchanged is pari passu with the Securities) or subordinate in right of payment to the Securities and which has no shorter maturity than the Securities (such prohibited payments and other prohibited actions described in (i), (ii) and (iii), collectively, "Restricted Payments") unless:

(1) at the time of or after giving effect to the proposed Restricted Payment no Default or Event of Default shall have occurred and be continuing, and

(2) at the time of or after giving effect to the proposed Restricted Payment (the value of any such payment, if other than cash, shall be the value determined in good faith by an independent committee of the Board of Directors, whose determination shall be conclusive and evidenced by a certified resolution of such independent committee filed with the Trustee), the aggregate amount of all Restricted Payments declared or made after the Initial Issuance Date shall not equal or exceed the sum of:

(A) 50% of the aggregate Consolidated Net Income of the Company on a cumulative basis during the period (taken as one accounting period) beginning on October 1, 1991 and ending on the last day of the Company's last fiscal quarter ending prior to the date of such proposed Restricted Payment (or, if such aggregate Consolidated Net Income shall be a loss, minus 100% of such loss), plus

(B) the aggregate Net Proceeds (the value of any of which, if other than cash, shall be the value determined by an independent committee of the Board of Directors, whose determination shall be conclusive and evidenced by a certified resolution of such independent committee filed with the Trustee) received by the Company from the issuance or sale (other than to a Subsidiary of the Company or other Affiliate (other than an officer or director) of the Company) subsequent to the Initial Issuance Date of Capital Stock of the Company (excluding Disqualified Stock), plus

(C) the principal amount of any Indebtedness of the Company which subsequent to the Initial Issuance Date has been converted into or exchanged for Capital Stock of the Company (other than Disqualified Stock), plus

(D) $20,000,000.

(b) Notwithstanding anything in Section 4.08(a) to the contrary, the provisions of this Section 4.08 shall not be deemed to prohibit, if at the time of or after giving effect to the proposed Restricted Payment no

Default or Event of Default shall have occurred and be continuing, (i) the payment of any dividend within 60 days after the date of its declaration, if at the date of declaration the payment would have complied with Section 4.08(a), (ii) the redemption, repurchase or other acquisition or retirement of any shares of Capital Stock of the Company in exchange for, or out of the proceeds of a substantially concurrent issue and sale (other than to a Subsidiary of the Company or other Affiliate (other than an officer or director) of the Company) of, other shares of Capital Stock of the Company (other than Disqualified Stock), (iii) an exchange of the Company's outstanding Series B Preferred Stock for Convertible Subordinated Debentures pursuant to the terms of the Series B Preferred Stock or (iv) dividends payable on preferred stock of the Company outstanding or reserved for issuance on the Initial Issuance Date.

Any amounts expended pursuant to clauses (i), (ii) or (iv) (but not clause (iii)) of Section 4.08(b) shall be counted as a Restricted Payment for the purpose of subparagraph (2) of Section 4.08(a).

SECTION 4.09. Provision of Financial Statements.

(a) The Company shall file with the Trustee within fifteen days after the Company is required to file the same with the Commission, and shall cause the Trustee to mail to the Holders at their addresses appearing in the Securities Register promptly thereafter, without cost to each Holder, copies of the annual reports and quarterly reports which the Company may be required to file with the Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act or any other reports described in TIA Section 314(a) which the Company may be required to file with the Commission. The Company shall furnish to the Trustee an appropriate number of copies of such reports.

(b) Notwithstanding that the Company may not be subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act, the Company shall continue to submit for filing with the Commission as if it were required to do so and provide to the Trustee within fifteen days after the Company submits the same for filing with the Commission (and cause the Trustee to mail to the Holders at their addresses appearing in the Securities Register promptly thereafter), without cost to each Holder, such annual reports and such information, documents and other reports that are specified in Sections 13 and 15(d) of the Securities Exchange Act. The Company shall furnish to the Trustee an appropriate number of copies of such reports and information. The Company shall also make such reports available to prospective purchasers of the Securities (either upon the request of such prospective purchaser or a Holder), and to securities analysts and broker-dealers upon their request. The Company shall also comply with the provisions of TIA Section 314(a).

(c) So long as the Securities remain outstanding, the Company shall cause its annual reports to shareholders and any quarterly or other financial reports furnished by it to shareholders generally to be mailed to the Holders (no later than the date such materials are mailed to the Company's shareholders) at their addresses appearing in the Securities Register.

SECTION 4.10. Transactions with Affiliates.

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into, renew or extend any transaction or series of related transactions (including, without limitation, the sale, purchase, exchange or lease of assets, property or services) with any holder of 5% or more of any class of Capital Stock of the Company or with any Affiliate of the Company or any of its Subsidiaries involving aggregate payments by the Company or any of its Subsidiaries of more than $1,000,000 per year unless (i) such transaction or series of transactions is on terms that are no less favorable to the Company or such Subsidiary, as the case may be, than would be available in a comparable arm's length transaction with a person which is neither such a 5% holder nor an Affiliate of the Company or any of its Subsidiaries, and (ii) with respect to a transaction or series of related transactions involving aggregate payments equal to or greater than $5,000,000, such transaction or series of transactions is approved by a majority of the

Board of Directors of the Company, including the approval of at least two disinterested directors, with an explicit finding of fairness; provided that in the event that the Company has only one disinterested director, a transaction or series of related transactions involving aggregate payments equal to or greater than $5,000,000 shall be approved by a majority of the Board of Directors of the Company, including the approval of the disinterested director, with an explicit finding of fairness. Notwithstanding the foregoing, the restrictions set forth in the immediately preceding sentence shall not apply to (i) any transaction with an officer or director of the Company or any of its Subsidiaries entered into in the ordinary

course of business (including any compensation or employee benefit arrangements with any officer or director of the Company or any of its Subsidiaries), (ii) any transaction entered into in the ordinary course of business with the Company or a Subsidiary of the Company or (iii) any transaction required to be permitted so that the Company would not be in violation of Section 4.04 of the 1987 Indenture, Section 4.15 of the indenture under which the Original Notes were issued, or Section 4.15 of this Indenture.

SECTION 4.11. Purchase of Securities upon Change of Control.

(a) Upon the occurrence of a Change of Control, each Holder shall have the right to require that the Company repurchase such Holder's Securities in whole or in part in integral multiples of $1,000, at a purchase price (the "Purchase Price") in cash in an amount equal to 101% of the principal amount thereof plus accrued and unpaid interest, if any, to the date of purchase, in accordance with the procedures set forth in Subsections (b) and (c) of this Section. The performance by the Company of its obligation to repurchase Securities pursuant to this Section 4.11 is subject to the receipt by the Company of the consent of the lenders under the Senior Credit Facility. Notwithstanding the foregoing, the failure by the Company to purchase any Securities in accordance with the terms of this Section 4.11 shall constitute an Event of Default, as set forth in Section 6.01(2)(B).

(b) Within ten days following any Change of Control, the Company shall send by first-class mail, postage prepaid, to the Trustee and to each Holder of the Securities, at its address appearing in the Security Register, a notice stating:

(1) that a Change of Control has occurred and that such Holder has the right to require the Company to repurchase all or a portion of such Holder's Securities at the Purchase Price;

(2) the material circumstances and relevant material facts regarding such Change of Control;

(3) (i) the most recently filed Annual Report on Form 10-K (including audited consolidated financial statements) of the Company, the most recent subsequently filed Quarterly Report on Form 10-Q and any Current Report on Form 8-K of the Company filed subsequent to such Quarterly Report (or in the event the Company is not required to prepare any of the foregoing Forms, the comparable information required pursuant to Section 4.09(b)) and (ii) a description of material developments in the Company's business subsequent to the date of the latest of such Reports;

(4) a purchase date (the "Purchase Date"), which shall be no more than 25 days from the date such notice is mailed or, if not a Business Day, the next following Business Day (which date shall be Securities for purchase for the period required by applicable law);

(5) the Purchase Price;

(6) the place or places at which Securities are to be presented and surrendered for repurchase;

31

(7) that any Security not tendered or accepted for payment will continue to accrue interest;

(8) that, unless the Company shall default in payment of the Purchase Price, after said Purchase Date interest thereon will cease to accrue with respect to any Securities presented and surrendered for purchase;

(9) that Holders will be entitled to withdraw their election if the Company receives, not later than the close of business on the third Business Day prior to the Purchase Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Securities the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Securities purchased;

(10) that Holders whose Securities are tendered for purchase in part only will be issued new Securities equal in principal amount to the principal amount of the unpurchased portion of the Securities surrendered; and

(11) the instructions determined by the Company, consistent with this Section 4.11, that a Holder must follow in order to have its Securities purchased.

(c) Holders electing to have Securities purchased will be required to surrender such Securities to the Company at the address specified in the notice by the close of business at least three Business Days prior to the Purchase Date. On the Purchase Date, the Company shall (i) accept for payment Securities or portions thereof tendered pursuant to this Section, (ii) deposit with the Paying Agent money sufficient to pay the Purchase Price of all Securities or portions thereof so accepted and (iii) deliver to the Trustee Securities so accepted, together with an Officers' Certificate stating the Securities or portions thereof accepted for payment by the Company. The Paying Agent shall promptly mail or deliver to Holders of Securities so accepted payment in an amount equal to the Purchase Price. Holders whose Securities are purchased only in part will be issued new Securities equal in principal amount to the unpurchased portion of the Securities surrendered and the Trustee shall promptly authenticate and mail or deliver to such Holders such new Securities. The Company will publicly announce the results of the repurchase on or as soon as practicable after the Purchase Date.

SECTION 4.12. Maintenance of Consolidated Net Worth.

(a) If the Company's Consolidated Net Worth at the end of each of any two consecutive fiscal quarters of the Company is less than $300,000,000, the Company shall promptly make an offer to all Holders (an "Offer") to purchase on a date no later than the last day of the fiscal quarter of the Company next following such second fiscal quarter (any such date being referred to herein as a "Required Payment Date", which date shall be deferred to the extent necessary to permit the Offer to remain open for the period required by applicable law), a principal amount of Securities equal to 10% of the aggregate principal amount of the Securities originally issued in exchange for Original Notes (or if the aggregate principal amount of the Securities then outstanding is less than 10% of such amount, all of the Securities outstanding at the time) (the "Offer Amount") at a purchase price (the "Required Purchase Price") equal to 100% of the aggregate principal amount thereof plus accrued and unpaid interest to the Required Payment Date; provided, however, that if such second fiscal quarter is the last quarter of the Company's fiscal year, the Required Payment Date shall be 30 days after the last day of the

32

fiscal quarter next following such second fiscal quarter. Securities purchased by the Company pursuant to any previous Offer or otherwise purchased, redeemed or defeased pursuant to any provision of this Indenture or otherwise shall not be credited toward or reduce in any way the obligation of the Company to

purchase additional Securities upon the occurrence of any subsequent failure to meet the Consolidated Net Worth stated above. The performance by the Company of its obligation to repurchase Securities pursuant to this Section 4.12 is subject to the receipt by the Company of the consent of the lenders under the Senior Credit Facility. Notwithstanding the foregoing, the failure by the Company to purchase any Securities in accordance with the terms of this Section 4.12 shall constitute an Event of Default, as set forth in Section 6.01(2)(B).

(b) The Company shall notify the Trustee within 45 days (or 90 days if such quarter is at the end of a fiscal year) after the end of any fiscal quarter in which the Company's Consolidated Net Worth is less than $300,000,000.

(c) A notice of an Offer shall be sent by the Company by first class mail, postage prepaid, not less than 25 days before a Required Payment Date to the Trustee and to each Holder of Securities at the address appearing in the Security Register, stating:

(1) that the Offer is being made pursuant to this Section 4.12;

(2) the Offer Amount, the Required Purchase Price, the Required Payment Date and the date on which the Offer expires;

(3) (i) the most recently filed Annual Report on Form 10-K (including audited consolidated financial statements) of the Company, the most recent subsequently filed Quarterly Report on Form 10-Q and any Current Report on Form 8-K of the Company filed subsequent to such Quarterly Report (or in the event the Company is not required to prepare any of the foregoing Forms, the comparable information required pursuant to Section 4.09(b)), (ii) a description of material developments in the Company's business subsequent to the date of the latest of such Reports, and (iii) if material, appropriate pro forma financial information;

(4) the place or places at which Securities are to be presented or surrendered;

(5) that any Security not tendered or accepted for payment will continue to accrue interest;

(6) that, unless the Company shall default in payment of the Required Purchase Price, any Security accepted for payment pursuant to the Offer shall cease to accrue interest after the Required Payment Date;

(7) that Holders will be entitled to withdraw their election if the Company receives, not later than the close of business on the third Business Day prior to the Required Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Securities the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Securities purchased;

(8) the instructions determined by the Company, consistent with this Section 4.12, that a Holder must follow in order to have its Securities purchased;

(9) that if the principal amount of all Securities surrendered pursuant to the Offer is in excess of the Offer Amount, the Company shall purchase Securities on a pro rata basis (with such reasonable and equitable adjustments as may be deemed appropriate by the Company so that only Securities in denominations of $1,000 or integral multiples thereof shall be acquired); and

(10) that Holders whose Securities were purchased only in part will be issued new Securities equal in principal amount to the principal amount of the unpurchased portion of the Securities surrendered.

(d) Holders electing to have Securities purchased will be required to surrender such Securities to the Company at the address specified in the notice by the close of business no later than three Business Days prior to the Required Payment Date. On the Required Payment Date, the Company shall (i) accept for payment Securities or portions thereof tendered pursuant to the Offer (on a pro rata basis (with such reasonable and equitable adjustments as may be deemed appropriate by the Company) if Securities in excess of the Offer Amount are tendered), (ii) deposit with the Paying Agent money sufficient to pay the Required Purchase Price of all Securities or portions thereof so accepted and (iii) deliver to the Trustee Securities so accepted together with an Officers' Certificate stating the Securities or portions thereof accepted for payment by the Company. The Paying Agent shall promptly mail or deliver to Holders of Securities so accepted payment in an amount equal to the Required Purchase Price. Holders whose Securities are purchased only in part will be issued new Securities equal in principal amount to the unpurchased portion of the Securities surrendered and the Trustee shall promptly authenticate and mail or deliver to such Holders such new Securities. The Company will publicly announce the results of the Offer on or as soon as practicable after the Required Payment Date.

SECTION 4.13. Compliance Certificate.

The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company after the Securities are issued, an Officers' Certificate stating whether or not, after a review under each signer's supervision of the activities of the Company during such year and of the Company's performance under this Indenture, the signers know, based on such review, of any Default that occurred during such period. If they do, the certificate shall describe the Default and its status. Such Officers' Certificate shall, where applicable, also set forth the calculations or other details necessary to demonstrate compliance or noncompliance with Sections 4.06(i) and (ii), Section 4.07(viii), Section 4.08(a)(2) and the proviso of Section 4.14. The Company shall deliver to the Trustee, within 10 days after the occurrence thereof, written notice of any event which with the giving of notice and the lapse of time would become an Event of Default.

SECTION 4.14. Disposition of Assets and Subsidiary Stock.

The Company shall not, and shall not permit any of its Subsidiaries to, make any Asset Disposition unless (a) the consideration received from such Asset Disposition is equal to or greater than the fair value of the assets or stock sold (as determined by an independent committee of the Board of Directors, whose determination shall be conclusive and evidenced by

a certified resolution of such independent committee filed with the Trustee), (b) at least 70% of the consideration received from such Asset Disposition is in the form of cash and (c) all of the Net Cash Proceeds from such Asset Disposition are (i) within one year of such Asset Disposition, used to pay or retire Senior Indebtedness of the Company or offered to redeem Securities or Original Notes at the principal amount thereof plus accrued and unpaid interest thereon, (ii) invested, within one year of such Asset Disposition, in any Principal Property of the Company or of any Wholly Owned Subsidiary of the Company, whether by acquisition, improvement or alteration, or (iii) invested, within one year of such Asset Disposition, in Capital Stock of a corporation if substantially all such corporation's assets consist of Principal Properties and, upon consummation of such investment, such corporation is a Wholly Owned Subsidiary of the Company; provided, however, that the foregoing covenant shall not apply to (i) any Asset Dispositions (other than Permitted Joint Venture Dispositions and other than Asset Dispositions that comply with the foregoing covenant) to the extent that the aggregate Net Proceeds from such Asset Dispositions do not exceed the sum of (A) $100,000,000 plus (B) (without duplication) the aggregate Net Proceeds of all issuances or sales by the Company after the Initial Issuance Date of (1) Capital Stock of the Company (other than Disqualified Stock and net of dividends paid on preferred stock so issued), (2) any other security or evidence of indebtedness that is convertible into or exchangeable for Capital Stock of the Company (other than Disqualified Stock) and (3) any warrant, option or other right to subscribe for or purchase any other security or evidence of indebtedness that is convertible into or

exchangeable for Capital Stock of the Company (other than Disqualified Stock) or (ii) Permitted Joint Venture Dispositions. If Net Cash Proceeds from an Asset Disposition are used to pay or retire Senior Indebtedness, and (x) within 180 days of such Asset Disposition the Company both incurs additional Senior Indebtedness and acquires assets other than Principal Properties or (y) within 270 days of such Asset Disposition the Company both incurs additional Senior Indebtedness and enters into a binding agreement to acquire assets other than Principal Properties, an amount (calculated without duplication) equal to the lesser of (1) the cash portion of the purchase price of such assets other than Principal Properties acquired or to be acquired and (2) the amount by which Senior Indebtedness was paid or retired using the Net Cash Proceeds of such Asset Disposition shall be deemed to be Net Cash Proceeds from an Asset Disposition not applied in accordance with clause (c) of the first sentence of this Section 4.14.

SECTION 4.15. Limitation on Restrictions on Distributions from Subsidiaries.

The Company shall not, and shall not permit any of its Subsidiaries to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Subsidiary to (a) pay dividends or make any other distributions on its Capital Stock or pay any indebtedness owed to the Company or any Subsidiary of the Company, (b) make any loans or advances to the Company or any Subsidiary of the Company or (c) transfer any of its property or assets to the Company or any Subsidiary of the Company, except:

(i) any encumbrance or restriction pursuant to an agreement in effect at or entered into on the date of this Indenture;

(ii) any encumbrance or restriction pursuant to an agreement effecting a renewal, extension, substitution, refinancing, replacement or refunding of Indebtedness issued, guaranteed, assumed or incurred pursuant to an agreement referred to in or pursuant to clause (i) of this Section; provided, however, that the terms and conditions of any such refinancing agreement are no less favorable to the Holders than the terms and

conditions under or pursuant to the agreements existing as of the date of this Indenture; and

(iii) any encumbrance or restriction pursuant to an agreement in effect on the date on which such entity was acquired by and became a Subsidiary of the Company; provided, however, that such encumbrance or restriction is terminated no later than 180 days after the date on which such entity became a Subsidiary of the Company.

SECTION 4.16. Senior Subordinated Indebtedness.

The Company covenants that any indebtedness, guarantee or obligation of the Company which is subordinate or junior in ranking in any respect to any other indebtedness, guarantee or obligation of the Company shall be made subordinate to Senior Subordinated Indebtedness unless the instrument creating or evidencing the same or pursuant to which the same is outstanding specifically provides that such indebtedness, guarantee or obligation (i) is to rank pari passu with other Senior Subordinated Indebtedness and (ii) is not subordinated to any indebtedness, guarantee or obligation of the Company which is not Senior Indebtedness.

SECTION 4.17. Further Instruments and Acts.

Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

ARTICLE 5

SUCCESSOR CORPORATION

SECTION 5.01. When Company or Subsidiary May Merge, etc.

(a) The Company will not, in a single transaction or a series of related transactions, consolidate with or merge with or into or sell, assign, transfer or lease all or substantially all of its properties and assets as an entirety to any person, unless:

(1) the Company shall be the surviving person, or the person (if other than the Company) formed by such consolidation or into which the Company is merged or to which the properties and assets of the Company substantially as an entirety are transferred (A) shall be a corporation organized and existing under the laws of the United States or any State thereof or the District of Columbia and (B) shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of the Company under the Securities and this Indenture and shall expressly assume all the obligations of the Company under the Purchase Agreement, the Warrant Agreement and the Registration Rights Agreement;

(2) immediately after giving effect to such transaction, no Event of Default and no Default shall have occurred and be continuing;

(3) immediately after giving effect to such transaction, the Consolidated Net Worth of the Company or the surviving entity is equal to or greater than the Company's Consolidated Net Worth immediately prior to such transaction;

(4) immediately after giving effect to such transaction, the Company or the surviving entity shall have the ability to incur, under the Fixed Charge Coverage Ratio test set forth in clause (i) of Section 4.06 hereof and the Leverage Ratio test set forth in clause (ii) of Section 4.06 hereof, at least $1.00 of additional Funded Indebtedness; and

(5) the Company shall deliver to the Trustee an Officers' Certificate and an Opinion of Counsel each stating that such consolidation, merger, transfer or lease, and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, comply with this Section 5.01 and that all conditions precedent in the Indenture relating to such transaction have been satisfied; such Officers' Certificate shall also set forth the calculations or other details necessary to demonstrate compliance or noncompliance with clauses (3) and (4) of this Section 5.01.

(b) The Company will not permit any of its Subsidiaries to consolidate or merge with or into any person, unless (i) the surviving person or the person formed by such consolidation or into which such Subsidiary is merged is the Company or a Subsidiary thereof and (ii) immediately after giving effect to such transaction, no Event of Default and no Default shall have occurred and be continuing.

SECTION 5.02. Successor Corporation Substituted.

Upon any consolidation or merger or any transfer of all or substantially all of the assets of the Company in accordance with Section 5.01, the successor corporation formed by such consolidation or into which the Company is merged or to which such transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor corporation had been named as the Company herein.

ARTICLE 6

DEFAULT AND REMEDIES

SECTION 6.01. Events of Default.

An "Event of Default" occurs if:

(1) the Company defaults in the payment of interest on any Security when the same becomes due and payable, whether or not such payment shall be prohibited by Article 9 or the terms of any Senior Credit Facility, and such default continues for a period of 30 days;

(2) the Company (A) defaults in the payment of the principal of any Security when the same becomes due and payable at its stated maturity, upon redemption, upon declaration or otherwise, or (B) fails to make any purchase of Securities when required

under Section 4.11 or 4.12, whether or not such payment or purchase shall be prohibited by Article 9 or the terms of any Senior Credit Facility;

(3) the Company fails to perform any of the covenants or agreements set forth in Sections 4.06, 4.07, 4.08, 4.10, 4.13, 4.14, 4.15 or 5.01 of this Indenture and the Default continues for a period of 20 days after the date on which written notice of such failure, requiring the Company to remedy the same, shall have been given to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Securities at the time outstanding, or by the Trustee to the Company, stating that such notice is a "Notice of Default" hereunder;

(4) the Company fails to observe or perform any of its other covenants or agreements set forth in the Securities or in this Indenture and the Default continues for a period of 40 days after the date on which written notice of such failure, requiring the Company to remedy the same, shall have been given to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Securities at the time outstanding, or by the Trustee to the Company, stating that such notice is a "Notice of Default" hereunder;

(5) a default or an event of default (as such term is defined in the instrument or agreement under which any Indebtedness is issued) occurs under any instrument under which there may be issued, or by which there may be secured or evidenced, any Indebtedness of the Company or any Subsidiary of the Company and the holders of such Indebtedness have accelerated such Indebtedness, or any default occurs in payment of the principal amount of such Indebtedness at the final maturity, if the total of all such Indebtedness which has been so accelerated and all such Indebtedness which is overdue shall exceed $5,000,000;

(6) the Company pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

(C) consents to the appointment of a Custodian of it or for any substantial part of its property; or

(D) makes a general assignment for the benefit of its creditors;

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

(A) is for relief against the Company in an involuntary case;

(B) appoints a Custodian of the Company or for

any substantial part of its property; or

(C) orders the winding up or liquidation of the Company;

and the order or decree remains unstayed and in effect for 60 days; or

(8) final judgments for the payment of money, which judgments in the aggregate exceed $5,000,000, shall be rendered against the Company or any Subsidiary of the Company by a court of competent jurisdiction and shall remain undischarged for a period (during which execution shall not be effectively stayed) of 20 days after the date on which any period for appeal has expired and all rights of appeal have been denied.

The term "Bankruptcy Law" means Title 11, U.S. Code or any similar Federal, state or other law for the relief of debtors. The term "Custodian" means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

Subject to the provisions of Sections 7.01 and 7.02, the Trustee shall not be charged with knowledge of any Default unless written notice thereof shall have been received by the Trustee from the Company, the Paying Agent, the Holder of a Security or an agent (duly authorized in writing) of such Holder.

SECTION 6.02. Acceleration.

If an Event of Default occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the Securities by notice to the Company and the Trustee, may declare the principal of and accrued and unpaid interest on all the Securities to be due and payable. Upon such a declaration, such principal and interest shall be due and payable immediately. The Holders of a majority in principal amount of the Securities by notice to the Trustee may rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except nonpayment of principal or interest that has become due solely because of acceleration. In the event that (i) an acceleration referred to in Section 6.01(5) shall have been rescinded or (ii) a default in payment referred to in Section 6.01(5) is cured or waived, any acceleration under this Section and its consequences shall be automatically rescinded if such rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except nonpayment of principal or interest that has become due solely because of acceleration. No rescission under this Section 6.02 shall affect any subsequent Default or Event of Default or impair any right consequent thereto.

SECTION 6.03. Other Remedies.

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

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

SECTION 6.04. Waiver of Past Defaults.

The Holders of a majority in principal amount of the Securities by notice to the Trustee may waive an existing Default and its consequences except (1) a Default in the payment of the principal of or interest on a Security or (2) a Default in respect of a provision that under Section 10.02 cannot be amended without the consent of each Securityholder affected. When a Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or impair any consequent right.

SECTION 6.05. Control by Majority.

The Holders of a majority in principal amount of the Securities may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to Section 7.01, that the Trustee determines is unduly prejudicial to the rights of other Securityholders or would involve the Trustee in personal liability; provided, however, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnification reasonably satisfactory to it against all losses and expenses caused by taking or not taking such action.

SECTION 6.06. Limitation on Suits.

A Securityholder may not pursue any remedy with respect to this Indenture or the Securities unless:

(1) the Holder gives to the Trustee written notice stating that an Event of Default is continuing;

(2) the Holders of at least 25% in principal amount of the Securities make a written request to the Trustee to pursue the remedy;

(3) such Holder or Holders offer to the Trustee reasonable security or indemnity against any loss, liability or expense;

(4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of security or indemnity; and

(5) the Holders of a majority of principal amount of the Securities do not give the Trustee a direction inconsistent with the request during such 60-day period.

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

SECTION 6.07. Rights of Holders To Receive Payment.

Notwithstanding any other provision in this Indenture, but without abrogating the provisions of Article 9, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of and interest on such Security on or after the

respective due dates expressed in such Security (or, in the case of redemption, on the redemption date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder; in the event such Holder is successful in such suit, the Company shall pay the reasonable costs and expenses incurred by such Holder (including reasonable attorneys' fees and expenses) arising out of or in connection with such suit.

SECTION 6.08. Collection Suit by Trustee.

If an Event of Default in payment of interest or principal specified in Section 6.01(1) or (2) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal and interest remaining unpaid and the amounts provided for in Section 7.07.

SECTION 6.09. Trustee May File Proofs of Claim.

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Securityholders allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.07.

SECTION 6.10. Priorities.

If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order:

FIRST: to the Trustee for amounts due under Section 7.07;

SECOND: to holders of Senior Indebtedness to the extent required by Article 9;

THIRD: to Securityholders for amounts due and unpaid on the Securities for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Securities for principal and interest, respectively; and

FOURTH: to the Company.

The Trustee may fix a record date and payment date for any payment to Securityholders pursuant to this Section 6.10. At least 15 days before such record date, the Company shall mail to each Securityholder and the Trustee a notice that states the record date, the payment date and amount to be paid. At the request of the Company, the Trustee shall mail the aforementioned notice in the Company's name and at the Company's expense.

SECTION 6.11. Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 10% in principal amount of the Securities.

SECTION 6.12. Waiver of Stay or Extension Laws.

The Company (to the extent it may lawfully do so) shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as

though no such law had been enacted.

ARTICLE 7

TRUSTEE

SECTION 7.01. Duties of Trustee.

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

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

(1) the Trustee need perform only those duties as are specifically set forth in this Indenture and no others; and

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

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

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

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

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers unless it receives indemnity satisfactory to it for the repayment of such funds or against such risk or liability.

(e) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), (c) and (d) of this Section 7.01.

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

(g) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note or other paper or document, but the Trustee in its discretion may make such further inquiry or investigation into such facts or matters as it may see fit, and if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled on reasonable prior notice to the Company to examine the books, records and premises of the Company, personally or by agent or attorney during the Company's normal business hours; provided that the Trustee shall, and shall cause its agents to, hold in confidence all such

information except to the extent disclosure may be required by law and except to the extent that the Trustee, in its sole judgment, may determine that such disclosure is consistent with its obligations hereunder.

SECTION 7.02. Rights of Trustee.

Subject to Section 7.01:

(a) the Trustee may rely on any document reasonably believed by it to be genuine and to have been signed or presented by the proper person; the Trustee need not investigate any fact or matter stated in the document;

(b) before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel, which shall conform to Section 11.05 hereof; the Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Certificate or Opinion;

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

(d) the Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers;provided that the Trustee's conduct does not constitute gross negligence or bad faith; and

(e) the Trustee may consult with counsel of its own choosing, and the advice or opinion of such counsel as to matters of law shall be full and complete authorization and protection in respect of any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

SECTION 7.03. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. The Trustee, in its individual capacity, shall be entitled to all of the rights and privileges otherwise contained in this Indenture with respect to any Indebtedness which is senior to the Indebtedness created by this Indenture which the Trustee may, at any time, hold, irrespective of the time of the acquisition or disposition of the Senior Indebtedness, to the same extent as any other holder of Senior Indebtedness would be entitled pursuant to the terms of this Indenture, and no other section of this Indenture is to be construed to deprive the Trustee, in its individual capacity, of any rights which it might have as a holder of such Senior Indebtedness which, but for the fact that the Trustee is serving as Trustee hereunder, would be senior to the Indebtedness created hereby. Any Agent may do the same with like rights. However, the Trustee is subject to Sections 7.10 and 7.11.

SECTION 7.04. Trustee's Disclaimer.

The recitals contained herein and in the Securities, except the certificates of authentication and any such recitals relating to the Trustee, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representation as to the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be accountable for the use or application by the Company of the proceeds from the Securities.

SECTION 7.05. Notice of Defaults.

If a Default or an Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to each Securityholder notice of the Default or Event of Default within 90 days after the Trustee has knowledge of such Default or Event of Default. Except in the case of a Default or an Event of Default in payment on any Security, the

Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interest of Securityholders.

SECTION 7.06. Reports by Trustee to Holders.

Within 60 days after each October 15 beginning with the year following the date on which this Indenture becomes subject to the TIA, the Trustee shall mail to each Securityholder a report dated as of such reporting date that complies with TIA Section 313(a); provided, that if no such report is required for any year by TIA Section 313(a), no report shall be required hereunder. The Trustee also shall comply with TIA Section 313(b), if this Indenture becomes subject to the TIA.

A copy of each report at the time of its mailing to Securityholders shall be mailed to the Company and, commencing at the time this Indenture is qualified under the TIA, filed with the Commission and each securities exchange, if any, on which the Securities are listed.

The Company shall promptly notify the Trustee in writing if the Securities become listed on any national securities exchange.

SECTION 7.07. Compensation and Indemnity.

The Company shall pay to the Trustee from time to time reasonable compensation for its services. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable disbursements, expenses and advances incurred or made by it, except any such disbursement, expense or advance as may be attributable to the Trustee's negligence, willful misconduct or bad faith. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents, accountants, experts and counsel.

The Company shall indemnify the Trustee for, and hold it harmless against, any loss or liability or expense incurred by it, without negligence, willful misconduct or bad faith on the Trustee's part, in connection with the administration of this trust and its duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The Trustee shall notify the Company promptly of any claim asserted against the Trustee for which it may seek indemnity. The Company shall defend the claim, and the Trustee shall cooperate in the defense. The Trustee may have separate counsel, and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee through negligence or bad faith.

To secure the Company's payment obligations in this Section, the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee except money or property held in trust to pay principal of or interest on particular Securities.

When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 6.01(6) or (7), the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

The Company's obligations under this Section 7.07 and any lien arising hereunder shall survive the resignation or removal of any Trustee, the discharge of the Company's obligations pursuant to Article 8 of this Indenture and/or the termination of this Indenture.

SECTION 7.08. Replacement of Trustee.

A resignation or removal of the Trustee and the appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section. The Trustee may resign by so notifying the Company in writing. The Holders of a majority in aggregate

principal amount of the outstanding Securities may remove the Trustee by so notifying the Trustee in writing and may appoint a successor Trustee. The Company may remove the Trustee if:

(1) the Trustee fails to comply with Section 7.10;

(2) the Trustee is adjudged a bankrupt or an insolvent;

(3) a receiver or other public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

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

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately thereafter, subject to the lien provided in Section 7.07, the retiring Trustee shall transfer all property held by it as Trustee to the successor Trustee, the resignation or removal of the retiring Trustee shall become effective and the successor Trustee shall have all the rights, powers and duties of the retiring Trustee under this Indenture. A successor Trustee shall mail notice of its succession to each Securityholder.

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

If any Trustee fails to comply with Section 7.10, any Securityholder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof shall continue for the benefit of the retiring Trustee.

SECTION 7.09. Successor Trustee by Merger, etc.

If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business to another corporation or national banking association, the resulting, surviving or transferee corporation or national banking association without any further act shall be the successor Trustee, to the extent such corporation or association complies with Section 7.10.

SECTION 7.10. Eligibility; Disqualification.

This Indenture shall always have a Trustee who satisfies the requirements of TIA Section 310(a)(1). The Trustee shall have a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition (or, if the Trustee has such a combined capital and surplus of less than $50,000,000, the Trustee shall have a parent having a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition, which parent shall unconditionally guarantee the obligations of the

Trustee under this Indenture). The Trustee shall comply with TIA Section 310(b), including the optional provision permitted by the second sentence of TIA Section 310(b)(9); provided, however, that there shall be excluded from the operation of TIA Section 310(b)(1) any indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding, if the requirements for such exclusion set forth in TIA Section 310(b)(1) are met, and the Indenture dated as of October 15, 1991 between the Company and State Street Bank and Trust Company of Connecticut, National Association, as Trustee, under which the Original Notes were issued.

SECTION 7.11. Preferential Collection of Claims Against Company.

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

ARTICLE 8

SATISFACTION AND DISCHARGE OF INDENTURE

SECTION 8.01. Discharge of Liability on Securities; Defeasance.

(a) When (i) the Company delivers to the Trustee all outstanding Securities (other than Securities replaced pursuant to Section 2.07) for cancellation, or (ii) all outstanding Securities have become due and payable and the Company irrevocably deposits with the Trustee funds sufficient to pay at maturity all outstanding Securities (other than Securities replaced pursuant to Section 2.07), and if in either case the Company pays all other sums payable hereunder and under the Securities by the Company, then this Indenture shall, subject to Sections 8.01(c) and 8.06, cease to be of further effect.

Subject to Section 8.02, the Trustee shall acknowledge satisfaction and discharge of this Indenture, except for those surviving obligations specified in Section 8.01(c), on demand of the Company accompanied by an Officers' Certificate and an Opinion of Counsel and at the cost and expense of the Company.

(b) Subject to Sections 8.01(c), 8.02 and 8.06, the Company at any time may terminate (i) all its obligations under the Securities and this Indenture ("legal defeasance option") or (ii) its obligations under Sections 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.10, 4.11, 4.12, 4.14 and 4.15 and the operation of Sections 6.01(2)(B), 6.01(3), 6.01(4), 6.01(5) and 6.01(8) ("covenant defeasance option"). The Company may exercise its legal defeasance option notwithstanding its prior exercise of its covenant defeasance option.

If the Company exercises its legal defeasance option, Section 6.01 shall cease to operate and payment of the Securities may not be accelerated because of an Event of Default. If the Company exercises its covenant defeasance option, the Events of Default specified in Sections 6.01(2)(B), 6.01(3), 6.01(4), 6.01(5) and 6.01(8) shall cease to operate and payment of the Securities may not be accelerated because of such Events of Default.

Before or after a deposit, the Company may make arrangements satisfactory to the Trustee for the redemption of Securities at a future date in accordance with Article 3.

Upon satisfaction of the conditions set forth herein and upon request of the Company, the Trustee shall acknowledge in writing the discharge of those obligations that the Company terminates.

(c) Notwithstanding clauses (a) and (b) above, the Company's obligations in Sections 2.03, 2.04, 2.05, 2.06, 2.07, 7.07, 7.08, 8.04, 8.05 and 8.06 shall survive until the Securities have been paid in full.

Thereafter the Company's obligations in Sections 7.07, 8.04 and 8.05 shall survive.

SECTION 8.02. Conditions to Defeasance.

The Company may exercise its legal defeasance option or its covenant defeasance option only if:

(1) subject to Section 8.06, the Company irrevocably deposits in trust with the Trustee, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Trustee, as trust funds in trust solely for the benefit of the Holders for that purpose, money or direct non-callable obligations of the United States of America or any agency or instrumentality of the United States of America for the payment of which guarantee or obligation the full faith and credit of the United States of America is pledged ("U.S. Government Obligations") for the payment of principal of and interest on the Securities to maturity or redemption, as the case may be; provided that the Trustee shall have been irrevocably instructed to apply such money or the proceeds of such U.S. Government Obligations to the payment of said principal and interest with respect to the Securities;

(2) the Company delivers to the Trustee a certificate from a nationally recognized firm of independent accountants expressing their opinion that the payments of principal and interest when due and without reinvestment on the deposited U.S. Government Obligations plus any deposited money without investment will provide cash at such times and in such amounts (but, in the case of the legal defeasance option only, not more than such amounts) as will be sufficient to pay principal and interest when due on all the Securities to maturity or redemption, as the case may be;

(3) the Trustee shall not have received pursuant to Section 9.12 notice from a Representative of the holders of any Senior Indebtedness of the Company that the payment to Securityholders of the moneys or the proceeds of U.S. Government Obligations so deposited would, at the time of such deposit, not be permitted by Section 9.03;

(4) 123 days pass after the deposit is made and during the 123 day period no Default specified in Section 6.01(6) or (7) occurs which is continuing at the end of the period;

(5) no Default has occurred and is continuing on the date of such deposit and after giving effect thereto;

(6) the deposit and termination does not constitute a default under any other agreement binding on the Company;

(7) the Company delivers to the Trustee an Opinion of Counsel in effect that the trust resulting from the deposit does not constitute, or is qualified as, a regulated investment company under the Investment Company Act of 1940; and

(8) the Company delivers to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent to the defeasance and discharge of the Securities as contemplated by this Article 8 have been complied with.

SECTION 8.03. Application of Trust Money.

The Trustee shall hold in trust money or U.S. Government Obligations deposited with it pursuant to Section 8.02. It shall apply the deposited money and the money from U.S. Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of and interest on the Securities. Money and U.S. Government Obligations so held in trust are not subject to Article 9.

SECTION 8.04. Repayment to Company.

The Trustee and the Paying Agent shall promptly turn over to the Company upon request any excess money or securities held by them at any time and thereupon shall be relieved from all liability with respect to such money.

Subject to any applicable abandoned property law, the Trustee and the Paying Agent shall pay to the Company upon request any money held by them for the payment of principal or interest that remains unclaimed for two years; provided, however, that the Trustee or such Paying Agent before being required to make any such payment may, at the expense of the Company, cause to be published once in a newspaper published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, or mail to each Holder entitled to such money, notice that such money remains unclaimed and that, after a date specified therein, which shall be at least 30 days from the date of such publication or mailing, any unclaimed balance of such money then remaining will be repaid to the Company. After such payment to the Company, Securityholders entitled to such money must look to the Company for payment as general creditors.

SECTION 8.05. Indemnity for U.S. Government Obligations.

The Company shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against deposited U.S. Government Obligations or the principal and interest received on such U.S. Government Obligations.

SECTION 8.06. Reinstatement.

If the Trustee or Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with this Article 8 by reason of (i) any legal proceeding, (ii) any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, or (iii) the receipt by the Trustee of notice pursuant to Section 9.12,

the Company's obligations under this Indenture and the Securities shall be revived and reinstated as though no deposit had occurred pursuant to this Article 8 until such time as the Trustee or Paying Agent is permitted to apply all such money or U.S. Government Obligations in accordance with this Article 8 or the notice referred to in Section 9.12 is withdrawn; provided, however, that no action taken in good faith by the Company after a deposit of money or U.S. Government Obligations pursuant to Section 8.01 and prior to the revival and reinstatement of the Indenture and the Securities pursuant to this Section, in reliance upon an exercise of the covenant defeasance option or the legal defeasance option, shall constitute the basis for the assertion of an Event of Default pursuant to Section 6.01. If the Trustee or the Paying Agent is unable to apply a deposit of money or U.S. Government Obligations in accordance with this Article 8 by reason of the matters referred to in clauses (i), (ii) or (iii) of this Section, the Trustee shall, upon the Company's request and the Trustee's receipt of an Officers' Certificate stating that no Default has occurred and is continuing under the Indenture, release to the Company all amounts on deposit with it, unless a legal proceeding or order or judgment would prohibit such release; provided, further, that if the Company has made any payment of interest on or principal of any Securities because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE 9

SUBORDINATION

SECTION 9.01. Agreement to Subordinate.

The Company agrees, and each Securityholder by accepting a Security agrees, that the indebtedness evidenced by the Securities is subordinated in right of payment, to the extent and in the manner provided in this Article 9, to the prior payment of all Senior Indebtedness and that the subordination is for the benefit of the holders of Senior Indebtedness, but the

Securities shall in all respects rank pari passu with all other Senior Subordinated Indebtedness of the Company. The Securities shall rank senior to all existing and future Indebtedness of the Company which is neither Senior Indebtedness nor Senior Subordinated Indebtedness and only indebtedness of the Company which is Senior Indebtedness shall rank senior to the Securities in accordance with the provisions set forth herein.

SECTION 9.02. Liquidation; Dissolution; Bankruptcy.

Upon any payment or distribution of the assets of the Company to creditors upon a liquidation or a total or partial dissolution of the Company or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property:

(1) holders of Senior Indebtedness shall be entitled to receive payment in full of the Senior Indebtedness before Securityholders shall, subject to Section 9.13, be entitled to receive any payment of principal of or interest on the Securities; and

(2) until the Senior Indebtedness is paid in full, any distribution to which Securityholders would be entitled but for this Article 9 shall be made to holders of Senior Indebtedness as their interests may appear, except that Securityholders may receive

securities that are subordinated to Senior Indebtedness to at least the same extent as the Securities.

SECTION 9.03. Default on Senior Indebtedness.

The Company may not pay principal of, or interest on, the Securities or make any deposit pursuant to Section 8.01 or 8.02 and may not repurchase, redeem or otherwise retire any Securities if (i) any Senior Indebtedness is not paid when due and such default is not cured or waived or (ii) any other default on Senior Indebtedness occurs and the maturity of such Senior Indebtedness is accelerated in accordance with its terms and such acceleration is not rescinded. During the continuance of any event of default (other than a default described in the preceding sentence) with respect to any Senior Indebtedness pursuant to which the maturity thereof may be accelerated immediately without further notice (except such notice as may be required to effect such acceleration) or the expiration of any applicable grace periods, upon the receipt by the Company and the Trustee of written notice thereof from or on behalf of holders of such Senior Indebtedness, the Company may not, for a period of 120 days from the receipt of such notice, take any action which would be prohibited by the first sentence of this Section if any Senior Indebtedness has not been paid. Notwithstanding the provisions described in the immediately preceding sentence, unless the holders of such Senior Indebtedness or a Representative of such holders shall have accelerated the maturity of such Senior Indebtedness, the Company may resume payments on the Securities after 120 days following the due date of any payment prevented by such provisions.

SECTION 9.04. Acceleration of Payment of Securities.

If payment of the Securities is accelerated because of an Event of Default, the Company or the Trustee shall promptly notify holders of Senior Indebtedness of the acceleration. The Company may not pay the Securities until the earlier of (i) ten days after the Representative under the Senior Credit Facility receives notice of such acceleration from the Company or the Trustee and (ii) 120 days after the acceleration occurs; thereafter, the Company may pay the Securities only if this Article 9 otherwise permits the payment at that time.

SECTION 9.05. When Distribution Must Be Paid Over.

If a distribution is made to Securityholders that because of this Article 9 should not have been made to them, the Securityholders who receive the distribution shall hold it in trust for holders of Senior Indebtedness and pay it over to them as their interests may appear.

SECTION 9.06. Subrogation.

After all Senior Indebtedness is paid in full and until the Securities are paid in full, Securityholders shall be subrogated to the rights of holders of Senior Indebtedness to receive distributions applicable to Senior Indebtedness. A distribution made under this Article 9 to holders of Senior Indebtedness which otherwise would have been made to Securityholders is not, as between the Company and Securityholders, a payment by the Company on Senior Indebtedness.

SECTION 9.07. Relative Rights.

This Article 9 defines the relative rights of Securityholders and holders of Senior Indebtedness. Nothing in this Indenture shall:

(1) impair, as between the Company and Securityholders, the obligation of the Company, which is absolute and unconditional, to pay principal of and interest on the Securities in accordance with their terms; or

(2) prevent the Trustee or any Securityholder from exercising its available remedies upon an Event of Default, subject to the rights of holders of Senior Indebtedness to receive distributions otherwise payable to Securityholders.

SECTION 9.08. Subordination May Not Be Impaired by Company.

No right of any holder of Senior Indebtedness to enforce the subordination of the indebtedness evidenced by the Securities shall be impaired by any act or failure to act by the Company or by its failure to comply with this Indenture.

SECTION 9.09. Rights of Trustee and Paying Agent.

The Trustee or Paying Agent may continue to make payments on the Securities unless, not less than two days which are not Legal Holidays prior to the date of such payment, it receives notice satisfactory to it that payments may not be made under this Article. The Company, the Registrar or co-Registrar, the Paying Agent, a Representative or a holder of Senior Indebtedness may give the notice; provided, however, that if an issue of Senior Indebtedness has a Representative, only the Representative may give the notice.

The Trustee in its individual or any other capacity may hold Senior Indebtedness with the same rights it would have if it were not Trustee. The Registrar and co-Registrar and the Paying Agent may do the same with like rights.

SECTION 9.10. Distribution or Notice to Representative.

Whenever a distribution is to be made or a notice given to holders of Senior Indebtedness, the distribution may be made and the notice given to their Representative.

SECTION 9.11. Article 9 Not to Prevent Events of Default or Limit Right to Accelerate.

The failure to make a payment pursuant to the Securities by reason of any provision in this Article 9 shall not be construed as preventing the occurrence of a Default. Nothing in this Article 9 shall have any effect on the right of the Securityholders to accelerate the maturity of the Securities.

SECTION 9.12. Trust Moneys Not Subordinated.

Notwithstanding anything contained herein to the contrary, payments from monies or the proceeds of U.S. Government Obligations held in trust by the Trustee for the payment of principal of and interest on the Securities shall not be subordinated to the prior payment of any Senior Indebtedness and none of the Securityholders shall be obligated to pay over any such

amount to the Company or any holder of Senior Indebtedness of the Company or any other creditor of the Company; provided, however, that monies and U.S. Government Obligations deposited with the Trustee pursuant to Section 8.01 shall not be deemed held in trust for purposes of this Section 9.12 if the payment of such monies or the proceeds of such U.S. Government Obligations to Securityholders would at the time of such deposit not be permitted by Section 9.03 and if within 10 days of such deposit the Trustee receives notice thereof from the Representative of the holders of any Senior Indebtedness of the Company.

SECTION 9.13. Trustee Entitled to Rely.

Upon any payment or distribution pursuant to this Article 9, the Trustee and the Securityholders shall be entitled to rely (i) upon any order or decree of a court of competent jurisdiction in which any proceedings of the nature referred to in Section 9.02 are pending, (ii) upon a certificate of the liquidating trustee or agent or other person making such payment or distribution to the Trustee or to the Securityholders or (iii) upon the Representatives for the holders of Senior Indebtedness for the purpose of ascertaining the persons entitled to participate in such payment or distribution, the holders of the Senior Indebtedness and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 9. In the event that the Trustee determines, in good faith, that evidence is required with respect to the right of any person as a holder of Senior Indebtedness to participate in any payment or distribution pursuant to this Article 9, the Trustee may request such person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Indebtedness held by such person, the extent to which such person is entitled to participate in such payment or distribution and other facts pertinent to the right of such person under this Article 9, and, if such evidence is not furnished, the Trustee may defer any payment to such person pending judicial determination as to the right of such person to receive such payment. The provisions of Sections 7.01 and 7.02 shall be applicable to all actions or omissions of actions by the Trustee pursuant to this Article 9.

SECTION 9.14. Trustee to Effectuate Subordination.

Each Securityholder by accepting a Security authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to acknowledge or effectuate the subordination between the Securityholders and the holders of Senior Indebtedness as provided in this Article 9 and appoints the Trustee as attorney-in-fact for any and all purposes.

SECTION 9.15. Trustee Not Charged with Knowledge of Prohibition.

Notwithstanding the provisions of this Article 9 or any provision of this Indenture, but subject to the provisions of Sections 7.01 and 7.02, the Trustee and any Paying Agent shall not be charged with knowledge of any Senior Indebtedness, or of any default in the payment of the principal of, or premium, if any, or interest on, any Senior Indebtedness, or of any facts which would prohibit the making of any payment of money to or by the Trustee or any such Paying Agent, unless and until the Trustee or such Paying Agent shall have received at least three Business Days prior to the date set for payment under the terms of this Indenture written notice thereof from the Company or a holder of any kind or category of any Senior Indebtedness or the Representative of such holder; nor shall the Trustee or any such Paying Agent be charged with knowledge of the curing of any such default or of the elimination of the fact or condition preventing any such payment, unless and until the Trustee or such Paying Agent shall have

received an Officers' Certificate to such effect. Nothing contained in this Section shall limit the rights of holders of Senior Indebtedness to recover payment pursuant to Section 9.05.

SECTION 9.16. Rights of Trustee as Holder of Senior Indebtedness.

The Trustee shall be entitled to all the rights set forth in this Article 9 with respect to any Senior Indebtedness which may at any time be held by it, to the same extent as any other holder of Senior Indebtedness; and nothing in Article 7 shall deprive the Trustee of any of its rights as such holder. Nothing in this Article 9 shall apply to claims of, or payments to, the Trustee under or pursuant to Section 7.07.

SECTION 9.17. Trustee Not Fiduciary for Holders of Senior Indebtedness.

The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness and shall not be liable to any such holders if it shall mistakenly pay over or distribute to Securityholders or the Company or any other person, money or assets to which any holders of Senior Indebtedness shall be entitled by virtue of this Article 9 or otherwise.

SECTION 9.18. Article Applying to Paying Agents.

In case at any time any Paying Agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term "Trustee" as used in this Article 9 shall in such case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent within its meaning as fully for all intents and purposes as if such Paying Agent were named in this Article 9 in addition to or in place of the Trustee.

SECTION 9.19. Reliance by Holders of Senior Indebtedness on Subordination Provisions.

Each Securityholder by accepting a Security acknowledges and agrees that the foregoing subordination provisions are, and are intended to be, an inducement and a consideration to each holder of any Senior Indebtedness, whether such Senior Indebtedness was created or acquired before or after the issuance of the Securities, to acquire and continue to hold, or to continue to hold, such Senior Indebtedness and such holder of Senior Indebtedness shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Senior Indebtedness.

ARTICLE 10

AMENDMENTS

SECTION 10.01. Without Consent of Holders.

The Company and the Trustee may amend this Indenture or the Securities without notice to or consent of any Securityholder:

(1) to cure any ambiguity, omission, defect or inconsistency;

(2) to comply with Article 5;

(3) to provide for uncertificated Securities in addition to or in place of certificated Securities; or

(4) to make any change that does not adversely affect the rights of any Securityholder.

SECTION 10.02. With Consent of Holders.

The Company may amend this Indenture or the Securities, upon five Business Days' notice to Securityholders, with the written consent of the

Holders of at least 66-2/3% in principal amount of the Securities. However, without the consent of each Securityholder affected, an amendment may not:

(1) reduce the amount of Securities whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the rate of or extend the time for payment of interest on any Security;

(3) reduce the principal of or extend the fixed maturity of any Security;

(4) reduce the premium payable upon the redemption of any Security;

(5) make any Security payable in money other than that stated in the Security;

(6) make any change in Article 9 or in Section 4.11, that adversely affects the rights of any Securityholder; or

(7) make any change in Section 6.04 or 6.07 or this Section.

It shall not be necessary for the consent of the Holders of Securities under this Section 10.02 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

An amendment under this Section may not make any change that adversely affects the rights under Article 9 of any holder of Senior Indebtedness then outstanding unless the holders of the issue of Senior Indebtedness which such change adversely affects consent to such change.

After an amendment under this Section becomes effective, the Company shall mail to Securityholders a notice briefly describing such amendment. The failure to give such notice to all Securityholders, or any defect therein, shall not impair or affect the validity of an amendment under this Section.

SECTION 10.03. Compliance with Trust Indenture Act.

Every amendment to this Indenture or the Securities shall comply with the TIA as then in effect.

SECTION 10.04. Revocation and Effect of Consents and Waivers.

A consent to an amendment or waiver by a Holder of a Security shall bind the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent or waiver is not made on the Security. However, any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Security or portion of the Security if the Trustee receives the notice of revocation before the date the amendment or waiver becomes effective. After an amendment or waiver becomes effective, it shall bind every Securityholder.

SECTION 10.05. Notation on or Exchange of Securities.

If an amendment changes the terms of a Security, the Trustee may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security regarding the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms.

SECTION 10.06. Trustee To Sign Amendments.

The Trustee shall sign any amendment authorized pursuant to

this Article 10 if the amendment does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment the Trustee shall be entitled to receive, and (subject to Section 7.01) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that such amendment is authorized or permitted by this Indenture.

ARTICLE 11

MISCELLANEOUS

SECTION 11.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with another provision which is or would be required to be included in this Indenture by the TIA if this Indenture were qualified thereunder, the provisions required by the TIA shall control.

SECTION 11.02. Notices.

Any notice or communication shall be sufficiently given if in writing and delivered in person or mailed by first class mail addressed as follows:

If to the Company:

Southdown, Inc.
1200 Smith Street, Suite 2400
Houston, Texas 77002

Attention: Chief Financial Officer

If to the Trustee:

State Street Bank and Trust Company
of Connecticut, National Association
61 Broadway
New York, New York 10006

Attention: Neil C. Carfora
Senior Vice President

With a copy to:

State Street Bank and Trust Company
of Connecticut, National Association
750 Main Street
Hartford, Connecticut 06103

Attention: Corporate Trust Department

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

Except as specified in TIA Section 313(c) with respect to notices to be sent to the persons specified therein, any notice or communication mailed to a Securityholder shall be mailed to him at his address as it appears on the Securities Register and shall be sufficiently given to him if so mailed within the time prescribed. Copies of any such communication or notice to a Holder shall also be mailed to the Trustee.

Failure to mail a notice or communication to a Securityholder or any defect in it shall not affect its sufficiency with respect to other Securityholders. Except for a notice to the Trustee, which is deemed given only when received, if a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

SECTION 11.03. Communications by Holders With Other Holders.

Securityholders may communicate pursuant to TIA Section 312(b) with other Securityholders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar and any other person shall have the protection of TIA Section 312(c).

SECTION 11.04. Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee to take any action under this Indenture (included, but not limited to, actions under Section 5.01), the Company shall furnish to the Trustee upon the Trustee's request:

(1) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

SECTION 11.05. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

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

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statement or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with; provided, however, that with respect to matters of fact an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 11.06. Rules by Trustee, Paying Agent, Registrar.

The Trustee may make reasonable rules for action by or at a meeting of Securityholders. The Paying Agent or Registrar may make reasonable rules for its functions.

SECTION 11.07. Governing Law.

The laws of the State of New York shall govern this Indenture and the Securities without regard to principles of conflicts of law.

SECTION 11.08. No Adverse Interpretation of Other Agreements.

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

SECTION 11.09. No Recourse Against Others.

A director, officer, employee or shareholder, as such, of the Company shall not have any liability for any obligations of the Company under the Securities or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. Each Securityholder by accepting a Security waives and releases all such liability.

58

SECTION 11.10. Successors.

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

SECTION 11.11. Duplicate Originals.

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

SECTION 11.12. Separability.

In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and a Holder shall have no claim therefor against any party hereto.

SECTION 11.13. Table of Contents, Headings, etc.

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

SECTION 11.14. Benefits of Indenture.

Nothing in this Indenture or in the Securities, express or implied, shall give to any person, other than the parties hereto and their successors hereunder, the holders of Senior Indebtedness and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

SECTION 11.15. Legal Holidays.

If a payment or other action is to be made or taken on a date which is a Legal Holiday, such payment or other action may be made or taken on the next succeeding day that is not a Legal Holiday, and no interest on any such payment shall accrue for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

59

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

SOUTHDOWN, INC.

By: /s/ JAMES L. PERSKY
Name: James L. Persky
Title: Senior Vice President - Finance

STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, NATIONAL ASSOCIATION, TRUSTEE

By: /S/ STEVEN M. FREEDMAN
Name: Steven M. Freedman
Title: Assistant Secretary

Exhibit A

[FORM OF FACE OF SECURITY]

"FOR FEDERAL INCOME TAX PURPOSES, THIS NOTE CONSTITUTES THE CONTINUATION OF THE COMPANY'S 14% SENIOR SUBORDINATED NOTES DUE 2001 THAT WERE ORIGINALLY ISSUED ON OCTOBER 31, 1991. THE FOLLOWING TAX INFORMATION, ORIGINALLY INCLUDED ON SUCH 14% SENIOR SUBORDINATED NOTES, CONTINUES TO BE APPLICABLE TO THIS NOTE: (i) THE ISSUE DATE OF THIS SECURITY IS OCTOBER 31, 1991; (ii) THE YIELD TO MATURITY IS 14.5803%; (iii) THE ORIGINAL ISSUE DISCOUNT PER $1,000 PRINCIPAL AMOUNT IS $30; (iv) THE APPROXIMATE METHOD HAS BEEN USED TO DETERMINE YIELD FOR THE ACCRUAL PERIOD BEGINNING OCTOBER 31, 1991 AND ENDING APRIL 15, 1992; AND (v) THE AMOUNT OF ORIGINAL ISSUE DISCOUNT PER $1,000 PRINCIPAL AMOUNT ALLOCABLE TO THE ACCRUAL PERIOD BEGINNING OCTOBER 31, 1991 AND ENDING APRIL 15, 1992 IS $0.65."

SOUTHDOWN, INC.

14% Senior Subordinated Note Due 2001, Series B

No. $

SOUTHDOWN, INC., a corporation duly organized and existing under the laws of the State of Louisiana (herein called the "Company"), for value received, hereby promises to pay to _____, or registered assigns, the principal sum of _____ DOLLARS on October 15, 2001 and to pay periodic interest on this Security at a rate of 14% per annum.

The Company will pay periodic interest semiannually on April 15 and October 15 of each year or if any such date is not a Business Day, on the next succeeding Business Day (each an "Interest Payment Date"). Interest on this Security will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from [insert the most recent date to which interest has been paid on the Original Notes]. The Company shall pay interest on overdue principal and, to the extent lawful, on overdue installments of interest (without regard to any applicable grace periods) at the rate of periodic interest specified in the Indenture. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will be paid to the person in whose name this Security is registered at the close of business on the regular record date, which shall be April 1 or October 1 (whether or not a Business Day) (each a "regular record date"), as the case may be, next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for, and any interest payable on such defaulted interest (to the extent lawful), will, as provided in the Indenture (as hereinafter defined), forthwith cease to be payable to the Holder on such regular record date and shall be paid on a date which is a Business Day to the person in whose name this Security is registered at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Company, notice of which shall be given to Holders not less than 15 days prior to such special record date. Notwithstanding the foregoing, any such interest which is paid prior to the expiration of the 30-day period after such Interest Payment Date for such interest shall be paid to the Holders of Securities as of the regular record date for the Interest Payment Date for which such interest has not been paid. Payment of the principal of and interest on this Security will be made at the

offices or agencies of the Company in New York, New York maintained for that purpose, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts; provided, however, that payment of interest may be made by check mailed to the address of the person entitled thereto as such address shall appear in the Security Register.

Reference is hereby made to the further provisions of this Security as set forth on the reverse, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to hereafter by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, SOUTHDOWN, INC. has caused this instrument to be executed in its corporate name by the manual or facsimile signature of its Chairman of the Board, President or a Vice President and signed by its Secretary.

SOUTHDOWN, INC.

By: _____

CERTIFICATE OF AUTHENTICATION

This is one of the 14% Senior Subordinated Notes Due 2001, Series B referred to in the within-mentioned Indenture.

STATE STREET BANK AND TRUST
COMPANY OF CONNECTICUT,
NATIONAL ASSOCIATION, as Trustee

By: _____
Authorized Officer

Date of Authentication:

[FORM OF REVERSE OF SECURITY]

SOUTHDOWN, INC.

14% Senior Subordinated Note Due 2001, Series B

1. Indenture. This Security is one of a duly authorized issue of securities of the Company (which term includes any successor corporation under the Indenture hereinafter referred to) designated as its 14% Senior Subordinated Notes Due 2001, Series B (the "Securities"), limited in aggregate principal amount to $125,000,000, issued pursuant to an indenture, dated as of October 15, 1991 (the "Indenture"), between the Company and State Street Bank and Trust Company of Connecticut, National Association, trustee (the "Trustee", which term includes any successor trustee under the Indenture). The terms of this Security include those stated in the Indenture and those made part of the Indenture by reference to the TIA, as in effect on the date of the Indenture. Reference is hereby made to the Indenture and all indentures

supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company and the Holders and of the terms upon which the Securities are, and are to be, authenticated and delivered. Unless otherwise defined herein, all terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

2. Paying Agent and Registrar. Initially, the Trustee will act as Paying Agent and Registrar. The Company may change any Paying Agent, Registrar or co-Registrar without notice to any Securityholder.

3. Subordination. The indebtedness evidenced by the Securities is subordinated in right of payment to the prior payment in full of the Company's Senior Indebtedness as more fully set forth in the Indenture. Each Holder of Securities by his acceptance hereof covenants and agrees that all payments of the principal of and interest on the Securities by the Company shall be subordinated in accordance with the provisions of Article 9 of the Indenture, and each Holder accepts and agrees to be bound by such provisions.

4. Redemption. (a) The Securities may be redeemed at the option of the Company, in whole or from time to time in part, at any time on or after October 15, 1996, at the redemption prices set forth below, together with accrued and unpaid interest to the redemption date:

<TABLE>
<CAPTION>

	If redeemed during the 12-month period beginning October 15,
Year	Percentage
<S>	<C>
1996	105.25%
1997	103.50%
1998	101.75%
1999 and thereafter	100.00%

</TABLE>

provided, however, that periodic interest installments with respect to which the Interest Payment Date is on or prior to such redemption date will be payable to the Holders of record at the close of business on the relevant record dates referred to herein, all as provided in the Indenture.

(b) Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder of Securities to be redeemed at his address as it appears on the Securities Register. Securities in denominations larger than $1,000 may be redeemed in part but only in whole multiples of $1,000. On and after the redemption date interest will cease to accrue on Securities or on the portions thereof called for redemption, as the case may be.

5. Restrictive Covenants. Subject to certain qualifications and exceptions, the Indenture, among other things, limits: the payment of dividends by the Company; purchases, redemptions, other acquisitions or retirements of Capital Stock of the Company; certain dispositions of assets of the Company and its Subsidiaries, including Capital Stock of such Subsidiaries; the making of loans or advances to, or guarantees on behalf of, and certain other transactions with, certain Affiliates by the Company or its Subsidiaries; the incurrence of certain Indebtedness by the Company or its Subsidiaries; the ability of any Subsidiary of the Company to permit to exist restrictions on the ability of such Subsidiary to make distributions; and the ability of the Company to consolidate with, merge with or into, or transfer all or substantially all of its assets to, another entity.

6. Offers to Purchase. If the Company's Consolidated Net Worth at the end of each of any two consecutive fiscal quarters is less than $300,000,000, the Company shall promptly make an offer to purchase, on a date no later than the last day of the fiscal quarter of the Company next following such second fiscal quarter (extended in certain circumstances), a

principal amount of Securities equal to 10% of the aggregate principal amount of the Securities originally issued in exchange for Original Notes (or if the aggregate principal amount of the Securities then outstanding is less than 10% of such amount, all of the Securities outstanding at the time) at a purchase price equal to 100% of the aggregate principal amount thereof plus accrued and unpaid interest thereon to the purchase date, all as set forth in the Indenture.

The Indenture also requires the Company to make an offer to purchase Securities as provided in the Indenture in the event of a Change of Control (as defined in the Indenture).

7. Defaults and Remedies. If an Event of Default shall occur and be continuing, there may be declared due and payable in the manner and with the effect provided in the Indenture the principal of this Security, plus all accrued and unpaid interest to and including the date the Securities become due and payable.

The Indenture provides that no Holder may pursue any remedy under the Indenture unless, among other things, the Trustee shall have failed to act after (i) notice of an Event of Default, (ii) written request by Holders of at least 25% in aggregate principal amount of the Securities for the Trustee to pursue such remedy and (iii) the offer to the Trustee of security or indemnity satisfactory to it; provided, however, such provision does not affect the Holder's right to sue for enforcement of any overdue payment on the Securities.

8. Satisfaction and Discharge. The Indenture contains provisions for the satisfaction and discharge under certain circumstances of the entire indebtedness on this Security.

9. Amendment, Supplement, Waivers. The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the right of the Holders under the Indenture at any time by the

Company and the Trustee generally with the consent of the Holders of at least 66-2/3% in aggregate principal amount of the Securities at the time outstanding and also permits, in certain circumstances, the amendment of the Indenture or the Securities by the Company and the Trustee, without notice to or consent of any Holders. The Indenture also contains provisions permitting, subject to certain circumstances, the Holders of specified percentages in aggregate principal amount of the Securities at the time outstanding, on behalf of the Holders of all the Securities, to waive certain past Defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

10. Absolute Obligation of Company. No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and premium, if any, and interest on this Security at the times, places and rates herein prescribed.

11. Transfer, Denominations, Exchange. As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Securities Register upon surrender of this Security for registration of transfer at the offices or agencies of the Company maintained for that purpose duly endorsed by, or accompanied by a written instrument of transfer in substantially the form accompanying this Security duly executed by, the Holder hereof or its attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities are issuable only in registered form without coupons in denominations of $1,000 and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth,

the Securities are exchangeable for a like aggregate principal amount of Securities of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require from the transferring or exchanging Securityholder in certain circumstances set forth in the Indenture payment of a sum sufficient to cover any transfer tax or any similar governmental charge payable in connection therewith. As provided in the Indenture, the Registrar need not register the transfer or exchange of any Security selected for redemption, except for the unredeemed portion thereof. In addition, the Registrar need not register the transfer or exchange of any Securities for a period of 15 days before a selection of Securities to be redeemed.

12. Provision of Certain Information. Subject to certain limitations in the Indenture, at any time when the Company is not required to file with the Commission reports pursuant to Section 13(a), 13(c) or 15(d) of the Securities Exchange Act, the Company will continue to submit such reports for filing with the Commission as if it were required to do so, and copies thereof shall be provided to the Trustee and mailed to the Holders.

13. Persons Deemed Owners. Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the person in whose name this Security is registered with the Registrar as the owner

hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

14. Defeasance. Subject to certain conditions, the Company at any time may terminate some or all of its obligations under the Securities and the Indenture if the Company irrevocably deposits with the Trustee money or U.S. Government Obligations for the payment of principal of and interest on the Securities to redemption or maturity. U.S. Government Obligations are direct obligations backed by the full faith and credit of the United States of America or certificates representing an ownership interest in such obligations.

15. Governing law. The laws of the State of New York shall govern this Security without regard to principles of conflicts of law.

16. Abbreviations. Customary abbreviations may be used in the name of a Securityholder or any assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

The Company will furnish to any Securityholder of record, upon written request, without charge, copies of the Indenture. Requests may be made to: Southdown, Inc., 1200 Smith Street, Suite 2400, Houston, Texas 77002, Attention: Secretary.

ASSIGNMENT FORM

I or we assign and transfer this Security to:

_____

_____

_____

(Print or type name, address and zip code and social security or tax ID number of assignee)

and irrevocably appoint _____ agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Dated: _____ Signed: _____
(Sign exactly as name appears on this Security)

Signature Guarantee: _____

OPTION OF HOLDER TO ELECT PURCHASE

If you the Holder wish to elect to have this Security purchased by the Company pursuant to Section 4.11 or 4.12 of the Indenture, check the box: ( )

If you wish to elect to have only part of this Security purchased by the Company pursuant to Section 4.11 or 4.12 of the Indenture, state the amount: $_____.

Dated:_____ Signed:_____
(Sign exactly as name appears on this Security)

Signature Guarantee:_____

FIRST AMENDMENT TO INDENTURE

Dated as of December 10, 1993

SOUTHDOWN, INC.

and

STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT,
NATIONAL ASSOCIATION, TRUSTEE

_____

INDENTURE

Dated as of October 15, 1991

_____

$125,000,000 Aggregate Principal Amount of
14% Senior Subordinated Notes Due 2001, Series B

69

THIS FIRST AMENDMENT TO INDENTURE, dated as of December 10, 1993, is entered into between SOUTHDOWN, INC., a Louisiana corporation (the "Company"), and STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, NATIONAL ASSOCIATION, a national banking association (the "Trustee").

W I T N E S S E T H:

WHEREAS, the Company and the Trustee have entered into that certain Indenture dated as of October 15, 1991 (the "Indenture"), for the equal and ratable benefit of the Holders of the Company's 14% Senior Subordinated Notes Due 2001, Series B (the "Securities"); and

WHEREAS, in accordance with Section 10.02 of the Indenture the Company has obtained, upon at least five Business Days' notice to Securityholders, the written consent of the Holders of at least 66 2/3% in principal amount of the Securities to an amendment to the Indenture; and

NOW, THEREFORE, for the purpose of memorializing the amendment to the Indenture so consented to by Holders of the Securities, the parties hereto do hereby agree as follows:

SECTION 1. Definitions and Terms.

Unless otherwise defined herein, all initially capitalized terms used herein shall have the meanings assigned to such terms in the Indenture.

SECTION 2. Amendment to Indenture.

Section 1.01 of the Indenture is amended, effective as of the date first above written, by deleting the definition of "Consolidated Net Income" therein in its entirety and by substituting the following in lieu thereof:

> "Consolidated Net Income" means, for any period, the net income or loss of the Company and its Subsidiaries for such period on a consolidated basis as determined in accordance with generally accepted accounting principles adjusted by excluding the after-tax effect of (i) net extraordinary gains or net extraordinary losses, as the case may be, (ii) net gains or losses in respect of dispositions of assets other than in the ordinary course of business, (iii) the net income of any Subsidiary of the Company to the extent that dividends or distributions by such Subsidiary to the Company in the amount of such net income are restricted or prohibited, (iv) the net income or loss of any person in which the Company or any of its Subsidiaries has a joint interest with a third party (which interest does not constitute a majority interest in such person) except to the extent of the amount of dividends, distributions or other payments actually paid to the Company or any Subsidiary of the Company, (v) any gains or losses attributable to write-ups or write-downs of assets, and (vi) the amount of the transition obligation recognized by the Company after the Initial Issuance Date in connection with its adoption of Statement of Financial Accounting Standards No. 106.

70

SECTION 3. Ratification of Indenture, as Amended.

The Indenture, as amended hereby, is hereby ratified and confirmed and continues in full force and effect.

SECTION 4. Effectiveness.

This First Amendment to Indenture shall become effective upon the execution hereof by the Company and the Trustee, the Company having delivered to the Trustee evidence of consent from the Holders of at least 66 2/3% in principal amount of the Securities then outstanding.

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

SOUTHDOWN, INC.

By: _____
Karen A. Twitchell
Treasurer

STATE STREET BANK AND TRUST COMPANY
OF CONNECTICUT, NATIONAL ASSOCIATION,
TRUSTEE

By:_____
Name:
Title:

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

dated as of November 19, 1993

among

SOUTHDOWN, INC.,
as Borrower,

THE FINANCIAL INSTITUTIONS SIGNATORY HERETO,
as Banks,

and

WELLS FARGO BANK, N.A.,
as Agent

SOCIETE GENERALE

and

THE BANK OF NOVA SCOTIA,

as Lead Managers

$200,000,000

TABLE OF CONTENTS

3

TABLE OF CONTENTS (CONT.)

4

TABLE OF CONTENTS (CONT.)

TABLE OF CONTENTS (CONT.)

EXHIBITS AND SCHEDULES

Exhibit T-1	Form of Termination of Subrogation and Contribution Agreement
Exhibit 3.1(k)	Form of Officer's Compliance Certificate
Exhibit 5.2(r)	Form of Aging Report

Schedule E-1	Excluded Properties
Schedule F-1	Facility A Commitment (including Facility A Subfacility Commitment and Facility A Florida LC Subfacility Commitment)
Schedule L-1	Letters of Credit outstanding on the Closing Date
Schedule S-1	Specified Subsidiaries
Schedule 11.3	Notice Information

This SECOND AMENDED AND RESTATED CREDIT AGREEMENT is entered into as of November 19, 1993, among SOUTHDOWN, INC., a Louisiana corporation ("Borrower"), on the one hand, and, on the other hand, the financial institutions which either now or in the future are signatories hereto (collectively referred to as "Banks" and individually as a "Bank"), and WELLS FARGO BANK, N.A., a national banking association, as agent (hereinafter, in such capacity, together with any successors thereto in such capacity, referred to as "Agent") for Banks hereunder.

RECITALS

WHEREAS, Borrower, certain Banks, and Agent are parties to that certain Credit Agreement dated as of April 5, 1988, that has been amended pursuant to that certain Amendment Number One to Credit Agreement dated as of May 18, 1988, that certain Amendment Number Two to Credit Agreement dated as of June 17, 1988, that certain Amendment Number Three to Credit Agreement dated as of August 25, 1988, that certain Amendment Number Four to Credit Agreement dated as of September 23, 1988, that certain Amendment Number Five to Credit Agreement dated as of December 31, 1988, that certain Amendment Number Six to Credit Agreement dated as of December 31, 1988, that certain Amendment Number Seven to Credit Agreement dated as of April 28, 1989, that certain Amendment Number Eight to Credit Agreement dated as of May 22, 1989, that certain Amendment Number Nine to Credit Agreement dated as of September 1, 1989, that certain Amendment Number Ten to Credit Agreement dated as of October 31, 1989, that certain Amendment Number Eleven to Credit Agreement dated as of May 11, 1990, that certain Amendment Number Twelve to Credit Agreement dated as of June 27, 1990, and that certain Amendment Number Thirteen to Credit Agreement dated as of March 28, 1991 (as amended, the "1988 Credit Agreement");

WHEREAS, Borrower, certain Banks, and Agent are parties to that certain Amended and Restated Credit Agreement, dated as of April 30, 1991, which amended and restated the 1988 Credit Agreement in its entirety and that has been amended pursuant to that certain Amendment Number One to Credit Agreement dated as of June 14, 1991, that certain Amendment Number Two to Credit Agreement dated as of September 27, 1991, that certain Amendment Number Three to Credit Agreement dated as of October 31, 1991, that certain Amendment Number Four to Credit Agreement dated as of March 6, 1992, that certain Amendment Number Five to Credit Agreement dated as of December 18, 1992, that certain Amendment Number Six to Credit Agreement dated as of June 8, 1993, and that certain Amendment Number Seven to Credit Agreement dated as of September 8, 1993 (as amended, the "1991 Credit Agreement");

WHEREAS, Borrower has requested from Banks and Agent the restructuring of the credit facilities provided pursuant to the 1991 Credit Agreement. Banks and Agent have agreed to restructure the credit facilities on the terms and conditions set forth herein; and

WHEREAS, Borrower, Banks, and Agent have agreed to amend and restate

the 1991 Credit Agreement in its entirety as set forth herein.

In consideration of the foregoing and the mutual covenants, conditions, and provisions hereinafter set forth, the parties hereto amend and, as so amended, restate in its entirety the 1991 Credit Agreement, and agree as follows:

ARTICLE 1.

DEFINITIONS AND ACCOUNTING TERMS

1.1 DEFINITIONS. For purposes of this Agreement, the following capitalized terms shall have the following meanings:

"Acquired Indebtedness" means Debt of a Person existing at the time such Person becomes a Subsidiary or assumed in connection with the acquisition of assets from such Person, and not incurred in connection with, or in anticipation of, such Person becoming a Subsidiary or such acquisition.

"Adjusted Free Cash Flow Ratio" means and refers to, for the period to be determined, the ratio of (a) Consolidated EBITDA minus Capital Expenditures, to (b) the sum of cash Interest Expense, current provision for income taxes, dividends, and the current portion of Funded Debt as of the last day of such period (exclusive of Debt under this Agreement, the Subordinated Debt, and the Debt evidenced by the Martin Marietta Promissory Note).

"Affiliate" means and refers to, as applied to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For the purposes of this definition, the terms "controlling," "controlled by," and "under common control with", as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities, by contract, or otherwise.

"Agent" shall have the meaning set forth in the introduction to this Agreement.

"Agent's Fees" shall mean those fees that have been separately agreed upon between Borrower and Agent, which fees shall be for the sole account of Agent.

"Agent's Fee Letter" shall mean that certain letter, dated as of the Closing Date, from Agent to Borrower, setting forth, among other items, the Agent's Fees.

"Agreement" means and refers to this Second Amended and Restated Credit Agreement between Borrower, on the one hand, and Agent and Banks, on the other hand, together with all exhibits and schedules hereto.

"Ancillary Documents" means and refers to the Loan Documents.

"Applicable Base Rate Margin" means and refers to, with respect to Base Rate Loans,

<TABLE>
<CAPTION>

Leverage Ratio	Applicable Base Rate Margin
<S>	<C>
greater than or equal to 5.0:1.0	1.25 percentage points
less than 5.0:1.0, but greater than or equal to 4.0:1.0	1.00 percentage points
less than 4.0:1.0, but greater than or equal to 3.0:1.0	0.75 percentage points
less than 3.0:1.0	0.25 percentage points

</TABLE>

The Applicable Base Rate Margin shall be based upon the Borrower's Leverage Ratio which will be calculated quarterly as at the end of each fiscal

quarter of the Borrower based upon the four (4) immediately preceding fiscal quarters, including the quarter then ended. The applicable margin shall be redetermined quarterly on the date Agent receives quarterly financial statements pursuant to Section 5.2(a) hereof, (or, in the case of the fourth fiscal quarter in each fiscal year, a certification by the chief financial officer or treasurer of Borrower). In addition to the foregoing, (a) within forty-five (45) days of the date on which Borrower consummates a Qualifying Offering, Borrower may submit a certification by its chief financial officer or treasurer regarding its then current Leverage Ratio (using, for the numerator of such ratio, its then extant level of Funded Debt and, for the denominator, using Consolidated EBITDA minus Capital Expenditures

determined for the four fiscal quarters ended as of the last day of the immediately preceding fiscal quarter) and the Applicable Base Rate Margin shall be determined based upon the Leverage Ratio set forth in such certification, and (b) within five (5) days of the date of an exchange of the Convertible Exchangeable Preferred Stock for Exchange Subordinated Debt, Borrower shall submit a certification by its chief financial officer or treasurer regarding its then current Leverage Ratio (using, for the numerator of such ratio, its then extant level of Funded Debt and, for the denominator, using Consolidated EBITDA minus Capital Expenditures determined for the four fiscal quarters ended as of the last day of the immediately preceding fiscal quarter) and the Applicable Base Rate Margin shall be determined based upon the Leverage Ratio set forth in such certification.

"Applicable Commercial Letter of Credit Margin" means and refers to, with respect to Comercial Letters of Credit,

<TABLE>
<CAPTION>

Leverage Ratio	Applicable Commercial Letter of Credit Margin
<S>	<C>
	.55 percentage points
greater than or equal to 5.0:1.0	
less than 5.0:1.0, but greater than or equal to 4.0:1.0	.50 percentage points
less than 4.0:1.0, but greater than or equal to 3.0:1.0	.45 percentage points
less than 3.0:1.0	.35 percentage points

</TABLE>

The Applicable Commercial Letter of Credit Margin shall be based upon the Borrower's Leverage Ratio which will be calculated quarterly as at the end of each fiscal quarter of the Borrower based upon the four (4) immediately preceding fiscal quarters, including the quarter then ended. The applicable margin shall be redetermined quarterly on the date Agent receives quarterly financial statements pursuant to Section 5.2(a) hereof, (or, in the case of the fourth fiscal quarter in each fiscal year, a certification by the chief financial officer or treasurer of Borrower). In addition to the foregoing, (a) within forty-five (45) days of the date on which Borrower consummates a Qualifying Offering, Borrower may submit a certification by its chief financial officer or treasurer regarding its then current Leverage Ratio (using, for the numerator of such ratio, its then extant level of Funded Debt and, for the denominator, using Consolidated EBITDA minus

Capital Expenditures determined for the four fiscal quarters ended as of the last day of the immediately preceding fiscal quarter) and the Applicable Commercial Letter of Credit Margin shall be determined based upon the Leverage Ratio set forth in such certification, and (b) within five (5) days of the date of an exchange of the Convertible Exchangeable Preferred Stock for Exchange Subordinated Debt, Borrower shall submit a certification by its chief financial officer or treasurer regarding its then current Leverage Ratio (using, for the numerator of such ratio, its then extant level of Funded Debt and, for the denominator, using Consolidated EBITDA minus Capital Expenditures determined

for the four fiscal quarters ended as of the last day of the immediately preceding fiscal quarter) and the Applicable Commercial Letter of Credit Margin shall be determined based upon the Leverage Ratio set forth in such certification. Anything to the contrary contained herein notwithstanding, there shall not be any increase to, or refund of, any letter of credit fee previously paid with respect to a Commercial Letter of Credit that is outstanding on the day on which the Applicable Commercial Letter of Credit Margin changes.

"Applicable LIBOR Rate Margin" means and refers to, with respect to LIBOR Rate Loans,

<TABLE>
<CAPTION>

Leverage Ratio	Applicable LIBOR Rate Margin
<S>	<C>
greater than or equal to 5.0:1.0	2.50 percentage points
less than 5.0:1.0, but greater than or equal to 4.0:1.0	2.25 percentage points
less than 4.0:1.0, but greater than or equal to 3.0:1.0	2.00 percentage points
less than 3.0:1.0	1.50 percentage points

</TABLE>

The Applicable LIBOR Rate Margin shall be based upon the Borrower's Leverage Ratio which will be calculated quarterly as at the end of each fiscal quarter of the Borrower based upon the four (4) immediately preceding fiscal quarters, including the quarter then ended. The applicable margin shall be redetermined quarterly on the date Agent receives quarterly financial statements pursuant to Section 5.2(a) hereof, (or, in the case of the fourth fiscal quarter in each fiscal year, a certification by the chief financial officer or treasurer of Borrower). In addition to the foregoing, (a) within forty-five (45) days of the date on which Borrower consummates a Qualifying Offering, Borrower may submit a certification by its chief financial officer or treasurer regarding its

then current Leverage Ratio (using, for the numerator of such ratio, its then extant level of Funded Debt and, for the denominator, using Consolidated EBITDA minus Capital Expenditures determined for the four fiscal quarters ended as of the last day of the immediately preceding fiscal quarter) and the Applicable LIBOR Rate Margin shall be determined based upon the Leverage Ratio set forth in such certification, and (b) within five (5) days of the date of an exchange of the Convertible Exchangeable Preferred Stock for Exchange Subordinated Debt, Borrower shall submit a certification by its chief financial officer or treasurer regarding its then current Leverage Ratio (using, for the numerator of such ratio, its then extant level of Funded Debt and, for the denominator, using Consolidated EBITDA minus Capital Expenditures determined for the four fiscal quarters ended as of the last day of the immediately preceding fiscal quarter) and the Applicable LIBOR Rate Margin shall be determined based upon the Leverage Ratio set forth in such certification. Anything to the contrary contained herein notwithstanding, (a) any LIBOR Rate Loan that is outstanding on the day on which the Applicable LIBOR Rate Margin changes, shall, until the end of the Interest Period relating to such LIBOR Rate Loan, continue to bear interest at the Applicable LIBOR Rate Margin that was in effect on the date such LIBOR Rate Loan was made, and (b) the letter of credit fee with respect to any Letter of Credit (other than a Commercial Letter of Credit) that is outstanding on the day on which the Applicable LIBOR Rate Margin changes, automatically shall be adjusted as of the date on which the Applicable LIBOR Rate Margin is adjusted.

"Assignment and Assumption Agreement" means an Assignment and Assumption Agreement among an assigning Bank, such Bank's assignee thereunder, Borrower, and Agent, substantially in the form of Exhibit A-1 attached hereto.

"Balance of Net Issuance Proceeds" means and refers to (a) the aggregate Net Issuance Proceeds of Qualifying Offerings, minus (b) the aggregate amount paid by Borrower on or after September 30, 1993 to redeem or acquire Convertible Exchangeable Preferred Stock in connection with one or more Failed Conversions (such amount to be calculated by excluding amounts paid by Borrower that were covered by an Underwritten Call where the underwriter has performed its underwriting obligations).

"Bank" and "Banks" shall have the respective meanings set forth in the introduction to this Agreement.

"Base LIBOR Rate" means the average of the rate per annum at which Dollar deposits are offered to Agent in the London interbank eurocurrency market on the second LIBOR Business Day prior to the commencement of an Interest Period at or about 11:00 A.M. (London time), for delivery on the first day of such Interest Period, for a term comparable to the number of days in such Interest Period and in an amount approximately equal to the principal amount to which such Interest Period shall apply.

"Base Rate" means, for any day, the higher of (a) the Federal Funds Rate in effect on such day plus 0.50%, and (b) the Prime Rate. Each change in the interest rate on the Loans based on a change in the Base Rate shall be effective as of the effective date of such change in the Base Rate.

"Base Rate Borrowing" means and refers to any Borrowing designated by Borrower as a Base Rate Borrowing pursuant to Section 2.8 of this Agreement or any Loans deemed to be a Base Rate Borrowing pursuant to Section 2.9 of this Agreement.

"Base Rate Loan" means each portion of a Loan bearing interest at a rate determined by reference to the Base Rate.

"Board of Directors" means the Board of Directors of Borrower or any committee thereof duly authorized to act on behalf of the Board of Directors.

"Borrower" shall have the meaning set forth in the introduction to this Agreement.

"Borrower Common Stock" means and refers to the common stock of Borrower.

"Borrowing" means and refers to a borrowing under this Agreement consisting of Loans made severally by each Bank to Borrower.

"Brooksville Collateral" means and refers to the interests of Borrower in the real property and fixtures relating to Borrower's cement plant located in Brooksville, Florida and Borrower's cement terminal located in Jacksonville, Florida.

"Brooksville Collateral Documents" means and refers to those mortgages, fixture filings, and all other documents, agreements and instruments, including the Brooksville Mortgage, and all amendments and modifications thereto, including the Brooksville Mortgage Modification, that have been or are executed and delivered by Borrower and that grant a lien to Agent, on behalf of Banks, on the Brooksville Collateral.

"Brooksville Mortgage" means and refers to that certain Mortgage and Security Agreement, executed by Borrower, as Mortgagor, in favor of Agent, as Mortgagee, that encumbers the Brooksville Collateral.

"Brooksville Mortgage Modification" means and refers to that certain Modification of Mortgage and Security Agreement, modifying the Brooksville Mortgage.

"Capital Expenditures" means and refers to, when used in connection with any Person for any period, any expenditure by such Person that, in conformity with GAAP, has been or should be included in the additions to property, plant, and equipment or in acquisitions, net of cash acquired, in each case, as reflected in such Person's statement of consolidated cash flows for such period prepared on substantially the same basis as Borrower's statement of consolidated cash flows for its fiscal year ended December 31, 1992.

"Capitalized Lease" means and refers to any lease of property (whether real, personal, or mixed real and personal) by a Person as lessee that should, in conformity with GAAP, be accounted for as a capital lease on the balance sheet of that Person.

"Capitalized Lease Obligations" means and refers to any and all lease obligations that, in accordance with GAAP, have been or are required to be capitalized on the books of a lessee.

"Capital Stock" of any Person means any and all shares, interests, participations, or other equivalents (however designated) of, or rights, warrants, or options to purchase, corporate stock or any other equity interest (however designated) of or in such Person.

"Cash Equivalents" means and refers to: (a) marketable direct obligations issued or unconditionally guaranteed by the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one (1) year from the date of acquisition thereof; (b) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one (1) year from the date of acquisition thereof and, at the time of acquisition, having the highest rating obtainable from either S&P or Moody's; (c) commercial paper maturing no more than one (1) year from the date of acquisition thereof and, at the time of acquisition, having a rating of A-1 or P-1, or better, from S&P or Moody's; (d) certificates of deposit or bankers' acceptances maturing within one (1) year from the date of acquisition thereof either (i) issued by any of the Banks or any bank organized under the laws of the United States of America or any state thereof or the District of Columbia which Bank or other bank has a rating of A or A2, or better, from S&P or Moody's, or (ii) certificates of deposit less than or equal to One Hundred Thousand Dollars ($100,000) in the aggregate issued by any other bank insured by the Federal Deposit Insurance Corporation.

"CERCLA" means and refers to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time (by SARA or otherwise), set forth at 42 U.S.C. Section Section 9601-9657, and all rules and regulations promulgated thereunder as of the date hereof.

"Change of Control" means and refers to the occurrence of one or more of the following events: (a) any sale, lease, exchange, or other transfer (in one transaction or a series of related transactions) of all or substantially all of the properties or assets of Borrower to any Person or related group for purposes of Section 13(d) of the Exchange Act (a "Group"), together with any Affiliates thereof, (b) the shareholders of Borrower shall approve any plan or proposal for the liquidation or dissolution of Borrower, (c) any Person or Group, together with any Affiliates thereof, shall, as a result of a tender or exchange offer, a merger, consolidation or similar transaction, open market purchases, privately negotiated purchases, or otherwise, have become the beneficial owner (within the meaning of Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of Borrower representing at least thirty percent (30%) of the Voting Stock of Borrower, or (d) a majority of the members of the Board of Directors shall not constitute Continuing Directors. For purposes of this definition, "Board of Directors" does not include any committee thereof.

"Closing Date" means and refers to the date of the first Borrowing under this Agreement.

"Code" means and refers to the Internal Revenue Code of 1986, as amended from time to time, or any successor or superseding tax laws of the United States of America, together with all regulations promulgated thereunder.

"Collateral" means and refers to: (a) the interests of Borrower in the capital stock of FCC, FI, Mojave, SCI, SES, SFC, SSI, and VPC encumbered under the Stock Pledge; (b) the interests of Borrower in its accounts, equipment, general intangibles, inventory, and other personal property (including the interest of Borrower in KCC) encumbered under the Security Agreement; (c) the interests of Borrower in its real or personal property encumbered under the Real Property Collateral Documents; and (d) the interests of the Specified Subsidiaries in their respective real and personal property encumbered under the Specified Subsidiaries Security Agreements.

"Commercial Letter of Credit" means and refers to any sight letter of credit issued hereunder for the purpose of supporting Borrower's obligations incurred in the ordinary course of business and which is conditioned upon the presentation of documents (as that term is defined in Section 5103(b) of the UCC).

"Commercial Paper Letters of Credit" means and refers to, depending on the context, any or all of the Letters of Credit issued pursuant to the terms of Sections 2.1(b) or 2.2 of this Agreement for the purpose of supporting commercial paper issued by Borrower.

18

"Commercial Paper Letter of Credit Amount" means and refers to an amount equal to Seventy-Five Million Dollars ($75,000,000).

"Commercial Paper Letter of Credit Usage" means and refers to, as of the date any determination thereof is to be made, the sum of: (a) the Stated Amount of each Commercial Paper Letter of Credit then outstanding; and (b) the aggregate amount of all Unpaid Drawings with respect to Commercial Paper Letters of Credit. For purposes of this definition, any amount described which is denominated in a currency other than Dollars shall be valued in Dollars based on the applicable Exchange Rate for such currency as of the date of determination.

"Commitment Fee" shall have the meaning set forth in Section 2.13 of this Agreement.

"Consolidated Current Assets" means and refers to the total of all assets of Borrower and its Subsidiaries that have been or properly should be classified as current assets in accordance with GAAP and determined on a consolidated basis.

"Consolidated Current Liabilities" means and refers to the total of all of the liabilities of Borrower and its Subsidiaries that have been or properly should be classified as current liabilities in accordance with GAAP and determined on a consolidated basis.

"Consolidated EBITDA" means and refers to, for any period, an amount determined on a consolidated basis in accordance with GAAP, equal to (a) operating earnings, plus or minus, as applicable (b) consolidated non-cash charges to the extent that such charges were included in the calculation of operating earnings.

"Consolidated Net Income" means and refers to, for any period, the net income (or deficit) of Borrower and its Subsidiaries for such period (on a consolidated basis), after deducting portions of income properly attributable to minority interests, if any, in the stock and surplus of such Subsidiaries; provided, however, that there shall be excluded: (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary of Borrower or is merged into or consolidated with Borrower or any of its Subsidiaries or such Person's assets are acquired by Borrower or any of its Subsidiaries; (b) the income (or deficit) of any Person (other than a Subsidiary of Borrower) in which Borrower or any of its Subsidiaries has an ownership interest, except to the extent that any such income has been actually received by Borrower or such Subsidiary in the form of dividends, management fees, or other distributions, loans, or other mechanisms to achieve the economic benefit to Borrower of dividends; and (c) the undistributed earnings of any Subsidiary of Borrower to the extent that the declaration or payment of dividends or other distributions, loans, or other mechanisms to achieve the economic effect to Borrower of

19

dividends by such Subsidiary is not at the time permitted by the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to such Subsidiary.

"Consolidated Tangible Net Worth" means and refers to, on the date of determination thereof, the amount calculated as: (a) the consolidated stockholders' equity of Borrower and its Subsidiaries plus the aggregate amount of Permitted Preferred Stock, minus (b) the aggregate amount of Intangible Assets of Borrower and its Subsidiaries.

"Contingent Obligation" means and refers to, as to any Person and without duplication of amounts, any obligation of such Person guaranteeing or intended to guarantee (whether guaranteed, endorsed, co-made, discounted, or sold with recourse to such Person) any Debt, Noncancellable Lease, dividend, reimbursement obligations relating to letters of credit, or other obligation ("primary obligation") of any other Person ("primary obligor") in any manner, whether directly or indirectly, including any obligation of such Person, irrespective of whether contingent, (a) to purchase any such primary obligation, (b) to advance or supply funds (whether in the form of a loan, advance, stock purchase, capital contribution, or otherwise) (i) for the purchase, repurchase, or payment of any such primary obligation or any asset constituting direct or indirect security therefor, or (ii) to maintain working

capital or equity capital of the primary obligor, or otherwise to maintain the net worth, solvency, or other financial condition of the primary obligor, (c) to purchase or make payment for any asset, securities, services, or Noncancellable Lease if primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (d) to otherwise assure or hold harmless the owner of such primary obligation against loss in respect thereof; provided, however, that the term Contingent Obligation shall not include (y) trade payables or accrued liabilities of the Person making the Contingent Obligation, or (z) non-pension post retirement benefits. The amount of any Contingent Obligation of any Person shall be deemed to be an amount equal to the net present value of the maximum amount of such Person's liability with respect to the stated or determinable amount of the primary obligation for which such Contingent Obligation is incurred or, if not stated or determinable, the net present value of the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined, reasonably and in good faith, by Borrower.

"Continuing Director" means and refers to (a) any member of the Board of Directors who was a director of Borrower on the Closing Date, and (b) any person who becomes a member of the Board of Directors after the Closing Date if such person was appointed or nominated for election to the Board of Directors by a majority of the Continuing Directors, but excluding any such person originally proposed for election in opposition to the Board of Directors in office at the Closing Date in an actual or threatened election contest relating to the election of the directors of Borrower (as such

terms are used in Rule 14a-11 under the Exchange Act) and whose initial assumption of office resulted form such contest or the settlement thereof.

"Contractual Obligation" means and refers to, as applied to any Person, any provision of any security issued by that Person or of any material indenture, mortgage, deed of trust, contract, undertaking, agreement, or other instrument to which that Person is a party or by which it or any of its owned properties or assets is bound or to which it or any of its owned properties or assets is subject; provided, however, that this term shall not include permits, licenses, and other authorizations from governmental or regulatory authorities issued under any Environmental Protection Statute.

"Controlled Group" means and refers to all domestic and foreign members of a controlled group of corporations under Section 1563(a) of the Code (determined without regard to Section 1563(b)(2)(c) of the Code) and all trades or businesses (irrespective of whether incorporated) under common control of Borrower or its Subsidiaries.

"Convertible Exchangeable Preferred Stock" means and refers to Borrower's Preferred Stock, $3.75 Convertible Exchangeable Series B.

"Damages" means and refers to those damages set forth in 42 U.S.C. Section 9601, 42 U.S.C. Section 9607(a), and 42 U.S.C. Section 9611(b).

"Debt" means and refers to, with respect to any Person, the aggregate amount of, without duplication: (a) all obligations for borrowed money; (b) all obligations evidenced by bonds, debentures, notes, or other similar instruments; (c) all Capitalized Lease Obligations; (d) all obligations or liabilities of others secured by a Lien on any property or asset of such Person, irrespective of whether such obligation or liability is assumed; and (e) any obligation owed for all or any part of the deferred purchase price of property, assets, or services that is due more than twelve (12) months from the date of the incurrence of the obligation in respect thereto.

"Debt Service Ratio" means and refers to, for the period to be determined, the ratio of (a) Consolidated EBITDA, to (b) the sum of cash Interest Expense, current provision for income taxes, and the current portion of Funded Debt as of the last day of such period (exclusive of Debt under this Agreement, the Subordinated Debt, and the Debt evidenced by the Martin Marietta Promissory Note).

"Defaulting Bank" shall have the meaning ascribed thereto in Section 2.10(c).

"Disclosure Statement" means and refers to that statement, executed and delivered by a Responsible Officer of Borrower pursuant to Section 3.1(b) hereof, as

21
amended from time to time to the extent permitted hereby, which statement sets forth information regarding, or exceptions to, the representations, warranties, and covenants made by Borrower herein.

"Dollars and $" means and refers to United States of America dollars or such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts in the United States of America.

"Domestic Business Day" means and refers to a day (other than a Saturday or Sunday) on which major commercial banks are open for business in San Francisco, California, Houston, Texas, and New York, New York.

"Environment" or "Environmental" shall have the meanings set forth in 42 U.S.C. Section 9601(8).

"Environmental Protection Statute" means and refers to any local, state, or federal law, statute, regulation, or ordinance enacted in connection with or relating to the protection or regulation of the Environment, including those laws, statutes, and regulations regulating the disposal, removal, production, storing, refining, handling, transferring, processing, discharge, emission, release, investigation, remediation, cleanup, use, treatment, or transporting of Hazardous Waste or Hazardous Substances, regulating the discharge or emission of pollutants or contaminants into water or air, regulating industrial health and safety, and protecting human health, and any regulations, issued or promulgated in connection with such statutes by any governmental agency or instrumentality.

"Environmental Subsidiaries" means and refers, collectively, to SES, Southdown Environmental Treatment Systems, Inc., a Delaware corporation, Rho-Chem Corporation, a California corporation, Allworth, Inc., an Alabama corporation, Allworth of Tennessee, Inc., a Tennessee corporation, Century Resources, Inc., an Illinois corporation, Southdown TDI, Inc., a Delaware corporation, Sessa, SA de CV Incorporated, a Mexico corporation, and any other direct or indirect Subsidiary of Borrower the principal business of which is certified by Borrower to Agent to be hazardous or other waste treatment or processing or the holding of stock or interests in an Environmental Subsidiary.

"EPA" means and refers to the United States Environmental Protection Agency, or any successor thereto.

"ERISA" means and refers to the Employee Retirement Income Security Act of 1974, as the same may from time to time be amended or supplemented, including any rules or regulations issued in connection therewith.

22
"ERISA Affiliate" means and refers to, as to any Person, any trade or business (irrespective of whether incorporated) that is a member of a group of which such Person is a member (determined immediately following the Closing Date and thereafter) and that is under common control within the meaning of the regulations promulgated under Section 414 of the Code (except that such rules and regulations also shall be deemed to apply to foreign corporations).

"Event of Default" shall have the meaning set forth in Section 7.1 of this Agreement.

"Exchange Act" means and refers to the Securities Exchange Act of 1934, as amended from time to time, and any successor statute, and the rules and regulations thereunder.

"Exchange Subordinated Debt" means and refers to the Borrower's 7 1/2% Convertible Subordinated Debentures, due 2013 that are issuable, at the option of Borrower, in exchange for the Convertible Exchangeable Preferred Stock.

"Exchange Rate" means and refers to the nominal rate of exchange of Issuing Bank in a chosen foreign exchange market for the purchase by Issuing Bank, by cable or transfer of any currency other than Dollars at 12:00 noon, local time, one Domestic Business Day prior to any date of determination, expressed as the number units of such currency per one (1) Dollar.

"Excluded Properties" means and refers to any one or more of the properties described on Schedule E-1 attached hereto.

"Existing Subordinated Debt" means and refers to (a) the Debt of Borrower evidenced by the Senior Subordinated Notes, and (b) the Debt of

Borrower evidenced by the Senior Subordinated Notes (1991).

"Extended Due Date" has the meaning ascribed thereto in Section 2.10(c).

"Facility A" means and refers to the revolving loan and letter of credit facility set forth in Article 2 of this Agreement.

"Facility A Commitment" means and refers to, on the date of determination thereof, and subject to the effect of the provisions of Section 2.12 hereof, the total amount of Banks' commitments to extend credit to Borrower under Facility A, which commitment for any Bank shall be the amount set forth opposite the name of such Bank under the appropriate heading on Schedule F-1 attached hereto, and the total amount

of which shall be the total of such amounts set forth on such schedule. As of the Closing Date, the Facility A Commitment is $200,000,000 (inclusive of the Facility A Florida LC Subfacility Commitment and the Facility A Florida Subfacility Commitment).

"Facility A Florida LC Subfacility" means and refers to the revolving loan and letter of credit facility that is a subfacility of Facility A and is set forth in Section 2.1(d) of this Agreement.

"Facility A Florida LC Subfacility Commitment" means and refers to, on the date of determination thereof, the total amount of Banks' commitments under the Facility A Florida LC Subfacility to extend credit to Borrower as set forth in Section 2.1(d) hereof, which commitment for any Bank shall be the amount set forth opposite the name of such Bank under the appropriate heading on Schedule F-1 attached hereto, and the total amount of which shall be the total of such amounts set forth on such schedule. As of the Closing Date, the Facility A Florida LC Subfacility Commitment is $35,000,000.

"Facility A Florida LC Subfacility Letter of Credit Usage" means and refers to, as of any date of determination, the Stated Amount of each Facility A Florida LC Subfacility Letter of Credit then outstanding. For purposes of this definition, any amount that is denominated in a currency other than Dollars shall be valued in Dollars based on the applicable Exchange Rate for such currency as of the date of determination.

"Facility A Florida LC Subfacility Letters of Credit" means and refers to the Letters of Credit issued under the Facility A Florida LC Subfacility pursuant to the terms of Sections 2.1(b), 2.1(d), and 2.2 of this Agreement.

"Facility A Florida LC Subfacility Notes" means and refers to any one or more of the promissory notes, dated as of the Closing Date, substantially in the form of Exhibit F-1 hereto, issued by Borrower to the order of a Bank in a face amount equal to 35/200ths of such Bank's pro rata share of the Facility A Commitment in effect on the Closing Date.

"Facility A Florida LC Subfacility Revolving Loans" means and refers to the Loans made to Borrower under the Facility A Florida LC Subfacility.

"Facility A Florida LC Subfacility Revolving Loan Usage" means and refers to the outstanding amount of the Facility A Florida LC Subfacility Revolving Loans.

"Facility A Florida LC Subfacility Usage" means and refers to the sum of (a) the Facility A Florida LC Subfacility Revolving Loan Usage plus (b) the Facility A Florida LC Subfacility Letter of Credit Usage.

"Facility A Florida Subfacility" means and refers to the revolving loan and letter of credit facility that is a subfacility of Facility A and is set forth in Section 2.1(e) of this Agreement.

"Facility A Florida Subfacility Commitment" means and refers to, on the date of determination thereof, the total amount of Banks' commitments under the Facility A Florida Subfacility to extend credit to Borrower by means of Facility A Florida Subfacility Revolving Loans or Facility A Florida Subfacility Letters of Credit, which commitment for any Bank shall be the amount set forth opposite the name of such Bank under the appropriate heading

on Schedule F-1 attached hereto, and the total amount of which shall be the total of such amounts set forth on such schedule. As of the Closing Date, the Facility A Florida Subfacility Commitment is $25,000,000.

"Facility A Florida Subfacility Letter of Credit Usage" means and refers to, as of any date of determination, the Stated Amount of each Facility A Florida Subfacility Letter of Credit then outstanding. For purposes of this definition, any amount that is denominated in a currency other than Dollars shall be valued in Dollars based on the applicable Exchange Rate for such currency as of the date of determination.

"Facility A Florida Subfacility Letters of Credit" means and refers to the Letters of Credit issued under the Facility A Florida Subfacility pursuant to the terms of Sections 2.1(b), 2.1(e), and 2.2 of this Agreement.

"Facility A Florida Subfacility Notes" means and refers to any one or more of the promissory notes, dated as of the Closing Date, substantially in the form of Exhibit F-2 attached hereto, issued by Borrower to the order of a Bank in a face amount equal to 25/200ths of such Bank's pro rata share of the Facility A Commitment.

"Facility A Florida Subfacility Revolving Loans" means and refers to the Loans made to Borrower under the Facility A Florida Subfacility.

"Facility A Florida Subfacility Revolving Loan Usage" means and refers to the outstanding amount of the Facility A Florida Subfacility Revolving Loans.

"Facility A Florida Subfacility Usage" means and refers to the sum of (a) the Facility A Florida Subfacility Revolving Loan Usage plus (b) the Facility A Florida Subfacility Letter of Credit Usage.

"Facility A Notes" means and refers to any one or more of the promissory notes, dated as of the Closing Date, substantially in the form of Exhibit F-3 attached hereto, issued by Borrower to the order of a Bank in a face amount equal to

140/200ths of such Bank's pro rata share of the Facility A Commitment in effect on the Closing Date.

"Facility A Revolving Loans" means and refers to the Loans made to Borrower under Facility A.

"Facility A Usage" shall mean, on the date any determination thereof is to be made, the sum of, without duplication: (a) the outstanding amount of the Facility A Revolving Loans; plus (b) the Letter of Credit Usage; plus (c) the MARAD Reserve; plus (d) any amounts reserved under Section 6.1(d).

"Failed Conversion" means and refers to an attempted redemption or acquisition (except acquisitions from time to time if the aggregate amount paid in connection with all such excepted acquisitions does not exceed $50,000) of the Convertible Exchangeable Preferred Stock by Borrower where, in response to such attempt, the holders of five percent (5%) or more of the outstanding shares of such Convertible Exchangeable Preferred Stock that Borrower offered to redeem or acquire do not elect to convert such stock into Borrower Common Stock.

"FCC" means and refers to Frontier Cement Company, a Delaware corporation.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upwards, if necessary, to the nearest 1/100th of 1%) equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day as published by the Federal Reserve Bank of New York on the Domestic Business Day immediately following such day; provided, however, that (a) if the day for which such rate is to be determined is not a Domestic Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the immediately preceding Domestic Business Day as published on the immediately following Domestic Business Day, and (b) if such rate is not published for any Domestic Business Day, then the Federal Funds Rate shall be the average of the quotations for such day on such transactions received by Agent from three (3) federal funds brokers of recognized standing selected by Agent.

"Federal Reserve Board" means and refers to the Board of Governors of the Federal Reserve System or any successor thereto.

"FI" means and refers to Foothill Industries, a California corporation.

"Florida Collateral" means and refers to the interests of Borrower in real property and fixtures located in the State of Florida, other than Brooksville Collateral.

"Foreign Bank" means and refers to any Bank other than a Bank organized and existing under the laws of the United States of America or any political subdivision thereof or therein.

"Free Cash Flow Ratio" means and refers to, for the period to be determined, the ratio of (a)(i) Consolidated EBITDA minus Capital Expenditures, plus (ii) one third (1/3) of the Balance of Net Issuance Proceeds as of the last day of such period, to (b) the sum of cash Interest Expense, current provision for income taxes, dividends, and the current portion of Funded Debt as of the last day of such period (exclusive of Debt under this Agreement, the Subordinated Debt, and the Debt evidenced by the Martin Marietta Promissory Note); provided, however, that for fiscal year 1993 only, Borrower shall be entitled to add to the numerator of the ratio up to $10,000,000 of cash or Cash Equivalents that are owned by Borrower as of the relevant date of determination.

"Fund," "Trust Fund," or "Super Fund" means and refers to the Hazardous Substance Response Trust Fund, established pursuant to 42 U.S.C. Section 9631 and the Post-closure Liability Trust Fund, established pursuant to 42 U.S.C. Section 9641. The above provisions have been amended or repealed by SARA and the "Fund," "Trust Fund," or "Super Fund" are now maintained pursuant to Section 9507 of the Code.

"Funded Debt" means and refers to all consolidated Debt of Borrower or its Subsidiaries that matures one (1) year or more from the date of determination, or that is renewable or extendable, at the sole option of Borrower or its Subsidiaries, as applicable, by its terms or by the terms of any instrument or agreement relating thereto to a date that is one (1) year or more from the date of determination thereof, or that, under a revolving credit or similar agreement, obligates the lender to extend credit over a period of one (1) year or more from the date of determination.

"GAAP" means and refers to generally accepted accounting principles recognized as such by the American Institute of Certified Public Accountants in the opinions and pronouncements of the Accounting Principles Board and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, that are applicable to the circumstances as of the date of determination.

"Governmental Authority" means and refers to any federal, state, local, or other governmental department, commission, board, bureau, agency, central bank, court, tribunal, or other instrumentality, domestic or foreign.

"Hazardous Substances" shall have the meaning set forth in 42 U.S.C. Section 9601(14); provided, however, that the exclusions set forth therein shall not apply.

"Hazardous Waste" shall have the meaning set forth in 42 U.S.C. Section 6903(5), and 40 C.F.R. Section 261.3.

"Hedge Agreements" means and refers to any interest rate swap agreement, interest rate cap agreement, or other similar agreement or arrangement entered into by Borrower.

"Highest Lawful Rate" means and refers to, with respect to any Bank, the maximum non-usurious interest rate, as in effect from time to time, that may be charged, contracted for, reserved, received, or collected by such Bank in connection with this Agreement or the Notes, or any of the Loan Documents.

"Indemnified Liabilities" shall have the meaning set forth in Section 10.2 of this Agreement.

"Indemnitees" shall have the meaning set forth in Section 10.2 of this Agreement.

"Intangible Assets" means and refers to, with respect to any Person, that portion of the book value of all of such Person's assets that would be treated as intangibles under GAAP.

"Interest Expense" means and refers to, with respect to any period of determination, the total consolidated interest expense, determined in accordance with GAAP, of Borrower and its Subsidiaries.

"Interest Payment Date" means and refers to, with respect to any LIBOR Rate Loan, the last day of each Interest Period applicable to such Loan; provided, however, that in the case of any Interest Period in excess of three (3) months, "Interest Payment Date" also shall include the end of each three-month period following the commencement of that Interest Period.

"Interest Period" means, with respect to each LIBOR Rate Borrowing, the period commencing on the date of such LIBOR Rate Borrowing and, subject to the availability of funds, ending one (1), two (2), three (3), or six (6) months thereafter, as Borrower may elect pursuant to the applicable Notice of Borrowing or Notice of Conversion/Continuation; provided, however, that:

(a) any Interest Period that would otherwise end on a day that is not a LIBOR Business Day shall be extended to the next succeeding LIBOR Business Day unless such LIBOR Business Day falls in another

calendar month, in which case such Interest Period shall end on the next preceding LIBOR Business Day;

(b) any Interest Period that begins on the last LIBOR Business Day of the calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clause (c), end on the last LIBOR Business Day of the calendar month in which it would have ended if there were a numerically corresponding day in such calendar month; and

(c) if any Interest Period includes a date on which a payment of principal of any Loan is required to be made under this Agreement, but does not begin or end on such date, then (x) the principal amount of such LIBOR Rate Borrowing required to be repaid on such date shall have an Interest Period ending on such date; and (y) the remainder (if any) of such LIBOR Rate Borrowing shall have an Interest Period determined as set forth in the lead-in to this definition;provided, however, that the foregoing shall not be deemed to relieve Borrower from any of its obligations under Section 2.15.

"Investment" means and refers to, as applied to any Person, any direct or indirect purchase or other acquisition by that Person of, or beneficial interest in, stock or other securities of any other Person, or any direct or indirect loan, advance, or capital contribution by that Person to any other Person, including all Debt and accounts receivable from that other Person that are not current assets and did not arise from sales, leases, or rendition of services to that other Person in the ordinary and usual course of business. The amount of any Investment shall be the original cost of such Investment plus the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect to such Investment. In addition, for purposes of Sections 6.3 and 6.22, the amount of any loan or advance made in the ordinary course of business by a Person to an Environmental Subsidiary for working capital purposes shall not be deemed to be an "Investment."

"Issuing Bank" shall mean Wells Fargo or any other Bank that, on behalf of all Banks, issues a Letter of Credit requested by Borrower hereunder.

"KCC" means and refers to Kosmos Cement Company, a Kentucky partnership.

"Keepwell Agreement" means and refers to, collectively, that certain Keepwell Agreement dated December 29, 1983, between MMRI and the Interlake Steamship Company, a Delaware corporation, and that certain letter agreement, dated

March 23, 1987, from MMRI addressed to the Secretary of Transportation, in care

of MARAD.

"Lending Office" shall have the meaning ascribed thereto in Section 2.18 hereof.

"Letters of Credit" means and refers to, depending on the context, any or all of the Commercial Paper Letters of Credit, Commercial Letters of Credit, or Standby Letters of Credit issued pursuant to the terms of Sections 2.1(b), 2.1(d), 2.1(e), or 2.2 of this Agreement or those letters of credit described on Schedule L-1 attached hereto.

"Letter of Credit Amount" means and refers to an amount equal to Ninety-Five Million Dollars ($95,000,000).

"Letter of Credit Usage" means and refers to, as of any date of determination, (a) the aggregate Stated Amount of the Letters of Credit then outstanding, plus (b) the aggregate amount of all Unpaid Drawings. For purposes of this definition, any amount that is denominated in a currency other than Dollars shall be valued in Dollars based on the applicable Exchange Rate for such currency as of the date of determination.

"Leverage Ratio" means and refers to, for the period to be determined, the ratio of (a) the aggregate amount of Funded Debt as of the last day of such period, to (b) Consolidated EBITDA minus Capital Expenditures.

"LIBOR Business Day" means a Business Day on which dealings in Dollar deposits are carried on in the London interbank market.

"LIBOR Rate" means for each Interest Period for each LIBOR Rate Loan owed to a Bank the rate per annum (rounded upward, if necessary, to the nearest whole 1/16 of 1%) determined by Agent pursuant to the following formula:

$$\text{LIBOR Rate} = \frac{\text{Base LIBOR Rate}}{100\% - \text{Reserve Percentage of such Bank}}$$

"LIBOR Rate Borrowing" means and refers to any Borrowing designated by Borrower as a LIBOR Rate Borrowing pursuant to Sections 2.8 or 2.9 of this Agreement.

"LIBOR Rate Loan" means each portion of a Loan bearing interest at a rate determined by reference to the LIBOR Rate.

"Lien" means and refers to any lien, mortgage, pledge, security interest, charge, or encumbrance of any kind (including any conditional sale or other title retention agreement or any lease in the nature thereof) and any agreement to give or refrain from giving any lien, mortgage, pledge, security interest, charge, or other encumbrance of any kind.

"Loan" and "Loans" means and refers to the loans, including drawings under Letters of Credit, to be made severally (not jointly and not jointly and severally) by Banks to Borrower pursuant to Article 2 of this Agreement.

"Loan Documents" shall mean the Real Property Collateral Documents, the Agent's Fee Letter, the Personal Property Collateral Documents, the Termination of Subrogation and Contribution Agreement, and all other written documents, agreements, or instruments, including financing statements and fixture filings, other than this Agreement and the Notes, that have been or are entered into by Borrower, the Specified Subsidiaries, Agent, or Banks, as the case may be, in connection with the transactions contemplated by this Agreement.

"Majority Banks" means and refers to, as of the date of determination thereof, Banks having at least a majority of the aggregate unpaid principal amount then outstanding of the Loans, or if no Loans are outstanding at the date of determination, Banks having at least a majority of the Facility A Commitment.

"MARAD" means and refers to the United States Department of Transportation acting by and through the Maritime Administration.

"MARAD Reserve" means and refers to an amount equal to the lesser of Twenty Million Dollars ($20,000,000) or the then outstanding obligation of Borrower (as successor to MMRI) under the Keepwell Agreement, that, so long as the Keepwell Agreement remains in effect, shall be reserved under the Facility A Commitment and shall not be available for borrowing or for any other purpose other than payment of obligations under the Keepwell Agreement.

"Martin Marietta" means and refers to Martin Marietta Corporation, a Maryland corporation.

"Martin Marietta Letter of Credit" means and refers to that certain Letter of Credit, in the original face amount of Eighteen Million Eight Hundred Thousand ($18,800,000), issued by Societe Generale, Southwest Agency as the Issuing Bank in favor of Martin Marietta Investments Inc., in support of (a) the Martin Marietta Promissory Note, and (b) that certain Letter Agreement, dated April 3, 1984, entered into between SCE and Martin Marietta, each of which was executed and delivered pursuant to the terms

of that certain Agreement for Sale of Properties, dated as of March 21, 1984, between SCE and Martin Marietta.

"Martin Marietta Promissory Note" means and refers to that certain Promissory Note, dated April 3, 1984, in the original principal amount of Forty Five Million Dollars ($45,000,000), executed by SCE and payable to the order of Martin Marietta.

"Material Adverse Change" means and refers to a material adverse change in the business, properties, assets, operations, business prospects, or condition (financial or otherwise) of Borrower and its Subsidiaries, taken as a whole, as compared with the business, properties, assets, operations, business prospects, or condition (financial or otherwise) of Borrower and its Subsidiaries, taken as a whole, as of December 31, 1992.

"Material Adverse Effect" means and refers to a material adverse effect on the business, properties, assets, operations, business prospects, or condition (financial or otherwise) of Borrower and its Subsidiaries, taken as a whole.

"Maturity Date" means and refers to November 30, 1996.

"MMRI" means and refers to Moore McCormack Resources, Inc., a former Delaware corporation that was merged with and into Borrower, with Borrower being the surviving entity in such merger.

"Mojave" means and refers to Mojave Northern Railroad Company, a California corporation.

"Moody's" means and refers to Moody's Investors Service, Inc.

"Multiemployer Plan" means and refers to a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA or a "multiemployer pension plan" as defined in Section 3(37) of ERISA or Section 414 of the Code, or any similar type of plan established and regulated under the laws of any foreign country, that is maintained for employees of such Person or any ERISA Affiliate of such Person.

"1988 Credit Agreement" shall have the meaning ascribed thereto in the recitals to this Agreement.

"1991 Credit Agreement" shall have the meaning ascribed thereto in the recitals to this Agreement.

"Net Issuance Proceeds" means and refers to, in respect of any issuance of equity securities, cash proceeds received by Borrower in connection therewith, net of reasonable out-of-pocket costs and expenses paid or incurred in connection therewith, such costs and expenses to be consistent with standard practices for similar issuances.

"Noncancellable Lease" means and refers to any lease of a Person that is not cancellable without penalty at any time pursuant to the terms thereof or any lease of a Person the cancellation of which, pursuant to the terms thereof, would not be economical.

"Notes" means and refers to the Facility A Notes, the Facility A Florida Subfacility Notes, and the Facility A Florida LC Subfacility Notes.

"Notice of Borrowing" means and refers to an irrevocable notice from Borrower to Agent of Borrower's intention to borrow all or any portion of the

Loans (or request the issuance of all or any portion of the Letters of Credit) that Borrower is entitled to borrow hereunder, substantially in the form of Exhibit N-1 attached hereto, executed by a Responsible Officer of Borrower and delivered to Agent pursuant to Section 2.8 hereof.

"Notice of Conversion/Continuation" means and refers to an irrevocable notice from Borrower to Agent of Borrower's request to convert all or any portion of such of the Loans bearing interest at one rate to that of another rate or continue Loans at a particular rate of interest, substantially in the form of Exhibit N-2 hereto, executed by a Responsible Officer of Borrower and delivered to Agent pursuant to Section 2.9 hereof.

"Officer's Compliance Certificate" means and refers to that certificate of a Responsible Officer of Borrower described in Section 3.1(k) of this Agreement.

"Operating Lease" means and refers to, as applied to any Person, any Noncancellable Lease of any property or asset (whether real, personal, or mixed), that is not a Capitalized Lease, other than any such lease under which that Person is the lessor.

"Overdue Rate" shall have the meaning set forth in Section 2.6 hereof.

"PBGC" means and refers to the Pension Benefit Guaranty Corporation as defined in Title IV of ERISA, or any successor thereto.

"Pension Plan" or "Plan" means and refers to any pension, retirement, disability, health, welfare, life insurance or other employee benefit plan, defined benefit, defined contribution, profit sharing, deferred compensation, stock option, employee stock ownership, employee stock purchase, restricted stock, bonus or other incentive plan, vacation benefit, fringe benefit, severance, thrift or other employee benefit plan or

arrangement, including any Pension Plan (other than any Multiemployer Plan) or any plan similar to any of those plans described above that is established or maintained under the law of any foreign country, irrespective of whether any of the foregoing is funded, that was, is, or will be sponsored or maintained by Borrower or its ERISA Affiliates (excluding any plans in which personnel of Borrower or its ERISA Affiliates are not participating) in which any personnel of Borrower or its ERISA Affiliates participate or from which any such personnel may derive a benefit.

"Pension Protection Act" means and refers to the Pension Protection Act, Pub. L. No. 101-508, Title IX, Subtitle D, Part II, 101 Stat. 1330 et seq. (1987), as amended by Pub. L. No. 101-239, Title VII, 103 Stat. 2438 et seq. (1989), and any successor statute.

"Permitted Junior Payments" means and refers to, so long as at each time thereof, no Event of Default or Unmatured Event of Default has occurred and is continuing and no such Event of Default or Unmatured Event of Default would result therefrom, (a) the redemption, payment, or acquisition, in one or more transactions, of up to Forty-Five Million Dollars ($45,000,000) principal amount of the Senior Subordinated Notes, (b) from and after the date of the consummation of a Qualifying Offering, and so long as, prior thereto, there has not been a Failed Conversion, the redemption, payment, or acquisition, in one or more transactions, in an aggregate amount (excluding any consideration paid in the form of Borrower Common Stock) up to the Net Issuance Proceeds of such Qualifying Offering, of the Senior Subordinated Notes or the Convertible Exchangeable Preferred Stock, (c) from and after the date of the consummation of a Qualifying Offering and if, prior thereto, there has been a Failed Conversion, the redemption, payment, or acquisition, in one or more transactions, in an aggregate amount (excluding any consideration paid in the form of Borrower Common Stock) up to the Balance of the Net Issuance Proceeds, of the Senior Subordinated Notes or the Convertible Exchangeable Preferred Stock, (d) the redemption or acquisition, in one or more transactions, in an aggregate amount (excluding any consideration paid in the form of Borrower Common Stock) up to the obligation of the underwriter under an Underwritten Call, of the Convertible Exchangeable Preferred Stock, (e) the incurrence of the Exchange Subordinated Debt pursuant to Section 6.1(c), (f) the conversion of any Permitted Preferred Stock into, or the redemption or acquisition of any Permitted Preferred Stock for, Borrower Common Stock and payments of immaterial amounts in lieu of fractional shares in connection with any such conversion or redemption, and (g) the redemption, repurchase, or retirement for value of Borrower Common Stock so long as the aggregate amount of all such redemptions, repurchases, and retirements for value do not exceed $50,000.

34

"Permitted Liens" shall mean and refer to:

(i) Liens for Taxes, assessments, or governmental charges or claims the payment of which is not, at such time, required by Section 5.4 of this Agreement;

(ii) statutory Liens of landlords, carriers, warehousemen, mechanics, materialmen, and other Liens imposed by law and incurred in the ordinary course of business for sums not yet delinquent or being contested in good faith, if reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made therefor;

(iii) Liens (other than any Lien imposed by ERISA) incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance, and other types of social security, or to secure the performance of statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return-of-money bonds, and other similar obligations (exclusive of obligations for the payment of borrowed money);

(iv) any attachment or judgment Lien in existence less than thirty (30) days after the date of entry thereof or with respect to which execution has been stayed;

(v) leases or subleases granted to others not interfering with the ordinary and usual course of business of Borrower or any of its Subsidiaries;

(vi) easements, rights-of-way, mineral reservations, restrictions, and other similar defects or irregularities of title not interfering in any material respect with the ordinary and usual course of business of Borrower or any of its Subsidiaries;

(vii) Liens granted by Borrower in favor of Agent, on behalf of Banks, pursuant to the Personal Property Collateral Documents and the Real Property Collateral Documents;

(viii) Liens granted by Specified Subsidiaries in favor of Agent, on behalf of Banks, pursuant to the Personal Property Collateral Documents and the Real Property Collateral Documents;

(ix) banker's liens in the nature of rights of setoff arising in the ordinary and usual course of business of Borrower or any of its Subsidiaries and the

35

Lien granted in favor of The Bank of Nova Scotia in the deposit account of Borrower maintained at The Bank of Nova Scotia, such Lien being granted solely to secure Borrower's reimbursement obligations respecting the letters of credit issued by The Bank of Nova Scotia that are outstanding on the Closing Date;

(x) the Liens reflected in the Disclosure Statement securing Debt extant on the Closing Date;

(xi) purchase money Liens granted by Borrower or any of its Subsidiaries in property or assets acquired in the ordinary course of business to secure the payment of the purchase price of such property or assets;

(xii) Liens, in the nature of agreements to refrain from giving any lien, mortgage, pledge, security interest, charge, or other encumbrance, with respect to property or assets of Borrower and its Subsidiaries the value of which is immaterial in relation to the value of all of the properties and assets of Borrower and its Subsidiaries;

(xiii) Liens securing Acquired Indebtedness permitted to be incurred under Section 6.1(k) if such Liens secured such Acquired Indebtedness at the time such Acquired Indebtedness becomes an obligation of Borrower or any of its Subsidiaries and such Liens were not incurred in connection with, or in anticipation of, such Acquired Indebtedness becoming an obligation of Borrower or one of its Subsidiaries;

provided, however, that such Liens shall not extend to or cover any property or assets of Borrower or any of its Subsidiaries other than the property or assets that secured the Acquired Indebtedness and are not more favorable in any material respect to the holders of the Lien than those securing the Acquired Indebtedness prior to such Acquired Indebtedness becoming an obligation of Borrower or one of its Subsidiaries;

(xiv) Liens securing the Indebtedness of Borrower and its Subsidiaries incurred pursuant to Section 6.1(k) of this Agreement so long as such Liens do not attach or extend to the Collateral; and

(xv) Liens not specified in clauses (i) through (xiv) of this definition and granted by Borrower or any of its Subsidiaries in the ordinary and usual course of business of, and consistent with past practices of, Borrower or any of its Subsidiaries (other than Liens securing Debt permitted under clauses

(b), (c), (d), (e), (j), (k), (l), and (m) of Section 6.1) and Liens in the nature of deposits with a trustee or other depository in connection with a redemption, payment, acquisition, or conversion that constitutes a Permitted Junior Payment.

"Permitted Preferred Stock" means and refers to (a) Borrower's Preferred Stock, $.70 Cumulative Convertible Series A, (b) the Convertible Exchangeable Preferred Stock, (c) the Series C Preferred Stock, and (d) Preferred Stock issued by Borrower (and not by one or more of its Subsidiaries) that is not Prohibited Preferred Stock.

"Person" means and refers to natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, vehicle trusts, business trusts, or other organizations, irrespective of whether they are legal entities, and governments and agencies and political subdivisions thereof.

"Personal Property Collateral Documents" means and refers to the Stock Pledge, the Security Agreement, the Specified Subsidiaries Guaranties, the Specified Subsidiaries Security Agreements, a security agreement in which Borrower grants to Agent, on behalf of Banks, a security interest in its interest in KCC, and any and all other documents, agreements, or instruments to be executed or delivered in connection herewith or therewith.

"Preferred Stock" means and refers to any class or series of equity securities of Borrower or its Subsidiaries that is entitled, upon any distribution of property or assets of Borrower or its Subsidiaries, as the case may be, whether by dividend or by liquidation, to a preference over another class or series of equity securities of Borrower or its Subsidiaries, as applicable.

"Prime Rate" means the rate of interest announced within Wells Fargo at its principal office in San Francisco as its "prime rate", with the understanding that the "prime rate" is one of Wells Fargo's base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publication or publications as Wells Fargo may designate.

"Prohibited Preferred Stock" means and refers to any Preferred Stock that by its terms (a) is mandatorily redeemable on or before November 30, 2000 or, on or before November 30, 2000, is redeemable at the option of the holder thereof for cash (or property or assets or securities other than distributions in kind of preferred stock of the same class and series or of Borrower Common Stock) of Borrower or any of its

Subsidiaries; provided, however, that Preferred Stock that is not otherwise Prohibited Preferred Stock shall not be deemed to be Prohibited Preferred Stock by reason of this clause (a) by virtue of the inclusion of a mandatory purchase or redemption obligation that is triggered solely by a change of control so long as the governing definition of change of control is not more restrictive than the definition of `Change of Control' contained in this Agreement, or (b)

is convertible or exchangeable on or before November 30, 2000, mandatorily or at the option of the holder thereof, into Debt of Borrower or any of its Subsidiaries.

"Qualifying Offering" means and refers to one or more offerings by Borrower, on or after November 15, 1993, of equity securities pursuant to which Borrower receives an aggregate amount of not less than $45,000,000 of Net Issuance Proceeds.

"Quarterly Payment Date" means and refers to the last day of each December, March, June, and September so long as any portion of the Loans are outstanding.

"RCRA" means and refers to the Resource Conservation and Recovery Act of 1976, as amended, set forth at 42 U.S.C. Section Section 6901-6991i, including any rules or regulations issued in connection therewith.

"Real Property Collateral Documents" means and refers to those mortgages, deeds of trust, fixture filings, or amendments or modifications thereto, executed and delivered by Borrower in favor of Agent for benefit of the Banks in order to encumber its fee estates in real property and interests in fixtures, including the Brooksville Collateral Documents.

"Regulatory Change" shall have the meaning ascribed thereto in Section 2.15 hereof.

"Remedial Action" means and refers to all response actions set forth in 42 U.S.C. Section 9601(23), (24), and (25), whether or not these activities are conducted under CERCLA.

"Reportable Event" means and refers to any event described in Section Section 4043 (excluding subsections(b)(7) and (9)) of ERISA.

"Required Banks" means and refers to, as of the date of determination thereof, Banks having at least sixty-six and two-thirds percent (66-2/3%) of the aggregate unpaid principal amount then outstanding of the Loans, or, if no Loans are outstanding at the date of determination thereof, Banks having at least sixty-six and two-thirds percent (66-2/3%) of the Facility A Commitment.

"Reserve Percentage" means and refers to, as of the date of determination thereof, for any Bank, the maximum percentage (rounded upward, if necessary to the nearest one-hundredth (1/100th) of one percent (1%)), as determined by such Bank in accordance with its usual procedures (which determination shall be conclusive in the absence of manifest error), that is in effect on such date as prescribed by the Federal Reserve Board for determining the reserve requirements (including supplemental, marginal, and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as "eurocurrency liabilities") of that Bank, but so long as such Bank shall not be required or directed, under applicable regulations of the Federal Reserve Board, to maintain such reserves, the Reserve Percentage shall be zero.

"Responsible Officer" means and refers to the President, Chief Executive Officer, Chief Financial Officer, Treasurer, Controller, or Chief Operating Officer of Borrower, or such other officer of Borrower designated by a Responsible Officer in a writing delivered to Agent.

"S&P" means and refers to Standard & Poor's Corporation.

"SARA" means and refers to the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time, set forth in Public Law 99-499 et seq., and all rules and regulations promulgated thereunder.

"SCE" means and refers to Southwestern Cement Enterprises, Inc., a former Delaware corporation, that was merged with and into Borrower, with Borrower being the surviving entity in such merger.

"SCI" means and refers to Southwestern Cement International Finance, N.V., a company organized under the laws of the Netherlands Antilles.

"SEC" means and refers to the United States Securities and Exchange Commission, and any successor thereto.

"Securities Act" means and refers to the Securities Act of 1933, as amended from time to time, including any rules and regulations promulgated in connection therewith and any successor statue.

"Security Agreement" means and refers to that certain Security Agreement, executed by Borrower, as debtor, in favor of Agent, on behalf of

Banks, as secured party, together with any amendments or modifications thereto, substantially in the form of Exhibit S-1 attached hereto.

"Senior Subordinated Notes" means and refers to Borrower's 12% Senior Subordinated Notes, due May 1, 1997, issued under the Subordinated Indenture (1987) of which Ninety Million Dollars ($90,000,000) were outstanding on the Closing Date.

"Senior Subordinated Notes (1991)" means and refers to Borrower's Series B 14% Senior Subordinated Notes, due 2001, issued under the Subordinated Indenture (1991) of which One Hundred Twenty-Five Million Dollars ($125,000,000) were outstanding on the Closing Date.

"Series C Preferred Stock" means and refers to the Preferred Stock, Cumulative Junior Participating Series C that is issuable by Borrower on the terms and conditions, and entitled to the preferences, limitations, and relative rights, set forth in Borrower's Restated Articles of Incorporation, as amended.

"SES" means and refers to Southdown Environmental Systems, Inc., a Delaware corporation and a wholly-owned, direct subsidiary of Borrower.

"SFC" means and refers to South Flores Company, Inc., a Texas corporation.

"Specified Subsidiaries" means and refers to the Subsidiaries of Borrower that are set forth on Schedule S-1 attached hereto.

"Specified Subsidiaries Guaranties" means and refers to those certain Continuing Guaranties, executed by one or more of the Specified Subsidiaries, guaranteeing Debt of Borrower owing to Agent and the Banks, and any modifications or amendments thereto, substantially in the form of Exhibit S-2 attached hereto.

"Specified Subsidiaries Security Agreements" means and refers to those certain Security Agreements, executed by one or more of the Specified Subsidiaries, as debtor, in favor of Agent, on behalf of Banks, as secured party, securing the Specified Subsidiaries Guaranties, and any modifications or amendments thereto, substantially in the form of Exhibit S-3 attached hereto.

"SSI" means and refers to Southdown Sugars, Inc., a Delaware corporation.

"Standby Letter of Credit" means any standby letter of credit issued hereunder for the purpose of supporting: (a) any letters of credit or any obligations or liabilities supported on the Closing Date by letters of credit to be replaced or supported by letters of credit issued under this Agreement by an Issuing Bank; (b) worker's

compensation liabilities of Borrower or any of its Subsidiaries; (c) the obligations of third party insurers of Borrower or any of its Subsidiaries; (d) performance, payment, deposit, or surety obligations of Borrower or any of its Subsidiaries; or (e) the Letters of Credit described on Schedule L-1 attached hereto.

"Stated Amount" means and refers to the maximum amount available to be drawn under each Letter of Credit, without regard to whether any conditions to drawing could then be met.

"Stock Pledge" means and refers to that certain Security Agreement-Stock Pledge, executed by Borrower, as debtor, in favor of Agent, on behalf of Banks, as secured party, hypothecating the capital stock of FCC, FI, Mojave, SCI, SES, SFC, SSI, and VPC, together with any modifications or amendments thereto, substantially in the form of Exhibit S-4 attached hereto.

"Subordinated Debt" means and refers to (a) the Existing Subordinated Debt, and (b) the Exchange Subordinated Debt.

"Subordinated Indenture (1987)" means and refers to that certain Indenture, dated as of May 1, 1987, entered into between Borrower and Texas Commerce Bank National Association, a national banking association, as trustee,

respecting the Senior Subordinated Notes, as amended from time to time in conformity with the terms hereof.

"Subordinated Indenture (1991)" means and refers to that certain Indenture, dated as of October 15, 1991, entered into between Borrower and State Street Bank and Trust Company of Connecticut, N.A., as trustee, respecting the Senior Subordinated Notes (1991), as amended from time to time in conformity with the terms hereof.

"Subordinated Indentures" means and refers to the Subordinated Indenture (1987) and the Subordinated Indenture (1991).

"Subsidiary" means, with respect to any Person: (a) any corporation in which such Person, directly or indirectly through its Subsidiaries, owns more than fifty percent (50%) of the stock of any class or classes having by the terms thereof the ordinary voting power to elect a majority of the directors of such corporation; and (b) any partnership, association, joint venture, or other entity in which such Person, directly or indirectly through its Subsidiaries, has more than a fifty percent (50%) equity interest at the time.

"Taxes" means and refers to any taxes, charges, fees, levies or other assessments based upon or measured by net or gross income, gross receipts, sales, use, ad

valorem, transfer, franchise, withholding, payroll, employment, excise, occupation, premium or property taxes, together with any interest and penalties, additions to tax and additional amounts imposed by any federal, state, local or foreign taxing authority upon any Person.

"Termination Event" means and refers to: (a) a Reportable Event; (b) the withdrawal of Borrower or any of its ERISA Affiliates from a Pension Plan during a plan year in which it was a "substantial employer" as defined in Section 4001(a)(2) of ERISA; (c) the filing of a notice of intent to terminate a Pension Plan or the treatment of a Pension Plan amendment as a termination under Section 4041 of ERISA excluding, for purposes of this clause (c), any standard termination under Section 4041(b) of ERISA; (d) the institution of proceedings to terminate a Pension Plan by the PBGC; or (e) any other event or condition which would likely constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan.

"Termination of Subrogation and Contribution Agreement" shall mean that certain Termination of Subrogation and Contribution Agreement, entered into among Borrower and each of the Specified Subsidiaries, substantially in the form of Exhibit T-1 attached hereto.

"UCC" shall mean the California Uniform Commercial Code, as amended or supplemented from time to time, and any successor statute.

"Underwritten Call" means and refers to an underwriting agreement whereby an underwriter, with a rating of A or A2, or better, from S&P or Moody's agrees, in connection with a proposed redemption or acquisition of Convertible Exchangeable Preferred Stock, to purchase from Borrower shares of Borrower Common Stock at a price at least equal to the conversion price then applicable to the Convertible Echangeable Preferred Stock. The number of such shares that such underwriter shall so agree to purchase shall be a number such that, after giving effect to such purchase and any conversion of the Convertible Exchangeable Preferred Stock to Borrower Common Stock in accordance with the terms and conditions governing the Convertible Exchangeable Preferred Stock, Borrower will have issued at least 95% of the number of shares of Borrower Common Stock as it would have issued if all the Convertible Exchangeable Preferred Stock proposed to be redeemed or acquired had been so converted. Such purchase may be a direct purchase of Borrower Common Stock or may be effected indirectly, such as pursuant to an agreement by such underwriter to purchase tendered shares of Convertible Exchangeable Preferred Stock and, thereupon, to convert such shares to Borrower Common Stock.

"Unmatured Event of Default" means and refers to an event, act, or occurrence that, with solely the giving of notice or the lapse of time (or both), would become an Event of Default.

"Unpaid Drawings" means and refers to all drawings under any Letter of Credit paid by the Issuing Bank with respect thereto, on behalf of Banks, for which such Issuing Bank has not been reimbursed by Borrower or funded by Loans pursuant to Section 2.1 hereof.

"Voidable Transfer" has the meaning ascribed thereto in Section 11.18.

"Voting Stock" means, with respect to any Person, Capital Stock of any class or classes if the holders of such Capital Stock are ordinarily, in the absence of contingencies, entitled to vote for the election of the directors (or other persons performing similar functions) of such Person even if the right to so vote has been suspended by the happening of such a contingency.

"VPC" means and refers to Victor Products Company, a California corporation.

"Wells Fargo" means and refers to Wells Fargo Bank, N.A., a national banking association.

1.2 CONSTRUCTION. Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular and to the singular include the plural, the part includes the whole, the terms "include" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or". References in this Agreement to a "determination" by Agent or Required Banks or Majority Banks, as applicable, include good faith estimates by Agent or Required Banks or Majority Banks, as applicable, in the case of quantitative determinations, and good faith beliefs by Agent or Required Banks or Majority Banks, as applicable, in the case of qualitative determinations. The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Article, section, subsection, exhibit, and schedule references are to this Agreement unless otherwise specified. Any reference herein to this Agreement, the Notes, or any of the Loan Documents includes any and all alterations, amendments, changes, extensions, modifications, renewals, or supplements thereto or thereof, as applicable. Any terms used herein that are not accounting terms and that are not separately defined shall have the meanings ascribed thereto in the UCC. Any reference to the provision by Borrower of cash collateral to Agent, on behalf of Banks, to secure any obligations of Borrower arising under this Agreement shall mean that Borrower shall have entered into such documents as Agent shall

have required, and shall have taken such actions as may be required, in order for Agent, on behalf of Banks, to possess a perfected, first priority security interest in such cash collateral.

1.3 ACCOUNTING TERMS. All accounting terms not specifically defined herein shall be construed in accordance with GAAP as in effect from time to time, including applicable statements, bulletins, and interpretations issued by the Financial Accounting Standards Board and bulletins, opinions, interpretations, and statements issued by the American Institute of Certified Public Accountants or its committees. When used herein, the term "financial statements" shall include the notes and schedules thereto.

1.4 DISCLOSURE STATEMENT, EXHIBITS, SCHEDULES. The Disclosure Statement delivered by Borrower pursuant hereto and all of the exhibits and schedules attached to this Agreement shall be deemed incorporated herein by reference.

ARTICLE 2.

AMOUNT AND TERMS OF LOANS

2.1 FACILITY A.

(a) FACILITY A REVOLVING LOANS. Subject to the terms and conditions hereof, each Bank severally agrees to make Facility A Revolving Loans to Borrower, pro rata in proportion of its share of the Facility A Commitment, from the Closing Date to but not including the Maturity Date, at such times and in such amounts as Borrower may request in accordance with Section 2.8 hereof, which amounts may be borrowed, repaid without penalty or premium, and reborrowed subject to the limitations set forth herein; provided, however, that: (i) the aggregate principal amount at any time outstanding of all Facility A Revolving Loans made by any Bank shall not exceed such Bank's pro rata share of the Facility A Commitment then in effect; and (ii) the

aggregate principal amount of any Borrowing under Facility A shall not exceed the positive difference between: (x) the Facility A Commitment then in effect; minus (y) the amount of the Facility A Usage immediately prior to such Borrowing. Subject to the foregoing: (i) each Base Rate Borrowing shall be in a minimum principal amount of One Million Dollars ($1,000,000) or such lesser amount as is the then unfunded balance of the Facility A Commitment and, thereafter, in integral multiples of One Hundred Thousand Dollars ($100,000); and (ii) each LIBOR Rate Borrowing shall be in a minimum principal amount of Five Million Dollars ($5,000,000) and, thereafter, in integral multiples of One Million Dollars ($1,000,000). No Bank shall have any obligation to make Facility A Revolving Loans on or after the Maturity Date.

(b) FACILITY A LETTERS OF CREDIT. As part of Facility A and subject to the terms and conditions hereof, Borrower may request, in accordance with Section 2.2 hereof, that an Issuing Bank issue Letters of Credit for the account of Borrower, and, subject to the terms and conditions hereof, the Banks agree that an Issuing Bank will issue such Letters of Credit. On the Closing Date, any and all Letters of Credit set forth on Schedule L-1 shall be deemed issued under this Section 2.1(b). The foregoing notwithstanding, (a) no Issuing Bank shall issue any Commercial Paper Letter of Credit under Facility A if, after giving effect to such issuance, the Commercial Paper Letter of Credit Usage would exceed the Commercial Paper Letter of Credit Amount, and (b) no Issuing Bank shall issue any Letter of Credit if, after giving effect to such issuance, the Letter of Credit Usage would exceed the Letter of Credit Amount. It is further agreed between Banks and Borrower that an amount equal to the Letter of Credit Usage shall be reserved under the Facility A Commitment and shall not be available for borrowing or for any purpose other than payment of the Letters of Credit issued pursuant to the terms of this Section 2.1(b).

(c) MARAD. Subject to the terms and conditions hereof and so long as a Borrowing under Facility A is otherwise permitted, in the event MARAD has made a demand provided for, and in accordance with paragraph 5 of the Keepwell Agreement, and Borrower has failed to comply therewith, each Bank severally agrees to make advances under Facility A to MARAD (for the benefit of Borrower), pro rata in proportion of such Bank's share of the Facility A Commitment, from the Closing Date to but not including the Maturity Date, in such amounts that in the aggregate shall not exceed the lesser of (i) Borrower's obligation that is then due and payable to MARAD under the Keepwell Agreement, (ii) the amount of the MARAD Reserve at such time, and (iii) the amount of Facility A Revolving Loans that are available to be borrowed under this Agreement, but only upon receipt by Agent of a written request from the United States Secretary of Transportation (the "Secretary") for such an advance and after ten (10) Domestic Business Days prior notice by the Secretary to Borrower of such a request. Any such advances requested by MARAD shall be advanced to such account of MARAD as requested by the Secretary and shall be deemed to be Facility A Revolving Loans and Base Rate Loans. Borrower authorizes the making of such advances on its behalf and acknowledges that it will be obligated to repay any such advances to MARAD as if the same directly had been requested by Borrower. The amount of the MARAD Reserve shall be reduced immediately by the amount of any such Borrowing.

(d) FACILITY A FLORIDA LC SUBFACILITY. As a part of, and as a subfacility under, Facility A, the parties hereby establish the Facility A Florida LC Subfacility. The Facility A Florida LC Subfacility shall be in an amount equal to the Facilty A Florida LC Subfacility Commitment existing from time to time and shall be available for the issuance of Facility A Florida LC Subfacility Letters of Credit and the making of Facility A Florida LC Subfacility Revolving Loans; provided, however, that:

(i) the aggregate principal amount at any time outstanding of all Facility A Florida LC Subfacility Revolving Loans made by any Bank shall not exceed such Bank's pro rata share of the Facility A Florida LC Subfacility Commitment then in effect; (ii) the aggregate principal amount of any Borrowing under the Facility A Florida LC Subfacility shall not exceed the positive difference between: (x) the Facility A Florida LC Subfacility Commitment then in effect; minus (y) the amount of the Facility A Florida LC Subfacility Usage immediately prior to such Borrowing, and (iii) the Stated Amount of any Letter of Credit to be issued under the Facility A Florida LC Subfacility shall not exceed the positive difference between: (x) the Facility A Florida LC Subfacility Commitment then in effect; minus (y) the amount of the Facility A Florida LC

Subfacility Usage immediately prior to the issuance of such Letter of Credit. In all other respects, and except as provided in Section 2.1(f) hereof, the Facility A Florida LC Subfacility shall be solely a subfacility of Facility A and the terms and conditions governing the availablilty and terms of Facility A Florida LC Subfacility Revolving Loans and Facilty A Florida LC Subfacility Letters of Credit shall be the same as if they were not made or issued, as applicable, under a subfacility of Facility A. Without limiting the foregoing, Facility A Florida LC Subfacility Revolving Loans shall be made severally by the Banks in accordance with Section 2.1(a) hereof and Facility A Florida LC Subfacility Letters of Credit shall be issued by an Issuing Bank in accordance with Sections 2.1(b) and 2.2 hereof.

(e) FACILITY A FLORIDA SUBFACILITY. As a part of, and as a subfacility under, Facility A, the parties hereby establish the Facility A Florida Subfacility. The Facility A Florida Subfacility shall be in an amount equal to the Facilty A Florida Subfacility Commitment existing from time to time and shall be available for the issuance of Facility A Florida Subfacility Letters of Credit and the making of Facility A Florida Subfacility Revolving Loans; provided, however, that: (i) the aggregate principal amount at any time outstanding of all Facility A Florida Subfacility Revolving Loans made by any Bank shall not exceed such Bank's pro rata share of the Facility A Florida Subfacility Commitment then in effect; (ii) the aggregate principal amount of any Borrowing under the Facility A Florida Subfacility shall not exceed the positive difference between: (x) the Facility A Florida Subfacility Commitment then in effect; minus (y) the amount of the Facility A Florida Subfacility Usage immediately prior to such Borrowing, and (iii) the Stated Amount of any Letter of Credit to be issued under the Facility A Florida Subfacility shall not exceed the positive difference between: (x) the Facility A Florida Subfacility Commitment then in effect; minus (y) the amount of the Facility A Florida Subfacility Usage immediately prior to the issuance of such Letter of Credit. In all other respects, and except as provided in Section 2.1(f) hereof, the Facility A Florida Subfacility shall be solely a subfacility of Facility A and the terms and conditions governing the availablilty and terms of Facility A Florida Subfacility Revolving Loans and Facilty A Florida Subfacility Letters of Credit shall be the same as if they were not made or issued, as applicable, under a subfacility of Facility A. Without limiting the foregoing, Facility A Florida Subfacility Revolving Loans shall be made severally by the Banks in accordance with Section 2.1(a)

hereof and Facility A Florida Subfacility Letters of Credit shall be issued by an Issuing Bank in accordance with Sections 2.1(b) and 2.2 hereof.

(f) ALLOCATION OF REVOLVING LOANS AND THE LETTERS OF CREDIT AMONG FACILITY A, THE FACILITY A FLORIDA LC SUBFACILITY, AND THE FACILITY A FLORIDA SUBFACILITY. The parties hereby agree that the following shall be the allocation of the Revolving Loans and the Letters of Credit among Facility A, the Facility A Florida LC Subfacility, and the Facility A Florida Subfacility:

(i) LETTERS OF CREDIT:

(a) the Closing Date Residual Loans shall be allocated prior to the Letters of Credit in the manner set forth in Section 2.1(f)(ii)(a) hereof;

(b) other than the Closing Date Residual Loans, the Letters of Credit shall be allocated prior to the allocation of the Loans;

(c) the Letters of Credit first shall be allocated to the Facility A Florida LC Subfacility up to the amount of the Facility A Florida LC Subfacility Commitment and, when allocated, shall be deemed to be Facility A Florida LC Subfacility Letters of Credit;

(d) the remaining Letters of Credit, if any, then shall be allocated to the Facility A Florida Subfacility up to the amount of the Facility A Florida Subfacility Commitment and, when allocated, shall be deemed to be Facility A Florida Subfacility Letters of Credit;

(e) the remaining Letters of Credit, if any, then shall be allocated to Facility A up to the balance of the Letter of Credit Amount;

(f) once initially allocated, a Letter of Credit shall remain allocated to the Facility A Florida LC Subfacility, the Facility A Florida Subfacility, or Facility A, as

applicable, unless the expiration of a Letter of Credit or a drawing under a Letter of Credit results in Letters of Credit being allocated (1) to the Facility A Florida Subfacility when the Facility A Florida LC Subfacility is not fully composed of

47

Letters of Credit, or (2) to Facility A when the Facility A Florida LC Subfacility or the Facility A Florida Subfacility are not fully composed of Letters of Credit, in which case and each time such circumstances may exist, all of the Letters of Credit automatically shall be reallocated in accordance with the foregoing priorities;

(g) if it is not possible to allocate the Stated Amounts of Letters of Credit and arrive at a number that is equal to the Facility A Florida LC Subfacility Commitment, then (1) the Letters of Credit that have the largest aggregate Stated Amount that is less than the Facility A Florida LC Subfacility Commitment first shall be allocated to the Facility A Florida LC Subfacility, and (2) then, the Letter of Credit of those remaining that has the smallest Stated Amount of those remaining that, when added to the aggregate amount of the other Letters of Credit that have been allocated to the Facility A Florida LC Subfacility under subclause (1) above, would exceed the Facility A Florida LC Subfacility Commitment, shall be deemed (for purposes of determining which Letters of Credit are the Facility A Florida LC Subfacility Letters of Credit only) to be partitioned such that the portion of the Stated Amount of such Letter of Credit that, when added to the aggregate Stated Amount of all of the other Letters of Credit that have been allocated to the Facility A Florida LC Subfacility under subclause (1), will equal the Facility A Florida LC Subfacility Commitment, shall be allocated to the Facility A Florida LC Subfacility and the balance of such partitioned Letter of Credit shall be deemed allocated to the Facility A Florida Subfacility;

(h) if it is not possible, after allocating Letters of Credit to the Facility A Florida LC Subfacility, to allocate the Stated Amounts of the remaining Letters of Credit and arrive at a number that is equal to the Facility A Florida Subfacility Commitment, then (1) the remaining Letters of Credit that have the largest aggregate Stated Amount that is less than the Facility A Florida Subfacility Commitment first shall be allocated to the Facility A Florida Subfacility, and (2) then, the Letter of Credit of those remaining that has the smallest Stated Amount of those remaining that, when added to the aggregate amount of the other Letters of Credit that have

48

been allocated to the Facility A Florida Subfacility under subclause (1) above, would exceed the Facility A Florida Subfacility Commitment, shall be deemed (for purposes of determining which Letters of Credit are the Facility A Florida Subfacility Letters of Credit only) to be partitioned such that the portion of the Stated Amount of such Letter of Credit that, when added to the aggregate Stated Amount of all of the other Letters of Credit that have been allocated to the Facility A Florida Subfacility under subclause (1), will equal the Facility A Florida Subfacility Commitment, shall be allocated to the Facility A Florida Subfacility and the balance of such partitioned Letter of Credit shall be deemed allocated to Facility A;

(i) the foregoing notwithstanding, all Commercial Letters of Credit shall be allocated, from the date of their issuance, as if they were Loans; and

(j) the foregoing not withstanding, the Martin Marietta Letter of Credit shall be allocated to Facility A.

(ii) LOANS:

(a) As of the execution hereof, $25,000,000 of loans outstanding under the 1991 Credit Agreement has been carried forward, allocated and deemed to be Facility A Florida Subfacility Revolving Loans hereunder; provided, that, following a $10,000,000 voluntary prepayment to be made by the Borrower,

$15,000,000 of the Loans shall be then outstanding as of the close of business on the Closing Date or such lesser amount that is continuously outstanding ("Closing Date Residual Loans"), shall continue to be allocated to the Facility A Florida Subfacility, and shall continue to be deemed to be Facility A Florida Subfacility Revolving Loans;

(b) thereafter, the remaining Loans shall be allocated after the allocation of the Letters of Credit;

(c) the remaining Loans first shall be allocated to the Facility A Florida Subfacility up to an amount equal to (1) the Facility A Florida Subfacility Commitment,

minus (2) the Facility A Florida Subfacility Letter of Credit Usage, and, when allocated, shall be deemed to be Facility A Florida Subfacility Revolving Loans;

(d) the remaining Loans, if any, then shall be allocated to the Facility A Florida LC Subfacility up to an amount equal to (1) the Facility A Florida LC Subfacility Commitment, minus (2) the Facility A Florida LC Subfacility Letter of Credit Usage, and, when allocated, shall be deemed to be Facility A Florida LC Subfacility Revolving Loans;

(e) the remaining Loans, if any, then shall be allocated to Facility A up to the balance of the Facility A Commitment; and

(f) the foregoing notwithstanding, all Commercial Letters of Credit shall be allocated, from the date of their issuance, as Facility A Revolving Loans.

2.2 LETTERS OF CREDIT.

(a) Immediately upon the issuance of each Letter of Credit hereunder, each Bank shall be deemed to and hereby agrees to have irrevocably purchased from the Issuing Bank a participation in such Letter of Credit and any drawing thereunder in an amount equal to such Bank's pro rata share of the relevant Facility A Commitment to the same extent and with the same effect as if such Bank had issued such Letter of Credit. Accordingly, each Bank shall, pursuant to the provisions of Section 2.10(b) hereof, remit to Agent, in immediately available funds, an amount that is in the same proportion to the amount drawn under the Letter of Credit as such Bank's share of the relevant Facility A Commitment, plus interest on such amount, at the rate set forth in Section 2.10(b) hereof, payable from the date of such drawing to the date such Bank initiates payment of such amount to Agent. Borrower and Banks hereby agree that amounts paid by or on behalf of Banks under and pursuant to each Letter of Credit shall constitute Base Rate Loans made under Section 2.1(a). Each Bank's obligation to make the Base Rate Loans referred to in this Section 2.2 shall continue despite the occurrence of any Event of Default or Unmatured Event of Default or any inability of Borrower to require that such Bank fund its pro rata share of the relevant Facility A Commitment, including any inability resulting from the operation of Section 365(c)(2) of the federal Bankruptcy Code or otherwise. Borrower acknowledges and agrees that, anything herein to the contrary notwithstanding, in the event of a bankruptcy of Borrower, should Banks be precluded or restricted from making Loans to Borrower secured by the Collateral and entitled to all the benefits and protections of the Loan Documents, then, in the event of any draw under any Letter of

Credit, the reimbursement claim of the Issuing Bank against Borrower for the amount paid by the Issuing Bank with respect to such draw shall be treated in all respects as if it were a Loan made by the Issuing Bank on the date that the Issuing Bank honored such draw (including for purposes of accruing interest), and, upon paying to the Issuing Bank such Bank's share of the amount paid by the Issuing Bank in connection with such draw, each Bank shall hold a corresponding participation interest in the Issuing Bank's reimbursement claim against Borrower.

(b) Borrower shall pay a letter of credit fee to Agent, in an amount equal to (i) in the case of Commercial Letters of Credit,

the then extant Applicable Commercial Letter of Credit Margin times the Stated Amount of each requested Commercial Letter of Credit, such letter of credit fee to be payable in advance at the time of the issuance of each such Commercial Letter of Credit, and (ii) in the case of Commercial Paper Letters of Credit and Standby Letters of Credit, the then extant Applicable LIBOR Rate Margin, on a per annum basis, times the Stated Amount of each requested Commercial Paper Letter of Credit or Standby Letter of Credit, such letter of credit fee to be payable quarterly, in arrears.

(c) Each Letter of Credit is to be issued only upon satisfaction of the following conditions:

(i) Borrower shall be entitled under Section 2.1 to a Borrowing in an amount equal to or greater than the face amount of the Letter of Credit on the date of the issuance thereof;

(ii) all conditions to Loans specified in Sections 3.1 and 3.2 hereof, with respect to Letters of Credit to be issued on the Closing Date, and in Section 3.3, with respect to all Letters of Credit, shall have been satisfied on the date of the issuance of each Letter of Credit; and

(iii) Borrower shall have submitted an application and executed such other documents, instruments, and agreements as may be required by the Issuing Bank, all in form and substance reasonably satisfactory to such Issuing Bank.

(d) Each Letter of Credit shall be administered by the Issuing Bank on behalf of all Banks. The letter of credit fees payable by Borrower for the issuance of Letters of Credit shall be allocated by Agent to Banks as follows:

(1) Commercial Letters of Credit.

(y) to the Issuing Bank, an administrative fee equal to .10 percentage points times the Stated Amount of the Commercial Letter of Credit, such fee to be payable at the time of issuance; and

(z) to all Banks (including the Issuing Bank), the balance of the letter of credit fee payable with respect to such Commercial Letter of Credit, pro rata, based upon each Bank's proportionate share of the Facility A Commitment, such fee to be payable at the time of issuance.

(2) Standby Letters of Credit and Commercial Paper Letters of Credit.

(y) to the Issuing Bank, an administrative fee equal to .25 percentage points, per annum, times the Stated Amount of the Standby Letter of Credit or Commercial Paper Letter of Credit, such fee to be payable in arrears on each Quarterly Payment Date; and

(z) to all Banks (including the Issuing Bank), the balance of the letter of credit fee payable with respect to such Standby Letter of Credit or Commercial Paper Letter of Credit, pro rata, based upon each Bank's proportionate share of the Facility A Commitment, such fee to be payable in arrears, on each Quarterly Payment Date.

(e) If, for any reason, a Bank fails to pay its liability on a Letter of Credit in accordance with the provisions of this Section 2.2, then the Issuing Bank automatically shall be subrogated to

the right of such defaulting Bank to repayment, in full, of the Base Rate Loan created by virtue of a drawing on a Letter of Credit prior to distribution of any repayments to the defaulting Bank.

(f) Each Commercial Letter of Credit shall be issued for a term not to exceed one hundred eighty (180) days, each Commercial Paper Letter of Credit shall be issued for a term not to exceed one (1) year, and each Standby Letter of Credit shall be issued for a term not to exceed one (1) year, in each case as designated by Borrower when requesting such Letter of Credit.

(g) Letters of Credit issued pursuant to this Section 2.2 shall have an expiration date not later than the Maturity Date.

(h) SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, IN DETERMINING WHETHER TO PAY UNDER ANY LETTER OF CREDIT, THE ISSUING BANK SHALL BE RESPONSIBLE ONLY TO DETERMINE THAT THE DOCUMENTS AND CERTIFICATES REQUIRED TO BE DELIVERED UNDER THAT LETTER OF CREDIT HAVE BEEN DELIVERED AND THAT THEY COMPLY ON THEIR FACE WITH THE REQUIREMENTS OF THAT LETTER OF CREDIT.

2.3 AUTHORIZATION AND ISSUANCE OF NOTES. Borrower has authorized the issuance of Facility A Notes in the aggregate principal amount of One Hundred Forty Million Dollars ($140,000,000), Facility A Florida Subfacility Notes in the aggregate principal amount of Twenty-Five Million Dollars ($25,000,000), and Facility A Florida LC Subfacility Notes in the aggregate principal amount of Thirty-Five Million Dollars ($35,000,000). On the Closing Date, Borrower shall issue a Facility A Note, a Facility A Florida Subfacility Note, and a Facility A Florida LC Subfacility Note, payable to the order of each Bank, substantially in the form of Exhibits F-3, F-2, and F-1, respectively, with appropriate insertions. Each such Facility A Note shall be in an amount equal to 140/200ths of such Bank's pro rata share of the Facility A Commitment in effect on the Closing Date, each such Facility A Florida Subfacility Note shall be in an amount equal to 25/200ths of such Bank's pro rata share of the Facility A Commitment in effect on the Closing Date, and each such Facility A Florida LC Subfacility Note shall be in an amount equal to 35/200ths of such Bank's pro rata share of the Facility A Commitment in effect on the Closing Date.

Borrower shall deliver each such Facility A Note, Facility A Florida Subfacility Note, and Facility A Florida LC Subfacility Note to Agent for delivery to the appropriate Bank. The Facility A Notes, the Facility A Florida Subfacility Notes, and the Facility A Florida LC Subfacility Notes delivered to the Banks shall evidence the aggregate outstanding principal balance of the Facility A Revolving Loans made, from time to time, to Borrower and the obligation of Borrower to repay the amount of any drawings made under Letters of Credit, together with interest accrued and unpaid thereon. Such Facility A Revolving Loans and such obligations under Letters of Credit shall be allocated among such Notes in the manner specified in Section 2.1 hereof.

Anything herein to the contrary notwithstanding, it is the express intent of the parties hereto to preserve the outstanding nature of all loans and letters of credit made or issued under the 1991 Credit Agreement and outstanding on the Closing Date immediately prior to the closing of the transactions contemplated hereby. To that end, as more specifically delineated in Section 3.2, all such outstanding loans and letters of credit

shall be converted on the Closing Date to Loans and Letters of Credit hereunder and allocated as set forth in such Section 3.2, and shall not be deemed to have been repaid or cancelled and reloaned or reissued, but rather, at all times, continuously to have remained outstanding. To the extent that the identities or shares of Banks hereunder differ from the identities or shares of the "Banks" under the 1991 Credit Agreement, the claims of such old "Banks" that are being replaced, or whose shares are being reduced, shall be considered to have been assigned, without representation, warranty, or recourse by such old "Banks" to the Banks hereunder in such a manner as to achieve ratable outstandings hereunder immediately following the closing, and Agent and the Banks shall cooperate to effect such adjustments and transfers at closing among the Banks as may be necessary or appropriate to achieve such ratable outstandings immediately after such closing.

2.4 RATE DESIGNATION. Borrower shall designate each Borrowing requested by it as a Base Rate Borrowing or a LIBOR Rate Borrowing in the Notice of Borrowing given to Agent in accordance with Section 2.8 hereof.

2.5 INTEREST RATES; PAYMENT OF PRINCIPAL AND INTEREST.

(a) (i) The obligation of Borrower to repay all of the Loans made under Facility A shall be evidenced by the Facility A Notes, the Facility A Florida Subfacility Notes, and the Facility A Florida LC Subfacility Notes.

(ii) All of the Notes shall be payable to the order of each Bank at Agent's San Francisco main branch located at 420 Montgomery Street, San Francisco, California 94163, or at such other office of Agent as may be designated, from time to time, by Agent, for the account of each Bank, not later than 9:00 a.m., California time, on the date of payment. Upon receipt by Agent of such payments as are made in compliance with the terms of this Section 2.5(a), payments made by Borrower shall be deemed made to each Bank and shall constitute satisfaction of Borrower's obligations to each Bank with respect to the Loans so repaid. Agent shall, on either the Domestic Business Day that is the day upon which Agent receives a payment from Borrower if Agent shall have received such payment from Borrower by 9:00 a.m., California time, on that day, or on the next Domestic Business Day following the Domestic Business Day on which Agent receives a payment from Borrower if such payment is received after 9:00 a.m., California time, initiate payment to each Bank of its pro rata share of the Loans repaid. If Agent shall initiate such payment to a Bank later than the date set forth in the immediately preceding sentence, then Agent shall pay to such Bank, in addition to its pro rata share of the Loans repaid, interest on such amount at the customary rate set by Agent for the correction of errors among banks for the first three (3) Domestic Business Days and, thereafter, at the Base Rate.

(b) Each Base Rate Loan shall bear interest, upon the unpaid principal balance thereof from the date advanced or converted, at a fluctuating rate, per annum, equal to the Base Rate plus the Applicable Base Rate Margin. Interest due on the Base Rate Loans shall be due and payable, in arrears, commencing on the first Quarterly Payment Date following the Closing Date, and continuing thereafter on each Quarterly Payment Date up to and including the Quarterly Payment Date immediately preceding the Maturity Date, and on the Maturity Date.

(c) Each LIBOR Rate Loan owed to a Bank shall bear interest, upon the unpaid principal balance thereof, from the date advanced or converted, at a rate, per annum, equal to the LIBOR Rate for such Bank plus the Applicable LIBOR Rate Margin. Interest due on the LIBOR Rate Loans shall be due and payable, in arrears, on each Interest Payment Date applicable to that LIBOR Rate Loan. Anything to the contrary contained in this Agreement notwithstanding, Borrower shall not have more than six (6) LIBOR Rate Borrowings outstanding at any one time.

(d) The aggregate principal amount of all Facility A Revolving Loans outstanding as of the Maturity Date shall be due and payable on the Maturity Date.

(e) Anything to the contrary contained in this Agreement notwithstanding, Borrower shall not be obligated to pay, and Banks shall not be entitled to charge, collect, receive, reserve, or take interest ("interest" being defined as the aggregate of all charges that constitute interest under applicable law that are contracted for, charged, reserved, received, or paid) in excess of the maximum rate allowed by applicable law. During any period of time in which the interest rate specified herein exceeds such maximum rate, interest shall accrue and be payable at such maximum rate; provided, however, that, if the interest rate declines below such maximum rate, interest shall continue to accrue and be payable at such maximum rate (so long as there remains any unpaid principal with respect to the Loans) until the interest that has been paid hereunder and under the Notes equals the amount of interest that would have been paid if interest had at all times accrued and been payable at the interest rate specified in this Section 2.5 without being limited to the maximum rate specified in this Section 2.5.

For purposes of this Section 2.5(e), the term "applicable law" shall mean that law in effect from time to time and applicable to the loan transaction between Borrower and Banks that lawfully permits the charging and collection of the highest permissible, lawful non-usurious rate of interest on such loan transaction and this Agreement, INCLUDING LAWS OF THE STATE OF CALIFORNIA AND, TO THE EXTENT CONTROLLING, LAWS OF THE UNITED STATES OF AMERICA. It is intended that, in the event that, notwithstanding the

parties' express choice of other law to be applicable to this Agreement, the laws of the State of Texas are included in determining applicable law, Chapter One ("Chapter One") of Title 79, Revised Civil Statutes of Texas, 1925, as amended (the

"Texas Credit Code"), shall be included in any such determination, and that, for the purpose of applying Chapter One to this Agreement, the maximum interest rate shall be the "indicated rate ceiling" (as such term is used in Article 5069-1.04 of Chapter One) from time to time in effect. Any Bank may, from time to time, as to current and future balances, implement any other ceiling under Chapter One by notice to Borrower, if and to the extent permitted by Chapter One. The parties hereto expressly agree, pursuant to Article 5069-15.10(b) of Chapter Fifteen ("Chapter Fifteen") of the Texas Credit Code, that Chapter Fifteen shall not apply to this Agreement or to any Loan and that neither this Agreement nor any Loan shall be governed by or subject to the provisions of Chapter Fifteen in any manner whatsoever.

(f) Anything to the contrary contained in this Agreement notwithstanding, any prepayment of any portion of the principal of the Facility A Revolving Loans shall be applied by each Bank first to amounts outstanding and evidenced by such Bank's Facility A Note, and, after such Facility A Note is fully repaid, thereafter to amounts outstanding and evidenced by such Bank's Facility A Florida Subfacility Note, and, after such Facility A Florida Subfacility Note is fully repaid, thereafter to amounts outstanding and evidenced by such Bank's Facility A Florida LC Subfacility Note.

(g) In the event that, as a result of the operation of any provision of this Agreement, Borrower repays a LIBOR Rate Loan prior to the expiration of the Interest Period applicable thereto, Borrower shall, concurrently with the repayment of any such Loan, pay any and all accrued and unpaid interest on the amount repaid.

2.6 OVERDUE RATES. Any payment of principal or (to the extent permitted by law and both before and after judgment) interest with respect to the Loans, or any fees, expenses, or other amounts not paid when due hereunder or declared due, whether at maturity, by acceleration, by lapse of time, or otherwise, shall thereafter bear interest, without affecting any of the other rights and remedies provided for herein or in the Notes, at a rate (the "Overdue Rate") equal to the lesser of: (a) (i) for all amounts not paid when due other than LIBOR Rate Loans, at the Base Rate plus the Applicable Base Rate Margin plus two (2) percentage points; and (ii) as to all LIBOR Rate Loans not paid when due, at the LIBOR Rate plus the Applicable LIBOR Rate Margin plus two (2) percentage points; and (b) the Highest Lawful Rate.

2.7 COMPUTATION OF INTEREST AND FEES. All computations of the Commitment Fee, computations of the letter of credit fees with respect to Standby Letters of Credit and Commercial Paper Letters of Credit, and computations of interest with respect to Base Rate Loans for any period shall be calculated on the basis of a year of three hundred sixty-five (365) or three hundred sixty-six (366) days, as applicable, for the actual number of days elapsed in such period. All computations of interest with respect to LIBOR Rate Loans and all computations of interest due under Section 2.6 hereof, for any period

shall, to the fullest extent permitted by law, be calculated on the basis of a year of three hundred sixty (360) days for the actual number of days elapsed in such period. Interest shall accrue from the first day of the making of a Loan to the date of repayment of such Loan in accordance with the provisions hereof; provided, however, that, if a Loan is repaid on the same day on which it is made, then one (1) day's interest shall be paid on that Loan.

2.8 NOTICE OF BORROWING REQUIREMENTS.

(a) Each Base Rate Borrowing shall be made on a Domestic Business Day and each LIBOR Rate Borrowing shall be made on a LIBOR Business Day.

(b) Each Borrowing (except a Borrowing pursuant to Section 2.1(c) which shall be made upon the written notice provided for therein but shall be subject to the timing requirement set forth in clause (i) and

subsection (c) below) or Letter of Credit issuance shall be made upon written notice, by way of a Notice of Borrowing, in the form of Exhibit N-1, given by telex, telecopy, mail, or personal service, delivered to Agent at 420 Montgomery Street, San Francisco, California 94163, as follows:

(i) For a Base Rate Borrowing, Agent shall be given notice on the day on which such Borrowing is to be made and such notice shall specify that a Base Rate Borrowing is requested and shall state the amount thereof (subject to the provisions of this Article 2);

(ii) For a LIBOR Rate Borrowing, Agent shall be given notice at least three (3) LIBOR Business Days prior to the day on which such Borrowing is to be made and such notice shall specify that a LIBOR Rate Borrowing is requested and shall state the amount and proposed Interest Period thereof (subject to the provisions of this Article 2);

(iii) For the issuance of a Letter of Credit, Agent and the Issuing Bank shall be given notice at least four (4) Domestic Business Days prior to the day on which such Letter of Credit is to be issued, or such shorter period of time as is acceptable to the Issuing Bank; provided, however, that any such notice period shall be sufficiently long as is necessary to satisfy the conditions set forth in Section 2.2, as applicable, with respect to such issuance. Such notice shall specify that a Letter of Credit issuance is requested and shall state the amount thereof (subject to the provisions of this Article 2).

(c) If the notice required by clause (b) of this Section 2.8 shall have been received by Agent no later than 9:00 a.m., California time, on a Domestic Business Day or LIBOR Business Day, as applicable, such day shall be treated as the first Domestic Business Day or LIBOR Business Day, as applicable, of the required notice period. In any other event, such notice shall be treated as having been received immediately before

9:00 a.m., California time, of the next Domestic Business Day or LIBOR Business Day, as applicable.

(d) In lieu of delivering the above-described Notice of Borrowing, Borrower, by one of its Responsible Officers or any other individual authorized to act on its behalf, may give Agent telephonic notice requesting a Borrowing to be disbursed pursuant to the terms of Section 2.21 hereof by the required time of any proposed Borrowing under this Section 2.8; provided, however, that such notice shall be confirmed in writing by delivery of a Notice of Borrowing to Agent on or before the proposed date of such Borrowing. Agent and Banks shall incur no liability to Borrower and Agent shall incur no liability to Banks in acting upon any telephonic notice referred to above which Agent believes in good faith to have been given by a Responsible Officer or other individual authorized to act on behalf of Borrower or for otherwise acting in good faith under this Section 2.8 and in making any Loans in accordance with this Agreement pursuant to any telephonic notice. Any Notice of Borrowing (or telephonic notice in lieu thereof) shall be irrevocable and Borrower shall be bound to make a Borrowing in accordance therewith.

2.9 CONVERSION OR CONTINUATION.

(a) Subject to the provisions of Section 2.16, Borrower shall have the option to: (a) convert all or any part of its outstanding Loans equal to One Million Dollars ($1,000,000) and integral multiples of One Hundred Thousand Dollars ($100,000) in excess of such amount, to a Base Rate Loan; (b) convert all or any portion of its outstanding Loans equal to Five Million Dollars ($5,000,000), and integral multiples of One Million Dollars ($1,000,000) in excess of such amount, to a LIBOR Rate Loan; or (c) upon the expiration of any Interest Period applicable to a LIBOR Rate Loan, to continue all of such LIBOR Rate Loan as a LIBOR Rate Loan and the succeeding Interest Period of such continued Loan shall commence on the expiration date of the Interest Period previously applicable thereto; provided, however , that a LIBOR Rate Loan only may be converted into a Base Rate Loan or continued, as the case may be, on the expiration date of the Interest Period applicable thereto; provided further, however, that no outstanding Loan may be continued as, or be converted into, a LIBOR Rate Loan when any Unmatured Event of Default or Event of Default has occurred and is continuing; provided further, however, that if Borrower fails to deliver the appropriate Notice of Conversion/Continuation or the telephonic notice in respect thereof before the expiration of the Interest Period of a LIBOR Rate Loan, such LIBOR Rate Loan automatically shall be converted to a Base Rate Loan.

(b) Any provisions of the foregoing paragraph of this Section 2.9 to the contrary notwithstanding, Borrower may convert a LIBOR Rate Loan into a Base Rate Loan prior to the expiration date of the Interest

Period applicable thereto upon

payment to each Bank, pursuant to the provisions of Section 2.15 hereof, of all costs, expenses and losses incurred by any Bank as a result of the timing of such conversion.

(c) Borrower shall deliver a Notice of Conversion/Continuation, in the form of Exhibit N-2, with respect to a conversion or continuation of one of its Loans to Agent no later than 9:00 a.m., California time, on the Domestic Business Day that is the proposed conversion date in the case of a conversion to a Base Rate Loan and at least three (3) LIBOR Business Days in advance of the proposed conversion/continuation date in the case of a conversion to, or a continuation of, a LIBOR Rate Loan. A Notice of Conversion/Continuation shall specify: (i) the proposed conversion/continuation date (which shall be a Domestic Business Day or a LIBOR Business Day, as applicable); (ii) the amount of the Loan to be converted/continued; (iii) the nature of the proposed conversion/continuation; and (iv) in the case of a conversion to, or continuation of, a LIBOR Rate Loan, the requested Interest Period.

(d) In lieu of delivering the above-described Notice of Conversion/Continuation, Borrower, by any of its Responsible Officers or any other individual authorized to act on behalf of Borrower, may give Agent telephonic notice by the required time of any proposed conversion/continuation under this Section 2.9; provided, however, that such notice shall be promptly confirmed in writing by delivery of a Notice of Conversion/Continuation to Agent on or before the proposed conversion/continuation date. Agent and Banks shall incur no liability to Borrower in acting upon any such telephonic notice that Agent believes in good faith to have been given by a Responsible Officer or other individual authorized to act on behalf of Borrower, or for otherwise acting in good faith under this Section 2.9 and in converting/continuing pursuant to any telephonic notice. Any Notice of Conversion/Continuation (or telephonic notice in lieu thereof) shall be irrevocable and Borrower shall be obligated to convert or continue in accordance therewith.

2.10 LOANS BY BANKS.

(a) Agent promptly shall notify each Bank of that Bank's pro rata portion of a Borrowing or Letter of Credit issuance requested pursuant to Section 2.8 hereof. Not later than 10:00 a.m., California time, on the date specified in such notice as the date on which the Borrowing so requested is to be made, each Bank, subject to the terms and conditions hereof, shall initiate a transfer of funds to make its pro rata portion of the Borrowing available in immediately available funds, to Agent at its San Francisco main branch located at 420 Montgomery Street, San Francisco, California 94163.

(b) An Issuing Bank promptly shall notify each Bank of that Bank's pro rata portion of a drawing made under a Letter of Credit. Not later than 9:00 a.m., California time, on the date specified in such notice as the date on which such drawing is

to be paid, each Bank, subject to the terms and conditions hereof, shall initiate a transfer of funds to make its pro rata portion of such drawing available, in immediately available funds, to Agent. In the event that Issuing Bank is unable to notify Banks in time sufficient to permit Banks to timely remit their portion of the drawing to Issuing Bank, then each Bank shall be required to initiate a transfer of funds to make payment to Agent of its pro rata portion of the drawing under the Letter of Credit, together with interest thereon accrued from the date of the drawing to the date on which such Bank initiates payment to Agent at the rate set forth in the following sentence, by no later than 9:00 a.m. California time, on the Domestic Business Day immediately following the date of receipt of the notice from Issuing Bank. In the event that any Bank fails to make any payment to Agent, as specified above, Issuing Bank shall be entitled to recover such amount on demand from such Bank together with interest thereon until paid at the customary rate set by such Bank for the correction of errors among banks for the first three (3) Domestic Business Days and, thereafter, at the Base Rate.

(c) Each Bank's obligation to make any Loan pursuant hereto is several, and not joint or joint and several, and is not

conditioned upon the performance by each, any, or all of the other Banks of their obligations to make Loans. The failure by any Bank to perform its obligation to make Loans will neither increase any other Bank's pro rata portion of the Facility A Commitment nor relieve any other Bank of its obligation to make Loans pursuant to its share of the Facility A Commitment. Agent shall notify Banks of the failure by any Bank (a "Defaulting Bank") to perform its obligation to make a Loan required to be made by such Defaulting Bank hereunder and any Bank (other than such Defaulting Bank) may, if it desires, assume, in such proportion as the Majority Banks (calculated without inclusion of the Defaulting Bank) may agree, the obligation of the Defaulting Bank or Banks to make Loans, but no Bank shall be obligated to do so. Anything to the contrary herein notwithstanding, if any Bank shall be a Defaulting Bank and if such default shall be continuing, then Agent shall not make payment (when such payment is due) to such Defaulting Bank of its pro rata portion of any repayments or prepayments of principal, interest, fees, costs, or expenses (although such amounts shall continue to be owing to such Defaulting Bank or Banks, such amounts shall not be due until all the obligations to the non-Defaulting Banks are paid in full and the Facility A Commitment is terminated in full (the "Extended Due Date"), and no Event of Default or Unmatured Event of Default shall result from, and neither Borrower nor any of its Subsidiaries shall be considered not to be in compliance with this Agreement, the Notes, the Loan Documents, or any other document as a result of, the non-payment of such amounts prior to the Extended Due Date); such amounts first shall be paid by Agent to the other non-Defaulting Banks in order to insure that all of the obligations of Borrower or any of its Subsidiaries to such non-Defaulting Banks are paid in full prior to the Defaulting Bank being entitled to receive payment of any amount on account of the obligations of Borrower or any of its Subsidiaries owing to such Defaulting Bank.

2.11 MANDATORY REPAYMENT.

(a) Subject to the provisions of Section 2.12, the Facility A Commitment shall terminate on the Maturity Date.

(b) In the event that, at any time, the Facility A Usage exceeds the then extant amount of the Facility A Commitment, then, and in each such event, Borrower immediately shall repay the amount of such excess to Agent to be distributed to Banks based upon their pro rata share of the Facility A Commitment.

2.12 VOLUNTARY PREPAYMENTS OR REDUCTIONS OF FACILITY A COMMITMENT.

(a) Subject to Section 2.15 hereof, Borrower shall have the right, at any time and from time to time, to prepay the Loans without penalty or premium. Borrower shall give Agent notice of any such prepayment with respect to Base Rate Loans on the date of prepayment and not less than three (3) LIBOR Business Days prior written notice of any such prepayment with respect to LIBOR Rate Loans. In each case, such notice shall designate whether the prepayment is to be applied to Facility A Revolving Loans, Facility A Florida Subfacility Revolving Loans, or Facility A Florida LC Subfacility Revolving Loans, and shall specify the date on which such prepayment is to be made (which shall be a Domestic Business Day or LIBOR Business Day, as applicable), and the amount of such prepayment. In the absence of such designation, any such prepayment first shall be applied to Facility A Revolving Loans (other than Facility A Florida Subfacility Revolving Loans and Facility A Florida LC Subfacility Revolving Loans) until paid in full, second to Facility A Florida Subfacility Revolving Loans until paid in full, and third to Facility A Florida LC Subfacility Revolving Loans. Each such prepayment on account of Base Rate Loans shall be in an aggregate minimum amount of One Million Dollars ($1,000,000), and integral multiples of One Hundred Thousand Dollars ($100,000) in excess of such amount and shall include interest accrued on the amount prepaid to the date of payment. Each such prepayment on account of LIBOR Rate Loans shall be in an aggregate minimum amount of Five Million Dollars ($5,000,000), and integral multiples of One Million Dollars ($1,000,000) in excess of such amount and shall include interest accrued on the amount prepaid to the date of payment.

(b) Borrower shall have the right at any time and from time to time to permanently reduce, in whole or in part, the unfunded portion of the Facility A Commitment. Borrower shall give Agent not less than five (5) Domestic Business Days prior written notice designating whether the reduction is to be applicable to Facility A (without a reduction of the Facility A Florida Subfacility or the Facility A Florida LC Subfacility), the Facility A Florida Subfacility (with a corresponding reduction to the Facility A Commitment), or the Facility A Florida LC Subfacility (with a corresponding reduction to the Facility A Commitment), the date (which shall be a Domestic Business

61
Day) of such reduction and the amount of such reduction. Each such reduction shall be effective on the date specified in Borrower's notice given in compliance hereunder. Each such reduction shall be in an aggregate minimum amount of Five Million Dollars ($5,000,000), and integral multiples of One Million Dollars ($1,000,000) in excess thereof, or, if less, the balance of the Facility A Commitment. Each such reduction shall not reduce any LIBOR Rate Borrowing to an amount that is less than Five Million Dollars ($5,000,000) but greater than zero.

(c) Any reduction of the Facility A Commitment pursuant to this Section 2.12 shall be without premium or penalty (other than under Section 2.15 hereof and other than payment of any Commitment Fees accrued under Section 2.13 hereof).

(d) Any reduction of the Facility A Commitment pursuant to this Section 2.12 shall reduce each Bank's pro rata share of the Facility A Commitment and, where applicable under clause (b) above, the Facility A Florida Subfacility Commitment and the Facility A Florida LC Subfacility Commitment.

2.13 COMMITMENT FEE. Borrower shall pay a fee (the "Commitment Fee") to Agent, to be distributed by Agent to each Bank based upon such Bank's pro rata share of the Facility A Commitment. The Commitment Fee shall be payable quarterly in arrears, commencing on December 31, 1993, continuing on the last day of each September, December, March, and June thereafter so long as the Facility A Commitment is outstanding, and on the date of final termination of the Facility A Commitment. The Commitment Fee that is due and payable on December 31, 1993, shall cover the period of time from the Closing Date to December 31, 1993. On or before the Closing Date, Borrower shall pay to Agent the Commitment Fee (as defined and payable under the 1991 Credit Agreement), covering the period of time from October 1, 1993 through the day prior to the Closing Date.

The Commitment Fee shall be equal to one-half of one percent (1/2%), per annum, times the average daily amount of the unfunded portion of the Facility A Commitment, decreased by the amount of the Letter of Credit Usage extant from time to time and shall be calculated, as set forth in Section 2.7 hereof, on the basis of a year of three hundred sixty-five (365) or three hundred sixty-six (366) days, as applicable, for the actual number of days elapsed.

2.14 AGENT'S FEES. As and when agreed to in the Agent's Fee Letter, Borrower agrees to pay to Agent, for its own account, the Agent's Fees.

2.15 INCREASED COSTS. If after the Closing Date, (a) the adoption of, or any change in, any applicable law, rule, or regulation, or any change in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or

62
administration thereof, or compliance by any Bank (or its Lending Office) with any request, guideline, or directive (irrespective of whether having the force of law) of any governmental authority (a "Regulatory Change") shall impose, modify, or deem applicable any reserve, special deposit, or similar requirement (including any such requirement imposed by the Federal Reserve Board, but excluding with respect to any LIBOR Rate Loan any such requirement included in the calculation of the LIBOR Rate) against assets of, deposits with, or for the account of, or credit extended by, any Bank's Lending Office or shall impose on any Bank (or its Lending Office) or the inter-bank eurodollar market any other condition affecting its LIBOR Rate Loans or its obligation to make LIBOR Rate Loans, or (b) Borrower prepays or converts any LIBOR Rate Loan prior to the end of its applicable Interest Period, and the result of any of the foregoing is to increase the cost to such Bank (or its Lending Office) of making or maintaining any LIBOR Rate Loan, or to reduce the amount of any sum received or receivable by such Bank (or its Lending Office) under this Agreement with respect thereto, or results in any loss or expense (including any loss or expense incurred by reason of the liquidation or re-employment of deposits or other funds acquired by such Bank to fund or maintain outstanding its pro rata share of the principal amount of the Loans, but not including any loss of profit) by an amount deemed by such Bank to be material, then, such Bank may, by written

notice given to Borrower, require Borrower to pay to such Bank such additional amounts as shall compensate such Bank for such increased cost, reduction, loss, or expense for the ninety (90) day period preceding the date on which such notice is given and during each fiscal quarter thereafter. Any such request for compensation by a Bank under this Section 2.15 shall set forth the basis of calculation thereof and shall, in the absence of manifest error, be conclusive and binding for all purposes. In determining such amount, such Bank may use any reasonable averaging or attribution methods.

2.16 ILLEGALITY. If any Bank shall determine that it has become unlawful, as a result of any Regulatory Change, for such Bank to make, convert into, or maintain a LIBOR Rate Loan as contemplated by this Agreement, such Bank promptly shall give notice of such determination to Borrower (through the Agent) and, thereafter, (a) the obligation of such Bank to make, convert into, or maintain LIBOR Rate Loans shall be suspended until such Bank gives notice that the circumstances causing such suspension no longer exist, and (b) each of such Bank's outstanding LIBOR Rate Loans shall, if requested by such Bank, be converted into a Base Rate Loan not later than upon the expiration of the Interest Period related to such LIBOR Rate Loans, or, if earlier, on such date as may be required by the applicable Regulatory Change, as shall be specified in such request. Any such determination shall, in the absence of manifest error, be conclusive and binding for all purposes.

2.17 TAXES.

(a) All payments made by Borrower in connection with this Agreement shall be made free and clear of, and without reduction for or on account of, any present or future income, stamp or other Taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any country (or by any political subdivision or taxing authority thereof or therein) on any of the Banks, excluding Taxes on, or measured by, or with respect to net income, alternative minimum taxable income under Code Section 55, dividend equivalent amount under Code Section 884, franchise, or capital stock imposed by (i) the United States of America or any political subdivision or taxing authority thereof or therein (including Puerto Rico), or (ii) the countries in which any Bank is organized or its lending or principal executive offices may be located or are conducting business or any political subdivision or taxing authority thereof or therein except any country or state or political subdivision thereof that imposes taxes on any Bank solely as a result of this Agreement or Borrower's or any of its Subsidiaries' presence in that country. If any such non-excluded Taxes are required to be deducted or withheld from any such payments to any Bank, the amounts of such payments shall be increased to the extent necessary in order that the amount of such payment to such Bank (after payment of all Taxes) shall equal the amount which would have been received by such Bank in the absence of such Taxes, or any such other amounts payable; provided, however , that in the event that payments to any Bank are required to be increased as a result of any non-excluded Taxes imposed by any country (excluding the United States), Borrower shall be entitled to substitute for such Bank any other bank or financial institution reasonably acceptable to the Required Banks. Whenever any such non-excluded Taxes are payable by Borrower, as promptly as possible thereafter, Borrower shall send to Agent, for the account of such Bank, a certified copy of the original official receipt, if any, received by Borrower showing payment thereof. If Borrower fails to pay non-excluded Taxes when due to the appropriate taxing authority or fails to remit to Agent, for the account of Banks, the required receipts or other required documentary evidence, Borrower shall indemnify Banks for any incremental non-excluded Taxes that may become payable by Banks and all costs and expenses related thereto (including reasonable attorneys fees) as a result of any such failure.

(b) Section 2.17(a) hereof to the contrary notwithstanding, in the event that a Foreign Bank becomes a signatory to this Agreement, Borrower shall withhold tax with respect to payments to such Foreign Bank in accordance with the United States federal income tax laws in effect and shall have no obligation to make payments to such Foreign Bank that are free and clear of such withheld amounts, unless such Foreign Bank promptly shall deliver to Agent and Agent delivers to Borrower duly executed certificates in duplicate to the effect that as of that date such Foreign Bank is entitled to receive all payments made hereunder without deduction or withholding of United States federal income tax: (i) pursuant to the terms of an applicable tax treaty in effect with the United States

of America (in which case such certificates shall be accompanied by two executed copies of Form 1001 of the Internal Revenue Service), (ii) under Code Section 1441(c) (in which case such certificates shall be accompanied by two executed copies of Form 4224 of the Internal Revenue Service), or (iii) pursuant to an exemption certificate received from the Internal Revenue Service (in which case such certificates shall be accompanied by a copy of said exemption certificate). During the term of this Agreement, each Foreign Bank shall file such additional Forms 1001 or 4224 as the case may be, as may be required by law or reasonably requested by Borrower. Each Foreign Bank, upon becoming aware of the occurrence of any event requiring a change in its prior certificate, promptly shall deliver to Agent for delivery to Borrower duly executed certificates to the effect that (as the case may be): (y) such Foreign Bank is not capable of receiving future payments hereunder without deduction or withholding of United States federal income tax; or (z) such Foreign Bank is capable of receiving all payments hereunder without deduction or withholding of United States federal income tax, pursuant to a tax treaty of the United States, pursuant to Code Section 1441(c), or pursuant to an exemption certificate received from the Internal Revenue Service, a copy of which shall be attached to such certificate.

In the event that the Internal Revenue Service notifies Borrower that Borrower improperly failed to withhold tax with respect to payments to such Foreign Bank: (aa) Borrower timely and fully shall pay such tax to the Internal Revenue Service and such Foreign Bank immediately, upon notice of such payment by Borrower, shall pay to Borrower an amount necessary in order that the amount of such payment to Borrower after payment of all Taxes with respect to such payment shall equal the amount that Borrower has paid to the Internal Revenue Service pursuant to this clause; and (bb) Borrower shall have no obligation to make payments to such Foreign Bank that are free and clear of such withheld amounts, until such Foreign Bank delivers to Agent for delivery to Borrower the duly executed certificates described in this subsection that entitle such Foreign Bank to receive all payments made hereunder without deduction or withholding of United States federal income tax.

Anything to the contrary contained in this clause (b) notwithstanding, to the extent that a Bank is unable to deliver a certificate or form required hereunder as a result of a change in applicable law, such inability shall not adversely affect such Bank's rights to reimbursement under clause (a) of this Section 2.17.

2.18 LENDING OFFICES. The Loans made by each Bank may be made from and maintained in such offices of such Bank, or its Affiliates (each a "Lending Office") as such Bank may from time to time designate to Borrower and the Agent (irrespective of whether such office is specified on Schedule 11.3 hereto). A Bank shall not elect a Lending Office that, at the time of the making of such election, increases the amounts that would have been payable by Borrower to such Bank under this Agreement in the absence of such election. With respect to LIBOR Rate Loans made from and maintained at such

Bank's foreign offices or Affiliates, the obligation of Borrower to repay such LIBOR Rate Loans shall nevertheless be to such Bank and shall, for all purposes of this Agreement (including for purposes of the definition of the terms "Majority Banks" and "Required Banks") be deemed made, or maintained by it, for the account of such office or Affiliate.

2.19 FUNDING SOURCES. Nothing herein shall be deemed to obligate any Bank to obtain the funds to make any Loan hereunder in any particular place or manner and nothing herein shall be deemed to constitute a representation by any Bank that it has obtained or will obtain such funds in any particular place or manner.

2.20 HOLIDAYS. Any principal or interest in respect of a Loan that otherwise would become due on a day other than a Domestic Business Day, instead shall become due on the next succeeding Domestic Business Day and such adjustment shall be reflected in the computation of interest; provided, however, if any such extension shall cause a LIBOR Rate Loan to be due in the next calendar month, then such amount shall be due on the next preceding LIBOR Business Day.

2.21 PLACE OF BORROWINGS. All Borrowings made hereunder shall be disbursed by credit to Borrower's deposit account with Agent maintained by Borrower at Agent's office at 420 Montgomery Street, San Francisco, California 94163, or as may otherwise be agreed to by Borrower and Agent.

2.22 TIME AND PLACE OF PAYMENTS.

(a) Borrower shall make each payment hereunder or on the Notes by making, or causing to be made, the amount thereof available to Agent in Dollars in immediately available funds at Agent's main branch office located at 420 Montgomery Street, San Francisco, California, 94163 not later than 9:00 a.m., California time, on the day of payment (except in the case of (i) compensation pursuant to Section 2.15 hereof, and (ii) interest paid in respect of a LIBOR Rate Borrowing as to which any Bank shall have requested conversion of a LIBOR Rate Loan to a Base Rate Loan in a principal amount equal to the principal amount thereof pursuant to Section 2.16 hereof, respectively). In the absence of timely receipt, such funds shall be deemed to have been paid by Borrower on the next succeeding Domestic Business Day.

(b) Without limitation of Bank's rights of setoff provided for and contemplated by Section 11.15 hereof or by law, Agent shall have the right to charge (i.e., debit) any account of Borrower maintained with Agent for the amount of any payment due hereunder or on the Notes by Borrower.

2.23 INCREASED RISK-BASED CAPITAL COST. If any Bank determines that the cost (including any additional cost attributable to any reduction of a Bank's rate of return

on its equity or assets) to such Bank of maintaining its share of the Facility A Commitment is increased because of any law or regulation or any interpretation, directive, or request (irrespective of whether having the force of law), of any foreign or domestic court or governmental or monetary authority, with respect to risk-based capital requirements for binding loan commitments, such Bank may, by written notice given to Borrower, require Borrower to pay, on demand, an amount equal to such Bank's additional costs incurred during the ninety (90) days preceding the date on which such notice is given and during each fiscal quarter thereafter. Each such Bank shall state in the notice required by this Section 2.23, in reasonable detail, the cause and amount of such additional cost. Within thirty (30) calendar days after receipt of such notice, Borrower may, at its option, elect to terminate that portion of the Facility A Commitment that is held by such Bank.

2.24 AGREEMENT REGARDING AMOUNT SECURED BY FLORIDA COLLATERAL AND BROOKSVILLE COLLATERAL. Banks, Agent, and Borrower hereby agree to the following with respect to the amount secured by the Florida Collateral and the Brooksville Collateral:

(a) As of the Closing Date, the Florida Collateral only shall secure the Facility A Florida Subfacility in an amount equal to the Facility A Florida Subfacility Commitment;

(b) As of the Closing Date, the Brooksville Collateral only shall secure the Facility A Florida LC Subfacility in an amount equal to the Facility A Florida LC Subfacility Commitment;

(c) At any time and from time to time if the outstanding Loans made, and Letters of Credit issued, under the Facility A Florida Subfacility are repaid or retired such that the amount outstanding under such subfacility is less than the Facility A Florida Subfacility Commitment, and if, thereafter, Borrower requests additional Loans or Letters of Credit, then concurrent with the making or issuance thereof, Borrower agrees to pay the Florida intangibles tax, if any, that becomes due and payable as a result of such additional extensions of credit hereunder;

(d) At any time and from time to time if the outstanding Loans made, and Letters of Credit issued, under the Facility A Florida LC Subfacility are repaid or retired such that the amount outstanding under such subfacility is less than the Facility A Florida LC Subfacility Commitment, and if, thereafter, Borrower requests additional Letters of Credit, then concurrent with the issuance thereof, Borrower agrees to pay the Florida intangibles tax, if any, that becomes due and payable as a result of such additional extensions of credit hereunder;

(e) at any time and from time to time if an outstanding Letter of Credit issued under either the Facility A Florida Subfacility or the Facility A Florida LC

Subfacility is drawn upon, then, concurrent with the payment of the drawing under such Letter of Credit, Borrower agrees to pay the Florida intangibles tax, if any, that becomes due and payable as a result thereof; and

(f) Anything in Section 11.1 hereof to the contrary notwithstanding, any amendment, modification, supplement, termination, or waiver of or to, or consent to any departure from, any provision of this Section 2.24 shall be effective only if it is in writing and signed by or on behalf of the Required Banks and Borrower.

2.25 SURVIVABILITY. Borrower's obligations under Sections 2.5, 2.6, 2.15, 2.17, and 2.23 hereof shall survive repayment of the Loans and termination of the Facility A Commitment hereunder.

ARTICLE 3.

CONDITIONS TO LOANS

3.1 CONDITIONS PRECEDENT TO INITIAL LOANS AND LETTERS OF CREDIT. The obligation of each Bank to make its initial Loan hereunder and of any Issuing Bank to issue the initial Letter of Credit hereunder (including without limitation the conversion of loans and letters of credit outstanding under the 1991 Credit Agreement as provided for in Section 3.2) is, in addition to the conditions set forth in Sections 3.2 and 3.3 hereof, subject to the fulfillment, to the satisfaction of Agent, of each of the following conditions on or before the Closing Date:

(a) the Closing Date shall occur on or before December 15, 1993;

(b) Borrower shall have executed and delivered to Agent this Agreement, together with all exhibits and schedules hereto, and, at least one (1) day prior to the Closing Date, the Disclosure Statement;

(c) Borrower shall have completed, executed, and delivered the Notes to Agent;

(d) Agent shall have received the written opinions, dated the Closing Date, of counsel to Borrower, in form and substance satisfactory to Agent and its counsel, and also shall have received such written opinions of local counsel to Agent and Banks as Agent shall reasonably require, all in form and substance satisfactory to Agent and its counsel;

(e) Agent shall have received a certificate of corporate status with respect to Borrower, dated within five (5) days of the Closing Date, or confirmed by telex, if telex confirmation is available, by the Secretary of State of Louisiana, such certificate to be issued by the Secretary of State of Louisiana, which certificate shall indicate that Borrower is in good standing in such state;

(f) Agent shall have received a certificate of corporate status with respect to each of the Specified Subsidiaries, dated within five (5) days of the Closing Date, or confirmed by telex, if telex confirmation is available, by the Secretary of State of the respective states of their incorporation, and all of such certificates to be issued by the Secretaries of State of such states and shall indicate that each and all of such entities are in good standing in such respective states;

(g) Agent shall have received certificates of corporate status indicating that Borrower is in good standing as a foreign corporation, dated within seven (7) days of the Closing Date, or confirmed by telex, if telex confirmation is available, such certificates to be issued by each Secretary of State of the states in which Borrower's failure to be duly qualified or licensed would have a Material Adverse Effect;

(h) Agent shall have received certified copies of Borrower's and each of the Specified Subsidiaries' articles of incorporation;

(i) Agent shall have received copies of the by-laws of Borrower and each of the Specified Subsidiaries (except SCI) certified by their respective Secretaries or Assistant Secretaries;

(j) Agent shall have received signature and incumbency certificates respecting the officers executing this Agreement, the Notes, and the Loan Documents;

(k) Agent shall have received an Officer's Compliance Certificate from Borrower, dated as of the Closing Date, duly executed by a Responsible Officer of Borrower, substantially in the form of Exhibit 3.1(k) attached hereto, certifying that neither an Event of Default nor an Unmatured Event of Default has occurred and is continuing and detailing the calculations by which Borrower has determined it is in compliance with the financial covenants contained herein;

(l) Agent shall have received the duly executed originals of the Agent's Fee Letter and the Termination of Subrogation and Contribution Agreement and each of such Loan Documents shall be in full force and effect;

(m) Borrower shall have executed and delivered to Agent such Real Property Collateral Documents and Personal Property Collateral Documents, in form and

substance reasonably satisfactory to Agent and its counsel, as are necessary to grant or continue the grant to Agent, on behalf of Banks, a Lien upon all of Borrower's personal property (subject only to certain excluded property described therein) and real property fee estates (except for certain properties described in the Disclosure Statement);

(n) the Specified Subsidiaries shall have executed and delivered to Agent such additional Real Property Collateral Documents and Personal Property Collateral Documents, in form and substance reasonably satisfactory to Agent and its counsel, as are necessary to grant or continue the grant to Agent, on behalf of Banks, a Lien upon all of the Specified Subsidiaries' personal property (subject only to certain excluded property described therein) and real property fee estates;

(o) Agent shall have received the benefit of such title policies or commitments for title insurance, and surveys as Agent may request from title companies satisfactory to Agent, in form and substance reasonably satisfactory to Agent;

(p) Agent shall have received appraisals, conducted by appraisers selected by Agent with respect to Borrower's Victorville, California and Knoxville, Tennessee real property and improvements;

(q) Agent shall have received all of Borrower's original stock certificates representing all of the issued and outstanding capital stock of FCC, FI, Mojave, SCI, SES, SFC, SSI, and VPC, and the stock powers, duly executed, relating thereto;

(r) Agent shall have received a certificate from Borrower's Secretary or Assistant Secretary attesting to the resolutions of the Board of Directors authorizing the execution and delivery of this Agreement, the Notes, and the Loan Documents to be executed and delivered by Borrower, and authorizing officers to execute same;

(s) Agent shall have received a certificate from a Secretary or Assistant Secretary of each the Specified Subsidiaries attesting to the resolutions of the Specified Subsidiaries' boards of directors authorizing the execution and delivery of the Loan Documents to the extent that each is a party thereto, and authorizing officers to execute same;

(t) Agent shall have received full payment of the Agent's Fees (to the extent payable on or before the Closing Date) and all of Agent's fees, costs, and expenses (including the fees and expenses of Agent's counsel, including allocated amounts for Agent's in-house counsel) incurred in connection with the preparation, negotiation, execution, and delivery of this Agreement, the Notes, and the Loan Documents;

(u) the representations and warranties of Borrower set forth in Article 4 of this Agreement and in the Loan Documents shall be true and correct in all material respects as of the Closing Date;

(v) Agent shall have received originals or copies

of each of the documents referred to in clauses (b), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r), and (s) hereof in sufficient numbers so as to enable Agent to provide a copy thereof to each Bank;

(w) the incurrence of the initial Loans under Facility A, and the application of the proceeds thereof, shall not constitute a default under or breach of any term or condition of any Contractual Obligation of Borrower or any of its Subsidiaries;

(x) no Material Adverse Change shall have occurred as a result of one or more acts or occurrences;

(y) no injunction, writ, restraining order, or other order of any nature inconsistent with the making of the initial Loans or the issuance of the initial Letters of Credit hereunder, shall have been issued and remain in force by any governmental authority; and

(z) all other documents and legal matters in connection with the transactions contemplated by this Agreement shall have been delivered, executed, recorded, or filed and shall be in form and substance reasonably satisfactory to Agent and its counsel.

3.2 CONDITIONS CONCURRENT TO INITIAL LOANS AND LETTERS OF CREDIT. The obligation of each Bank to make its initial Loan hereunder and of any Issuing Bank to issue the initial Letter of Credit hereunder is, in addition to the conditions set forth in Sections 3.1 and 3.3 hereof, subject to the fulfillment, to the satisfaction of Agent, of each of the following conditions concurrent:

(a) all of the loans outstanding under the 1991 Credit Agreement shall be deemed Loans outstanding hereunder; if such loans were outstanding under the $25,000,000 Facility A Florida Subfacility provided for in the 1991 Credit Agreement, they shall become Facility A Florida Subfacility Revolving Loans; otherwise, such loans shall become Facility A Loans hereunder, but shall not be Facility A Florida Subfacility Revolving Loans or Facility A Florida LC Subfacility Revolving Loans; and

(b) the letters of credit issued under the 1991 Credit Agreement that are outstanding as of the Closing Date shall remain outstanding and shall be deemed to be Letters of Credit issued under Article 2 of this Agreement.

3.3 CONDITIONS PRECEDENT TO ALL LOANS. The obligation of each Bank to make each Loan hereunder and of any Issuing Bank to issue any Letter of Credit hereunder is subject to the fulfillment, to the satisfaction of Agent, at or prior to the time of the making of such Loan or the issuance of such Letter of Credit, of each of the following further conditions:

(a) the representations and warranties of Borrower and the Specified Subsidiaries contained in this Agreement and the Loan Documents, to the extent that each is a party thereto, shall be true and correct in all material respects at and as of the date of such Loan, as though made on and as of such date (except to the extent that such representations and warranties expressly relate solely to an earlier date);

(b) neither an Event of Default nor an Unmatured Event of Default shall have occurred and be continuing on the date of such Loan or Letter of Credit, nor shall either or both result from the making of such Loan or the issuance of such Letter of Credit;

(c) no Material Adverse Change shall have occurred, as a result of one or more acts or occurrences;

(d) Borrower shall have delivered to Agent a Notice of Borrowing pursuant to the terms of Section 2.8 hereof; and

(e) No injunction, writ, restraining order, or other order of any nature preventing any Bank from funding any portion of the Loans or issuing a Letter of Credit shall have been issued and remain in force by any governmental authority.

ARTICLE 4.

REPRESENTATIONS AND WARRANTIES OF BORROWER

In order to induce Agent and each of the Banks to enter into this Agreement, Borrower makes the following representations and warranties,

which, except as set forth in the Disclosure Statement with a specific reference to the section of this Article 4 affected thereby, shall be true, correct, and complete in all material respects as of the Closing Date and at and as of the date of each Loan made or Letter of Credit issued thereafter, as though made on and as of the date of such Loan or Letter of Credit (except to the extent that such representations and warranties expressly relate solely to an earlier date), such representations and warranties to survive the execution and delivery of this Agreement and the Notes and the making of the Loans and the issuance of Letters of Credit:

4.1 ORGANIZATION, POWERS, GOOD STANDING, AND SUBSIDIARIES.

(a) ORGANIZATION AND POWERS. Each of Borrower and Borrower's Subsidiaries is a corporation duly organized, validly existing, and in good standing under the laws of its jurisdiction of incorporation and has all requisite corporate power and authority to own and operate its properties, and to carry on its business as now conducted and proposed to be conducted. Borrower has all requisite corporate power and authority to enter into this Agreement and the Loan Documents to which it is a party, to issue the Notes, and to carry out the transactions contemplated hereby and thereby. Each of Borrower's Subsidiaries has all requisite corporate power and authority to enter into the Loan Documents to which they are parties, and to carry out their respective obligations contemplated thereby. Each of Borrower and Borrower's Subsidiaries possesses all franchises, certificates, licenses, permits, and other authorizations from governmental or regulatory authorities that are necessary in order to prevent the occurrence of a Material Adverse Effect and Borrower and its Subsidiaries are not in violation thereof in any material respect.

(b) GOOD STANDING. Each of Borrower and its Subsidiaries is in good standing in each state where the absence to be so qualified would have a Material Adverse Effect.

(c) SUBSIDIARIES. Borrower has no Subsidiaries other than those that are identified in the Disclosure Statement. The Disclosure Statement correctly sets forth the number of shares of each class of common and preferred stock authorized for each of Borrower's Subsidiaries, and the number outstanding and the percentage of the outstanding shares of each such class owned (directly or indirectly) by Borrower or one or more of such Subsidiaries. The capital stock of Borrower and each of its Subsidiaries is duly authorized, validly issued, and fully paid and nonassessable. The Disclosure Schedule may be amended, from time to time, to reflect Borrower's formation or acquisition of new Subsidiaries or other changes so long as the amendment contains the relevant information concerning such Subsidiary as would have been required hereunder as of the Closing Date and so long as such amendment is not in violation of the covenants contained in this Agreement and so long as Borrower, or such Subsidiary, as and if applicable, complies with the provisions of Section 5.11 hereof in connection with such amendment. Except for Investments permitted under Section 6.3, neither Borrower nor any of its Subsidiaries, individually or collectively, owns or holds, directly or indirectly, in the aggregate, any capital stock or equity security of, or any equity interest in any corporation or business, other than Borrower's Subsidiaries.

4.2 AUTHORIZATION OF BORROWING, ETC.

(a) AUTHORIZATION OF BORROWING. The execution, delivery, and performance by Borrower of this Agreement, the Loan Documents to which it is a party, and the Notes have been duly authorized by all necessary corporate action.

(b) AUTHORIZATION OF SUBSIDIARIES' LOAN DOCUMENTS. The execution, delivery, and performance by each of Borrower's Subsidiaries of the Loan Documents to which they are parties have been duly authorized by all necessary corporate action.

(c) NO CONFLICT - BORROWER. The execution, delivery, and performance by Borrower of this Agreement, the Loan Documents to which it is a party, and the Notes do not and will not: (a) violate any provision of federal, state or local law or regulation (including Regulations

G, T, U, and X of the Federal Reserve Board) applicable to Borrower, the articles of incorporation or bylaws (or other charter documents) of Borrower, or any order, judgment, or decree of any court or other agency of government binding on Borrower; (b) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation or material lease of Borrower; (c) result in or require the creation or imposition of any Lien of any nature whatsoever upon any properties or assets of Borrower, other than Permitted Liens; or (d) require any approval of stockholders or any approval or consent of any Person under any Contractual Obligation of Borrower.

(d) NO CONFLICT - SUBSIDIARIES. The execution, delivery, and performance by each of Borrower's Subsidiaries of the Loan Documents to which they are parties do not and will not: (a) violate any provision of federal, state, or foreign law or regulation applicable to Borrower's Subsidiaries, the articles of incorporation or by-laws (or other charter documents) of Borrower's Subsidiaries, or any order, judgment, or decree of any court or other agency of government binding on Borrower's Subsidiaries; (b) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation or material lease of Borrower's Subsidiaries; (c) result in or require the creation or imposition of any Lien of any nature whatsoever upon any of Borrower's Subsidiaries' properties or assets other than Permitted Liens; or (d) require any approval of stockholders or any approval or consent of any Person under any Contractual Obligation of Borrower's Subsidiaries.

(e) GOVERNMENTAL CONSENTS. Other than such as shall have previously been obtained, the execution, delivery, and performance by Borrower and Borrower's Subsidiaries of this Agreement, the Notes, and the Loan Documents, to the extent that each is a party thereto, do not and will not require any registration with,

consent, or approval of, or notice to, or other action with or by, any federal, state, foreign, or other governmental authority or regulatory body or other Person.

(f) BINDING OBLIGATIONS.

(i) This Agreement, the Notes, the Loan Documents, and all other documents contemplated hereby and thereby, when executed and delivered by Borrower will be the legally valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally.

(ii) The Loan Documents and all other documents contemplated hereby and thereby, when executed and delivered by each of Borrower's Subsidiaries, will be the legally valid and binding obligations of each of Borrower's Subsidiaries, to the extent that they are parties thereto, enforceable against them in accordance with their respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally.

(g) LIEN PRIORITY. Upon the proper filing of financing statements and recordation of fixture filings, mortgages, trust deeds, and other applicable Personal Property Collateral Documents and Real Property Collateral Documents with the appropriate filing or recording officers in each of the necessary jurisdictions, and upon delivery of original instruments to Agent, as applicable, the Liens granted by Borrower and the Specified Subsidiaries to Agent, on behalf of Banks, in their respective assets pursuant to the Loan Documents will be validly created, perfected, and first priority Liens, subject only to Permitted Liens.

4.3 FINANCIAL CONDITION. Borrower has delivered to Agent its consolidated audited financial statements as of December 31, 1992, certified by Deloitte & Touche, independent certified accountants. All such statements were prepared in accordance with GAAP and fairly present the consolidated financial position of Borrower and its Subsidiaries as at the respective dates thereof, and the results of operations and changes in financial position of Borrower and its Subsidiaries for the period then ended. As of the Closing Date, neither Borrower nor any of its Subsidiaries has any material Contingent Obligation, liability for taxes, long-term lease, or forward or long-term commitment out of the ordinary course of business, that is not reflected in the foregoing statements or in the notes thereto.

4.4 CHANGES, ETC. There has been no Material Adverse

Change.

75

4.5 TITLE TO PROPERTIES; LIENS; PROPERTIES. Except as disclosed in Borrower's annual report on Form 10-K for its fiscal year ended December 31, 1992, or on its Form 10-Q for its fiscal quarter ended September 30, 1993, and except for the Permitted Liens, all of the properties and assets of Borrower and each of its Subsidiaries are free from all Liens of any nature whatsoever. Borrower and each of its Subsidiaries have good and indefeasible title to each and all of the material properties and assets reflected in Borrower's or such Subsidiary's books and records as being owned by them. Borrower and each of its Subsidiaries have taken all action necessary to maintain such good and indefeasible title with respect to such properties and assets.

4.6 LITIGATION; ADVERSE FACTS. There is no action, suit, proceeding, or arbitration (whether purportedly on behalf of Borrower or any of its Subsidiaries) at law or in equity or before or by any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, pending or, to the knowledge of Borrower, threatened against or affecting Borrower or any of its Subsidiaries that would have a reasonable possibility of resulting in any Material Adverse Effect or reasonably may be expected to materially adversely affect Borrower's and its Susidiaries' ability, taken as a whole, to perform its obligations hereunder, under the Notes, and the Loan Documents, and there is no basis known to Borrower for any such action, suit, or proceeding. Neither Borrower nor any Subsidiary of Borrower is: (a) in violation of any applicable law, rule, or regulation in a manner that has a Material Adverse Effect or could reasonably be expected to have a Material Adverse Effect; or (b) subject to or in default with respect to any final judgment, writ, injunction, decree of any court or federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, in a manner which could reasonably be expected to have a Material Adverse Effect. There is no action, suit, proceeding, or investigation pending or, to the knowledge of Borrower, threatened against Borrower or any Subsidiary of Borrower, that questions the validity or the enforceability of this Agreement or the Notes.

4.7 PAYMENT OF TAXES. All tax returns and reports of Borrower and its Subsidiaries (or all taxpayers with which Borrower or any of its Subsidiaries is or has been consolidated or combined) required to be filed by any of them have been timely filed, and all Taxes, assessments, fees, amounts required to be withheld and paid to a governmental agency or regulatory authority, and other governmental charges upon Borrower and its Subsidiaries, and upon their respective properties, assets, income, and franchises that are due and payable have been paid when due and payable, except to the extent that the failure to file returns and reports with respect to such Taxes, assessments, fees, and other governmental charges or the failure to pay the same would not be material to the condition (financial or otherwise) of Borrower and its Subsidiaries, taken as a whole, and except to the extent such Taxes, assessments, fees, and other governmental charges are being contested diligently and in good faith by appropriate proceedings with adequate reserves

76

or other appropriate provision, if any, having been made therefor as required to be in conformity with GAAP. Borrower does not know of any proposed, asserted, or assessed tax deficiency against it or any of its Subsidiaries that would be material to the condition (financial or otherwise) of Borrower and its Subsidiaries, taken as a whole. Neither Borrower, nor any of its Subsidiaries, is a party to, bound by, or obligated under any tax sharing or similar agreement with any Person that is not Borrower or one of its Subsidiaries and that is reasonably likely to result in a Material Adverse Effect. No Taxes, assessments, charges, or claims have become the subject of a filed federal tax Lien on any of Borrower's or its Specified Subsidiaries' properties or assets.

4.8 MATERIALLY ADVERSE AGREEMENTS; PERFORMANCE.

(a) AGREEMENTS. Neither Borrower nor any of its Subsidiaries is a party to or is subject to any material agreement or instrument or charter or other internal restriction that has or reasonably could be expected to have a Material Adverse Effect.

(b) PERFORMANCE. Neither Borrower nor any of its Subsidiaries is in default in the performance, observance, or fulfillment of

any of the obligations, covenants, or conditions contained in any of its Contractual Obligations, and no condition exists that, with the giving of notice or the lapse of time or both, would constitute such a default, except where the consequences, direct or indirect, of such default or defaults, if any, would not have a Material Adverse Effect.

4.9 GOVERNMENTAL REGULATION. Neither Borrower nor any of its Subsidiaries is subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act (to the extent it would limit its ability to incur Debt for money borrowed), or the Investment Company Act of 1940, or to any United States federal or state statute or regulation limiting its ability to incur Debt for money borrowed.

4.10 SECURITIES ACTIVITIES. Borrower and its Subsidiaries are not engaged principally, or as one of their principal activities, in the business of extending, or arranging for the extension of, credit, for the purpose of "purchasing" or "carrying" any margin stock (within the meaning of Regulations G, T, U, or X of the Federal Reserve Board) as now or from time to time in effect. No part of any Borrowing will be used by Borrower to purchase or carry any such margin stock, or to extend credit to others for the purpose of purchasing or carrying any such margin stock in violation of Regulations G, T, U, or X of the Federal Reserve Board.

4.11 EMPLOYEE BENEFIT PLANS.

(a) Borrower and its ERISA Affiliates are in compliance in all material respects with all applicable provisions of ERISA and published interpretations thereunder with respect to all Pension Plans and Multiemployer Plans, the failure to comply with which would have a Material Adverse Effect. As of the Closing Date, with respect to each of their Pension Plans and Multiemployer Plans, Borrower and each of its ERISA Affiliates: (a) have fulfilled in all material respects their obligations under the minimum funding standards of ERISA; (b) have not incurred any material and past due liability to the PBGC; and (c) have not had asserted against them any penalty for failure to meet their minimum funding requirements under ERISA, and each Pension Plan and Multiemployer Plan is able to pay benefits thereunder when due under the Pension Plan documents.

(b) No Termination Event has occurred or is reasonably expected to occur with respect to any Pension Plan administered by Borrower, any of its ERISA Affiliates, or any administrator designated by Borrower or any of its ERISA Affiliates which might result in any obligations or Contingent Obligations of Borrower or any of its ERISA Affiliates to the PBGC or any other Pension Plan, that reasonably would be expected to have a Material Adverse Effect.

(c) Liabilities (irrespective of whether vested) under all Pension Plans (excluding unfunded deferred compensation agreements or other arrangements of similar nature not subject to ERISA and welfare plans not subject to the funding requirements of ERISA) that have assets less than liabilities (irrespective of whether vested) that are administered by Borrower or any of its ERISA Affiliates or any administrator designated by Borrower or any of its ERISA Affiliates do not exceed the assets thereunder by more than five percent (5%) of Consolidated Tangible Net Worth.

(d) Neither Borrower nor any of its ERISA Affiliates has incurred or reasonably expects to incur any withdrawal liability under ERISA to any Multiemployer Plan which would have a Material Adverse Effect.

(e) To the extent that any Pension Plan (that is a "welfare plan" under Section 3(1) of ERISA) is insured, Borrower and its Subsidiaries do not have unpaid premiums in excess of Five Hundred Thousand Dollars ($500,000) that are required to be paid for all periods through and including the Closing Date. To the extent that any Pension Plan (that is a "welfare plan" as defined above) is not or has not been funded with insurance, Borrower and its ERISA Affiliates do not have unmade contributions in excess of One Million Dollars ($1,000,000) that are required to be paid for all periods through and including the Closing Date, and such Pension Plans, to the extent that their funding is based on actuarial principles, are based on reasonable and prudent assumptions that are actuarially sound.

4.12 DISCLOSURE. As of the date hereof and as of the Closing Date, no representation or warranty of Borrower contained in this Agreement or any other document, certificate, or written statement furnished to Agent or Banks, or any of them, by or on behalf of Borrower with respect to the business, operations, property, assets, business prospects, or condition (financial or otherwise) of Borrower or any of its Subsidiaries for use in connection with the transactions contemplated by this Agreement, contains any untrue statement of a material fact or omits to state a material fact (known to Borrower in the case of any document not furnished by it) necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading. There is no fact known to Borrower (other than matters of a general economic nature) that has resulted in a Material Adverse Change that has not been disclosed herein or in any other documents, certificates, and statements furnished to Agent, Banks, or any of them, for use in connection with the transactions contemplated hereby. Borrower has furnished or, under the terms of this Agreement, is to furnish to Agent, on behalf of Banks, certain financial information concerning Borrower and its Subsidiaries, including estimates and projections of Borrower's and its Subsidiaries' results of operations and financial position for and as at the end of certain future periods. Such estimates, projections, valuations, and similar matters have been prepared by Borrower in good faith on a basis it believes to be reasonable. Other than as to projections, estimates, valuations, and similar matters (as to which the preceding sentence applies), and other than as to financial statements and other financial and accounting information (as to which Section 6.15 applies), there are no statements or conclusions contained in any document, certificate, or written statement that Borrower is to furnish under the terms of this Agreement to Agent, on behalf of Banks, that, when taken as a whole, in light of the circumstances under which they are or were made, to the knowledge and belief of Borrower at the time provided, are based on or include materially misleading information or fail to take into account material information regarding the matters covered therein.

4.13 DEBT. Neither Borrower nor any of its Subsidiaries has any Debt outstanding on the date of this Agreement other than the Debt disclosed in the financial statements referred to in Section 4.3 hereof (other than Debt created under the 1991 Credit Agreement), set forth on the Disclosure Statement, or permitted by Section 6.1 hereof.

4.14 TRADEMARKS, ETC. Borrower and each of its Subsidiaries own, or hold licenses in, all trademarks, trade names, copyrights, patents, patent rights, and licenses which are necessary in all material respects to conduct their respective businesses and to operate their respective properties as now conducted and operated. The consummation of the transactions contemplated by this Agreement and the Loan Documents will not alter or impair any of such rights of Borrower or any of its Subsidiaries. Neither Borrower nor any of its Subsidiaries has been charged or is overtly being threatened to be charged with any infringement of, nor has any of them infringed on any unexpired trademark, trademark registration, trade name, patent, copyright, copyright registration,

or other proprietary right of any Person, that could reasonably be expected to have a Material Adverse Effect.

4.15 EXISTING DEFAULTS. Neither Borrower nor any of its Subsidiaries is in default under any material term of any mortgage, indenture, deed of trust, or any other agreement to which it is a party or by which it or any of the properties owned by it may be bound, the effect of which would be a Material Adverse Effect. Neither Borrower nor any of its Subsidiaries is in violation of any law, ordinance, rule or regulation to which it or any of its properties is subject, the failure to comply with which would have a Material Adverse Effect.

4.16 LEASES. Borrower and each of its Subsidiaries enjoy peaceful and undisturbed possession under all leases material to the business, operations and financial condition of Borrower and its Subsidiaries, taken as a whole, to which any of them is a party or under which any of them is operating. All of such leases are valid and subsisting and no material default by Borrower or any of its Subsidiaries exists under any of them.

4.17 BURDENSOME AGREEMENTS, ETC. Borrower and its Subsidiaries, are not, individually or in combination, party to any unduly burdensome agreement or undertaking, or subject to any unduly burdensome court order, writ, injunction, or decree of any court or governmental instrumentality, domestic or foreign, which has a Material Adverse Effect.

4.18 FIRE, EXPLOSION, AND LABOR DISPUTES. Neither the business nor the properties or operations of Borrower or any of its

Subsidiaries are currently affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty (whether covered by insurance), which has a Material Adverse Effect.

4.19 LOCATION OF ASSETS AND CHIEF EXECUTIVE OFFICES. The chief executive offices of Borrower and each of the Specified Subsidiaries are located at the addresses indicated on the Disclosure Statement. Except as otherwise permitted by Section 6.17, the inventory, equipment, and real property of Borrower and each of its Specified Subsidiaries are located at any one of their respective locations identified on the Disclosure Statement.

4.20 ENVIRONMENTAL CONDITION.

(a) Except as specifically authorized by, or in compliance in all material respects with, law or pursuant to valid and effective permits or other appropriate forms of governmental approval, none of the present or previously-owned real property, or other properties or assets of Borrower or any of its Subsidiaries, has, to the best of Borrower's knowledge, ever been used by previous owners or operators in the disposal of

or to generate, manufacture, produce, store, handle, treat, transfer, release, process, or transport any Hazardous Waste or Hazardous Substance, and Borrower and its Subsidiaries do not now and have not in the past used such real property, or other properties or assets of Borrower or any of its Subsidiaries, for the purpose of disposal of, generating, manufacturing, producing, storing, handling, treating, transferring, releasing, processing, or transporting any Hazardous Waste or Hazardous Substance.

(b) (i) To the best of Borrower's knowledge and belief after due inquiry, none of the present real property, or other properties or assets owned or operated by Borrower or any of its Subsidiaries, has been designated, listed, or identified in any manner by the EPA or any other federal, state, or local governmental agency charged with administering and enforcing an Environmental Protection Statute, pursuant to RCRA or CERCLA or any other Environmental Protection Statute, as a candidate for a Hazardous Waste or Hazardous Substance investigation, corrective action, or Remedial Action. (ii) To the best of Borrower's knowledge and belief, based upon its reasonably available records, it has received no notice that any of the previously owned real property or other properties or assets of Borrower or any of its Subsidiaries has been so designated, listed, or identified.

(c) Neither Borrower nor any of its Subsidiaries has received notice that it has been identified as a potentially responsible party, responsible party, or liable party at any site designated, listed, or identified as a candidate for a Hazardous Substance investigation or Remedial Action under CERCLA or any Environmental Protection Statute.

(d) Neither Borrower nor any of its Subsidiaries has received notice of any Lien arising under or in connection with any Fund that attached to any revenues or to any real or personal property owned by Borrower or any of its Subsidiaries.

(e) Neither Borrower nor any of its Subsidiaries have received, during the three (3) years preceding the date hereof, any summons, citation, notice, directive, letter, or other communication, in writing, from the EPA or any other federal, state, or local governmental agency or instrumentality, authorized pursuant to an Environmental Protection Statute, or from any other Person concerning any intentional or unintentional action or omission by Borrower or any of its Subsidiaries resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, dumping, or otherwise disposing of Hazardous Waste or Hazardous Substance or any other pollutant into the Environment resulting in Damages thereto.

(f) All activities and operations conducted by Borrower and its Subsidiaries are in compliance in all material respects with all Environmental Protection Statutes. All past activities and operations conducted by the Environmental Subsidiaries have been in compliance in all material respects with all Environmental Protection Statutes since they were acquired by Borrower. To the best of Borrower's knowledge, neither

Borrower nor any of its Subsidiaries has in the past conducted any operations or activities that were not in compliance with all Environmental Protection Statutes and that are reasonably likely to result in present or future liabilities to Borrower or its Subsidiaries under any Environmental Protection Statutes greater than or equal to One Million Dollars ($1,000,000).

(g) None of the real property or other properties or assets owned by Borrower or its Subsidiaries, is affected by any soil or groundwater contamination, attributable to any Hazardous Substance, that Borrower reasonably and in good faith estimates will cost Borrower or its Subsidiaries One Million Dollars ($1,000,000) or more to investigate and clean up. To the best of Borrower's knowledge, none of the real property previously owned by Borrower or its Subsidiaries is affected by any soil or groundwater contamination, attributable to any Hazardous Substance, that Borrower reasonably and in good faith estimates will cost Borrower or its Subsidiaries One Million Dollars ($1,000,000) or more to investigate and clean up.

4.21 NO DEFAULT. No Event of Default or Unmatured Event of Default has occurred.

4.22 PARTIES INTENDED TO BE BENEFITTED. All of the representations and warranties contained in this Article 4 are solely for the benefit of the Agent, the Banks, and any Person receiving an interest in the Loans or the Notes as permitted under Section 9.2 hereof, and there are no other Persons that are intended to be benefitted, in any way, hereby.

ARTICLE 5.

AFFIRMATIVE COVENANTS OF BORROWER

Borrower covenants and agrees that, so long as any portion of the Facility A Commitment under this Agreement shall be in effect and until payment in full of the Loans and the Notes, and any other amounts due hereunder, and except as set forth in the Disclosure Statement with specific reference to the Section of this Article 5 affected thereby concerning matters which do not conform to the covenants of this Article 5, Borrower shall, and shall cause each of its Subsidiaries to, perform each and all of the following covenants applicable to it:

5.1 ACCOUNTING RECORDS. Borrower shall, and shall cause each of its Subsidiaries to, maintain adequate books and records in accordance with sound business practices and GAAP, consistently applied.

5.2 FINANCIAL STATEMENTS AND NOTICES. Borrower shall furnish Agent and each Bank:

(a) as soon as practicable and, in any event, within fifty (50) days after the close of each of the first three (3) fiscal quarters of each fiscal year of Borrower: (i) a consolidated statement of stockholders' equity and a consolidated statement of cash flows of Borrower and each of its Subsidiaries for such quarterly period; (ii) consolidated and consolidating (based upon business segments) income statements of Borrower and its Subsidiaries for such quarterly period; and (iii) consolidated and consolidating (based upon business segments) balance sheets of Borrower and its Subsidiaries as of the end of such quarterly period, each setting forth in comparative form, if applicable, the corresponding figures for the corresponding periods of the previous fiscal year, all in reasonable detail, and certified by the chief financial officer of Borrower to have been prepared in accordance with GAAP, consistently applied, subject to normal year-end audit adjustments;

(b) as soon as practicable and, in any event, within ninety-five (95) days after the close of each fiscal year of Borrower, a copy of the annual audited report for such year for Borrower and its Subsidiaries, including therein: (i) a consolidated statement of stockholders' equity and a consolidated statement of cash flows of Borrower and its Subsidiaries for such fiscal year; (ii) consolidated and unaudited consolidating (based upon business segments) income statements of Borrower and its Subsidiaries for such fiscal year; and (iii) consolidated and unaudited consolidating (based upon business segments) balance sheets of Borrower and its Subsidiaries as of the end of such fiscal year, each setting forth in comparative form, if applicable, the corresponding figures for the previous year, all in reasonable detail; the consolidated income statement and balance sheet to be audited by independent, nationally recognized, certified public accountants, and certified, without a "going concern" qualification or other qualification or exception of similar gravity or any qualification arising out

of the scope of the audit (but not arising out of changes in financial accounting standards), by such accountants to have been prepared in accordance with GAAP, consistently applied, together with a letter of such accounting firm to Agent, stating that its audit of the business of Borrower and its Subsidiaries was conducted by such accounting firm in accordance with generally accepted auditing standards;

(c) contemporaneously with each quarterly and year-end financial report required by the foregoing subsections (a) and (b), a certificate of the chief financial officer or treasurer of Borrower stating that he or she has individually reviewed the provisions of this Agreement, the Notes, and the Loan Documents, and that a review of the activities of Borrower and its Subsidiaries during such year or quarterly period, as the case may be, has been made by or under such individual's supervision, with a view to determining whether Borrower and its Subsidiaries have fulfilled all of their respective obligations under this Agreement, the Notes, and the Loan Documents, and that Borrower

and its Subsidiaries have observed and performed each undertaking contained in this Agreement, the Notes, and the Loan Documents, to the extent that each is a party thereto, and Borrower and its Subsidiaries are not in default in the observance or performance of any of the provisions hereof or thereof, or if Borrower or any of its Subsidiaries shall be so in default, specifying all such defaults and events of which such individual may have knowledge or belief;

(d) promptly after sending or making available or filing of the same, copies of all reports, proxy statements, and financial statements that Borrower or any of its Subsidiaries sends or makes available to the shareholders of Borrower and all regular and periodic reports and all filings pursuant to Sections 13 and 15(d) of the Exchange Act and registration statements that such Persons file with the SEC, and of all press releases and other statements made available generally by Borrower and its Subsidiaries to the public concerning material developments in their business or any condition or event that would be required to be disclosed in a current report filed by Borrower or its Subsidiaries with the SEC on Form 8-K (Items 1, 2, 3, 4, and 6 of such Form as in effect on the date hereof);

(e) notice, as soon as possible and, in any event, within five (5) Domestic Business Days after any Responsible Officer has knowledge of: (i) the occurrence of any Event of Default or any Unmatured Event of Default; or (ii) any default or event of default (subject to any applicable notice or grace period) as defined in any evidence of Debt of Borrower or any of its Subsidiaries in excess of Two Million Dollars ($2,000,000) or under any agreement, indenture, or other instrument under which such Debt has been issued, irrespective of whether such Debt is accelerated or such default waived. In either event, Borrower shall also supply Banks with a statement from Borrower's chief financial officer or treasurer setting forth the details and the action which Borrower proposes to take with respect thereto;

(f) as soon as possible and, in any event, within fifty (50) days after the end of each of the first three (3) quarterly accounting periods of Borrower in each fiscal year and within ninety-five (95) days after the end of each of Borrower's fiscal years, an Officer's Compliance Certificate with respect to Borrower;

(g) upon the request of the Required Banks, together with the delivery for any fiscal year of consolidated financial statements of Borrower and its Subsidiaries pursuant to clause (b) above, if the Required Banks believe, in good faith, that there may be Hazardous Waste or Hazardous Substances present on any of the real property constituting a portion of the Collateral that would have a Material Adverse Effect, a written report by an expert of recognized standing evidencing a complete and thorough inspection of all such real property, including a geohydrological survey of soil or

subsurface conditions as well as other tests to detect the presence, if any, of Hazardous Waste or Hazardous Substances;

(h) promptly upon receipt thereof, copies of all reports or letters submitted to Borrower by its independent public accountants

in connection with each annual, interim, or special audit of the financial statements of Borrower or its Subsidiaries made by such accountants, including the comment letter submitted by such accountants to management in respect of Borrower's or its Subsidiaries' internal control matters in connection with their annual audit; and Borrower agrees to obtain such a letter in connection with each of its annual audits;

(i) prompt written notice of any condition or event which has resulted or reasonably may be expected to result in (i) a Material Adverse Effect; (ii) a breach of or noncompliance with any term, condition or covenant contained in this Agreement, the Notes, or the Loan Documents; (iii) a material breach of or noncompliance with any material term, condition, or covenant of any material contract to which Borrower or any of its Subsidiaries is a party or by which they or their properties may be bound; or (iv) a transfer, sale, or other disposition of properties or assets, an incurrence of Debt, or any other transaction permitted under Article 6 hereof only upon compliance by Borrower and its Subsidiaries with the provisions of Section 5.11 hereof to effect and continue the transactions contemplated by this Agreement or the Loan Documents;

(j) prompt written notice of any claims, proceedings, or disputes against, or to the knowledge or belief of Borrower threatened, or affecting Borrower or any of its Subsidiaries that, if adversely determined, would have a reasonable likelihood of having a Material Adverse Effect (without in any way limiting the foregoing, claims, proceedings, or disputes involving monetary amounts of Five Million Dollars ($5,000,000), or more, in excess of any insurance coverage therefor, shall be deemed to be material for purposes of this clause (j)), or any material labor controversy of which Borrower has knowledge resulting in or, in the reasonable judgment of the management of Borrower, that is reasonably likely, imminently, to result in a strike against Borrower or any of its Subsidiaries, or any proposal of which Borrower has knowledge by any public authority to acquire any of the material assets or business of Borrower or any of its Subsidiaries;

(k) promptly, upon becoming aware of the occurrence of any of the following events, a written notice specifying the nature thereof, and, when known, any action taken or threatened by the Internal Revenue Service, Department of Labor, PBGC, or other party with respect thereto: (i) Reportable Event; (ii) "prohibited transaction," as such term is defined in Section 4975 of the Code, which prohibited transaction could subject Borrower or any member of the Controlled Group to a material civil penalty assessed pursuant to Section 502(i) of ERISA or a material tax imposed by Section 4975 of the Code in connection with any of Borrower's or any of its ERISA Affiliates' Pension Plans or any

trust created thereunder; (iii) failure to timely pay the required annual payment or the full amount of a required installment for any Pension Plan in any plan year by the due date as required under Section 412 of the Code; (iv) the liability for any additional premium that must be paid under Section 4006(a)(3) of ERISA; or (v) any Lien on the assets of any member of the Controlled Group under the Pension Protection Act;

(l) promptly, copies of: (i) all notices received by Borrower or any member of the Controlled Group of the PBGC's (or a foreign country's) intent to terminate any of Borrower's or any of its ERISA Affiliates' Pension Plans or to have a trustee appointed to administer any of Borrower's or any of its ERISA Affiliates' Pension Plans, or of the PBCG's demand for payment of liability under Section Section 4062, 4063, or 4064 of ERISA; (ii) at the request of Agent or any Bank, each annual report (IRS form 5500 series or similar series under the applicable laws of any foreign country and all accompanying schedules), the most recent actuarial reports, the most recent financial information concerning the financial status of each of Borrower's and its ERISA Affiliates' Pension Plans or Multiemployer Plans, and schedules showing the amounts contributed to each of Borrower's and any of its ERISA Affiliates' Pension Plans or Multiemployer Plans by or on behalf of Borrower or its ERISA Affiliates in which any of their personnel participate or from which such personnel may derive a benefit, and each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by Borrower or any member of the Controlled Group with the Internal Revenue Service with respect to each Pension Plan; and (iii) all notices received by Borrower or any member of the Controlled Group concerning the imposition or amount of withdrawal liability pursuant to Section 4202 of ERISA or similar liability under the laws of any foreign country; (iv) all notices required to be sent to employees for failure to make a required installment or other payment required to meet the minimum funding standard under Section 302 of ERISA; and (v) all notifications required to be made to the PBGC for failure to make a required installment or other payment under Section 412(n) of the Code;

(m) promptly after the end of each fiscal year of Borrower, but in any event on or before January 31st of the succeeding fiscal year, consolidating plan and financial forecasts, including a balance sheet, income statement, and cash flow projections covering proposed fundings, repayments, additional advances, investments, and other cash receipts and disbursements for the forthcoming year, as customarily prepared by the management of Borrower for internal use and any other similar reports customarily prepared by management of Borrower pursuant to any provisions of any instrument or documents relating to any Debt of Borrower or any of its Subsidiaries;

(n) promptly upon becoming aware of any Person's seeking to obtain or threatening to seek to obtain a decree or order for relief with respect to Borrower or any of its Subsidiaries in an involuntary case under any applicable bankruptcy, insolvency, or other similar law now or hereafter in effect, a written notice thereof

specifying what action Borrower or any such Subsidiary is taking or proposes to take with respect thereto;

(o) promptly, copies of all material amendments to the articles of incorporation of Borrower;

(p) contemporaneously with each year-end financial report required by subsection (b) above, a certificate signed by the chief financial officer or treasurer of Borrower separately identifying and describing all material Contingent Obligations of Borrower and its Subsidiaries;

(q) promptly, and in any event within thirty (30) days after the receipt thereof, the information identified in Section 5.9(d);

(r) within twenty-five (25) calendar days after the end of each month, an aging of Borrower's and its Subsidiaries' accounts receivable in the form of Exhibit 5.2(r) attached hereto; and

(s) with reasonable promptness, such other information and data with respect to Borrower or any of its Subsidiaries as from time to time reasonably may be requested by any of the Banks.

5.3 CORPORATE EXISTENCE, ETC. Except as permitted under Section 6.7 of this Agreement, Borrower shall, and shall cause each of its Specified Subsidiaries to, at all times preserve and keep in full force and effect its and their corporate existence and any rights and franchises material to Borrower's businesses.

5.4 PAYMENT OF TAXES AND CLAIMS. Borrower shall, and shall cause each of its Subsidiaries to pay all Taxes, assessments, and other governmental charges imposed upon them or any of their properties or assets or in respect of any of their businesses, incomes, or properties before any penalty or interest accrues thereon, and all claims (including, claims for labor, services, materials, and supplies) for sums that have become due and payable and that by law have or may become a Lien upon any of their properties or assets, prior to the time when any penalty or fine shall be incurred with respect thereto; provided, however, that no such Tax, assessment, charge, or claim need be paid if the same is being contested in good faith by appropriate actions or proceedings promptly instituted and diligently conducted and if an adequate reserve or other appropriate provision, if any, shall have been made therefor as required in order to be in conformity with GAAP; provided further, however, that the foregoing shall not be deemed to have been breached with respect to Taxes, assessments, or other governmental charges imposed upon Borrower or its Subsidiaries or any of their properties or assets if, at the time of the imposition thereof, Borrower and its Subsidiaries are unaware of such Taxes, assessments,

or other governmental charges and so long as, promptly after Borrower or its Subsidiaries, as applicable, have knowledge of the Tax, assessment, or other governmental charge, the same is either promptly paid or contested in conformity with the foregoing proviso. Upon the request of Agent, Borrower shall furnish Banks with copies of all federal income tax returns, that are filed by Borrower or its Subsidiaries after the Closing Date, within ten (10)

calendar days after the filing thereof.

5.5 MAINTENANCE OF PROPERTIES. Borrower shall, and shall cause each of its Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition all of those properties and assets useful or necessary to its business or the business of its Subsidiaries or that are used in connection therewith or related thereto, except for properties or assets that, in the aggregate, are not material to the business or operations of Borrower and its Subsidiaries, taken as a whole.

5.6 INSURANCE. Borrower shall, and shall cause each of its Subsidiaries to, maintain or cause to be maintained, with insurers that are financially sound and reputable at the time of the issuance (or reissuance) of such insurance, insurance with respect to its properties and business and the properties and business of its Subsidiaries against loss or damage of the kinds customarily insured against by corporations of established reputation engaged in the same or similar businesses and similarly situated, of such types and in such amounts as are customarily carried under similar circumstances by such other corporations, and Borrower shall, from time to time, or as otherwise required by any of the Personal Property Collateral Documents or the Real Property Collateral Documents, deliver to Agent, as Agent or any Bank reasonably may request, copies of policies or certificates evidencing or describing all insurance then in effect, which certificates shall indicate Agent, on behalf of Banks, as an additional insured or as a loss-payee, as may be required by any of the Personal Property Collateral Documents.

5.7 INSPECTION. Borrower shall permit any Persons designated by Agent or any Bank to visit and inspect any of the properties of Borrower or any of its Subsidiaries, including its and their financial and accounting records, and to make copies and take extracts therefrom, and to discuss its and their affairs, finances, and accounts with its and their officers and independent public accountants with respect to any matters concerning or relating to this Agreement, the Loan Documents, or the transactions contemplated herein or therein, all upon reasonable notice and as often as may be reasonably requested. All reasonable costs and expenses incurred by Agent in connection therewith shall be borne by Borrower.

5.8 COMPLIANCE WITH LAWS, ETC. Borrower shall, and shall cause its Subsidiaries to, exercise all due diligence in order to comply with the requirements of all applicable laws, rules, regulations, and orders of any governmental authority, noncompliance with which would have a Material Adverse Effect; provided, however, that

this Section 5.8 shall not prevent Borrower or any of its Subsidiaries from, in good faith and reasonable diligence, contesting the validity or application of any such laws or regulations by appropriate legal proceedings or actions.

5.9 ENVIRONMENTAL COMPLIANCE AND REPORTING.

(a) ENVIRONMENTAL LAWS. Borrower shall, and shall cause each of its Subsidiaries to comply, in all material respects, with all applicable Environmental Protection Statutes other than any Environmental Protection Statute the noncompliance with which could not reasonably be expected to have a Material Adverse Effect; provided, however, that this Section 5.9 shall not prevent Borrower or any of its Subsidiaries from, in good faith and with reasonable diligence, contesting the validity or application of any such laws or regulations by appropriate legal proceedings.

(b) INDEMNIFICATION. Borrower shall, pursuant to the terms of Section 10.2 hereof, indemnify, pay and hold Agent and each Bank harmless from and against any and all losses, costs (including reasonable attorneys fees and experts costs), claims, liabilities, injuries, expenses, and damages whatsoever incurred by Agent or such Bank (i) by reason of any violation of or noncompliance with any applicable Environmental Protection Statutes for which Borrower, or one of its Subsidiaries, as applicable, is liable or which is related to any real property owned, leased, or operated by Borrower or its Subsidiaries; (ii) by reason of the imposition of any Lien for the recovery of environmental cleanup or response costs related to any real property owned, leased, or operated by Borrower or its Subsidiaries; (iii) by reason of any soil or groundwater contamination, attributable to any Hazardous Substance, affecting any real property owned, leased, or operated by Borrower or any of its Subsidiaries; or (iv) by reason of any soil or groundwater contamination, attributable to any Hazardous Substance, affecting any real property in connection with which Borrower or any of its Subsidiaries is a potentially responsible party, responsible party, or liable party under any Environmental Protection Statute.

(c) REMEDIAL ACTION. Borrower shall, and shall

cause each of its Subsidiaries to, promptly take any and all Remedial Actions required by any federal, state, or local governmental agency under any applicable Environmental Protection Statute; provided, however, that this Section 5.9 (c) shall not prevent Borrower and its Subsidiaries from in good faith contesting validity, application, or liability or negotiating remediation with regulatory agencies if appropriate reserves have been established in accordance with GAAP.

(d) REPORTING. Borrower promptly shall advise Agent and each Bank in writing and in reasonable detail of: (i) any activity or operation conducted by Borrower or any of its Subsidiaries, including any generation, treatment, storage, or

disposal of Hazardous Wastes, that is not in compliance in all material respects with all Environmental Protection Statutes; (ii) any written notice of violation or noncompliance received from any regulatory agency for any violation of or noncompliance with any Environmental Protection Statute; (iii) quarterly, (A) any issuance, material modification, termination, or denial, by any local, state, or federal regulatory agency, of any permits or interim status relating to the treatment, storage, or disposal of Hazardous Wastes, or (B) any termination or denial by any such agency of any permits relating to the emission of air pollutants; (iv) any release of a Hazardous Substance that must be reported in accordance with CERCLA Section 102, 42 U.S.C. Section 9602, or the regulations promulgated thereunder, and any material leak, spill, or any unauthorized release of any Hazardous Waste that must be reported in accordance with RCRA; (v) any request for information from any governmental agency that indicates such agency is investigating whether Borrower or its Subsidiaries may be potentially responsible for Remedial Actions or costs in connection with a material release, disposal, or discharge of Hazardous Waste or Hazardous Substance; (vi) any designation, listing, or identification of any real property owned or operated by Borrower or any of its Subsidiaries, under any Environmental Protection Statute, as candidate for a Hazardous Waste or Hazardous Substance investigation, corrective action, or Remedial Action; (vii) any identification of Borrower or any of its Subsidiaries as a potentially responsible party, responsible party, or liable party at any site designated, listed, or identified as a candidate for a Hazardous Substance investigation or Remedial Action under CERCLA or any Environmental Protection Statute; (viii) any material Remedial Action undertaken in accordance with Section 5.9(c); (ix) any notice of a Lien arising in connection with any Fund attached to any revenues or to any real or personal property owned or operated by Borrower or any of its Subsidiaries; (x) any written notice from any Person or regulatory agency of Damages caused or contributed to in any way by Borrower or any of its Subsidiaries; (xi) any written notice or information from any regulatory agency that any of the real property owned or leased by Borrower or any of its subsidiaries has been designated, or is being considered for designation, as border zone property in accordance with California Health & Safety Code Section 25220 et seq., or as restricted-use property under any other Environmental Protection Statute; (xii) any written communication received or sent by Borrower or any of its Subsidiaries relating to contamination attributable to Hazardous Substances at the Azusa, California landfill site; (xiii) at the request of Agent or any Bank, all correspondence and other documents provided to and received from the regulatory agencies relating to Remedial Action at any real property at which Borrower or any of its Subsidiaries has been identified as a potentially responsible party; and (xiv) any other information relating to compliance with Environmental Protection Statutes or to soil or groundwater contamination attributable to Hazardous Substances as reasonably may be requested by Agent or any Bank.

(e) BEST EFFORTS TO AVOID CONTAMINATION. Borrower and its Subsidiaries shall use their best efforts to avoid creating soil or groundwater contamination, attributable to any Hazardous Substance. If Borrower reasonably and in good faith

estimates that the cost of investigating and cleaning up any soil or groundwater contamination attributable to any Hazardous Substance at any real property owned or operated by Borrower or any of its Subsidiaries (which occurs notwithstanding the previous sentence) will equal or exceed One Million Dollars ($1,000,000), Borrower promptly shall advise Agent in writing and in reasonable detail of the contamination and estimated costs, and, upon request from Agent, promptly shall provide and continue to provide all technical environmental reports and similar written evaluations relating to contamination at the site.

5.10 COMPLIANCE WITH ERISA. Borrower shall, and shall take all necessary actions to ensure that each of its ERISA Affiliates, to the extent that Borrower or any of its Subsidiaries have direct or indirect control or can direct or cause the direction of each of those ERISA Affiliates, take no action that would render the representations and warranties set forth in Section 4.11 of this Agreement inaccurate in any material respect.

5.11 FURTHER ASSURANCES. At any time as required under the terms of Section 5.2(i) and Article 6 hereof or at any time or from time to time upon the request of Agent or any Bank, Borrower shall execute and deliver, and shall cause its Specified Subsidiaries to execute and deliver, such further documents and do such other acts and things as any Bank or Agent reasonably may request in order to effect fully the purpose of this Agreement, the Notes, and the Loan Documents and to provide for the full measure of collateral security contemplated under the Personal Property Collateral Documents and the Real Property Collateral Documents, and to provide for payment of the Loans made hereunder with interest thereon in accordance with the terms of this Agreement and the Notes. In this regard, Borrower shall, or shall cause its Specified Subsidiaries to, as promptly as possible (and in any event with ten (10) days after acquiring title thereto) deliver to Agent fully executed Real Property Collateral Documents, in form and substance reasonably satisfactory to Agent, together with title insurance policies and surveys, with respect to any parcel or parcels of real property that are acquired by Borrower or its Specified Subsidiaries after the Closing Date; provided, however, that Borrower need not execute and deliver, and need not cause its Specified Subsidiaries to execute and deliver, such Real Property Collateral Documents to the extent that any single parcel of real property (other than any real property received in the exchange contemplated by Section 6.9(h)) has a fair market value, at the time of the acquisition thereof, and based upon the purchase consideration, of Ten Million Dollars ($10,000,000), or less.

5.12 SUBORDINATED DEBT. Borrower promptly shall provide to Agent all notices respecting the Subordinated Debt received by Borrower from any holder (or trustee, agent or representative of any holder) thereof respecting any material act, event, or omission, that are sent to Borrower pursuant to the provisions of the Subordinated Indentures.

5.13 APPRAISALS. Borrower shall permit Agent to cause to be conducted, at the expense of Borrower (a) upon the request of the Required Banks, an appraisal with respect to each parcel of real property of Borrower and its Specified Subsidiaries that constitutes a part of the Collateral (in addition to the appraisals required under Section 3.1(p)), and (b) any additional appraisals that are required under 12 CFR Part 34.

ARTICLE 6.

NEGATIVE COVENANTS OF BORROWER

Borrower covenants and agrees that, so long as any portion of the Facility A Commitment under this Agreement shall be in effect and until payment in full of the Loans and the Notes, and any other amounts due hereunder, and except as set forth in the Disclosure Statement with specific reference to the Section of this Article 6 affected thereby concerning matters that do not conform to the covenants of this Article 6, Borrower shall, and shall cause its Subsidiaries to, perform each and all of the following covenants applicable to it:

6.1 DEBT. Borrower shall not, and shall not permit any of its Subsidiaries to, create, incur, assume, permit, guarantee, or otherwise become, or remain, directly or indirectly, liable with respect to any Debt, except:

(a) Borrower may become and remain liable with respect to the Debt evidenced by the Notes and this Agreement;

(b) Borrower may remain liable with respect to the Existing Subordinated Debt;

(c) So long as at the time of the incurrence thereof no Event of Default or Unmatured Event of Default has occurred and is continuing and so long as no Event of Default or Unmatured Event of Default would result from the incurrence thereof, Borrower may become and remain liable with respect to the Exchange Subordinated Debt;

(d) Borrower may issue commercial paper in an aggregate amount not to exceed the Commercial Paper Letter of Credit Amount; provided, however, that to the extent Borrower issues and has outstanding any

commercial paper that is not supported by Commercial Paper Letters of Credit, the Dollar amount of such commercial paper shall be reserved under the Facility A Commitment and shall be available for borrowing solely to repay such commercial paper;

(e) Borrower and its Subsidiaries may become and remain liable with respect to the Contingent Obligations permitted under Section 6.4 of this Agreement;

(f) Borrower and its Subsidiaries may become and remain liable with respect to Debt resulting from Capitalized Leases;

(g) Borrower and its Subsidiaries may remain liable with respect to Debt disclosed in the financial statements referred to in Section 4.3 hereof (other than Debt created under the 1991 Credit Agreement) or Debt set forth in the Disclosure Statement;

(h) Borrower's Subsidiaries may become and remain liable with respect to Debt owed to Borrower to the extent permitted under Sections 6.3 and 6.22 of this Agreement;

(i) Borrower may become and remain liable with respect to Debt owed to any of its Subsidiaries;

(j) Borrower and its Subsidiaries may become and remain liable with respect to Debt secured by Permitted Liens under clause (xi) of the definition of "Permitted Liens;"

(k) Borrower and its Subsidiaries may become and remain liable with respect to Debt (including Acquired Indebtedness) not otherwise permitted under this Section 6.1 in an aggregate amount outstanding at any time less than or equal to Thirty Million Dollars ($30,000,000);

(l) (i) the Environmental Subsidiaries may become and remain liable with respect to Debt owing to other Environmental Subsidiaries, and (ii) Borrower's Subsidiaries, other than Environmental Subsidiaries, may become and remain liable with respect to Debt owing to any of Borrower's Subsidiaries, other than Environmental Subsidiaries; and

(m) Borrower or its Subsidiaries, as applicable, may become and remain liable with respect to refinancings, renewals, or extensions of the Debt permitted under clauses (b), (c), (f), (g), (j), (k), and (m) of this Section 6.1 (and continuance or renewal of any Permitted Liens associated therewith) so long as (i) the terms and conditions of such refinancings, renewals, or extensions do not materially impair the prospects of repayment of the Loans by Borrower, (ii) such refinancings, renewals, or extensions do not result in an increase in the aggregate principal amount of the Debt so refinanced, renewed, or extended, (iii) such refinancings, renewals, or extensions do not result in a shortening of the average weighted maturity of the Debt so refinanced, renewed, or extended, and (iv) to the extent that the Debt that is refinanced, renewed, or extended was subordinated in right of payment to the Debt owed to Agent and the Banks, then the subordination terms

and conditions of the new Debt shall be at least as favorable to Agent and the Banks as those applicable to the refinanced, renewed, or extended Debt.

6.2 LIENS. Borrower shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist, directly or indirectly, any Lien on or with respect to any property or asset of any kind of Borrower or any of its Subsidiaries, whether now owned or hereafter acquired, or any income or profits therefrom, except Permitted Liens.

6.3 INVESTMENTS. Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly make or own any Investment in any Person, except:

(a) Borrower and each of its Subsidiaries may make and own Investments in Cash Equivalents;

(b) Borrower and each of its Subsidiaries may

maintain any Investment extant on the date hereof in any of Borrower's Subsidiaries or in any other Person as such Investments are set forth in the Disclosure Statement;

(c) Borrower and its Subsidiaries may make and own loans and otherwise create Debt as permitted under Sections 6.1(l) and 6.1(i) hereof;

(d) Borrower and its Subsidiaries may make and own Investments not otherwise permitted under this Section 6.3 in an aggregate amount not to exceed Fifteen Million Dollars ($15,000,000) outstanding at any one time; provided, however, that, from and after the date of the consummation of a Qualifying Offering and so long as there has not been a Failed Conversion that was not covered by an Underwritten Call, the foregoing amount shall be increased to Thirty Million Dollars ($30,000,000); provided further, however, that if an Investment made under this clause (d) results in the acquisition by Borrower of a new Subsidiary, then, either at the time of the making of such Investment or within a period of not more ten (10) days after the consummation of such Investment, such newly acquired Subsidiary shall be a direct Subsidiary of Borrower and Borrower shall enter into an appropriate amendment of the Stock Pledge in order to hypothecate to Agent, for the benefit of the Banks, Borrower's Capital Stock of such new Subsidiary; provided further, however, that if an Investment made under this clause (d) results in the acquisition by Borrower of a new Subsidiary and if such Subsidiary subsequently is merged with and into Borrower, then the aggregate amount of Investments that may be made under this clause (d) automatically shall be increased by the aggregate amount of the Investment that previously was made by Borrower in such former Subsidiary;

(e) Borrower and its Subsidiaries may make and own Investments in Environmental Subsidiaries and Southdown TDI, Inc. may make and own Investments

in Southdown Thermal Dynamics, a Texas general partnership, to the extent permitted under Section 6.22;

(f) Borrower and its Subsidiaries may make and own loans or advances to any of their officers or employees;

(g) Borrower and each of its Subsidiaries may make and own Investments in any debt or equity instrument (x) that matures within two hundred seventy (270) days of the date of acquisition of the Investment and is issued by a Person that on the date of acquisition of the Investment has a commercial paper rating of P-1 by Moody's or A-1 by S&P, or better, or such instrument is irrevocably guaranteed or backed by an irrevocable letter of credit from the date of acquisition of the Investment through maturity by a Person having on the date of acquisition of the Investment a long-term debt rating of no less than Aa by Moody's or AA by S&P, or (y) matures within thirty (30) days of the date of the Investment and is issued by a Person that on the date of acquisition of the Investment has a commercial paper rating of no less than P-2 by Moody's or A-2 by S&P or such instrument is irrevocably guaranteed or backed by an irrevocable letter of credit from the date of acquisition of the Investment through maturity by a Person having on the date of acquisition of the Investment a long-term debt rating of no less than A by Moody's or A by S&P, or (z) with respect to Moore McCormack Insurance Bermuda, Ltd., only, which is consistent with past practices and in an aggregate amount not in excess of that required for collateral security and capitalization purposes for the conduct of its business;

(h) Investments in respect of accounts receivable that have become delinquent, including securities of the account debtor received by Borrower or its Subsidiaries in connection with a plan of reorganization of the indebtedness of such account debtor;

(i) Borrower may annually make and own loans, advances, or capital contributions to The Southdown Employee Benefit Trust in an amount actuarially determined as the amount necessary to provide for the satisfaction of Borrower's and its Subsidiaries' estimated health benefit claims;

(j) Borrower may make and own loans to Moore-McCormack Transport, Inc., or its Affiliates, not otherwise permitted under this Section 6.3 in an aggregate amount not to exceed Three Million Dollars ($3,000,000) outstanding at any one time;

(k) Borrower may make and own loans to KCC not otherwise permitted under this Section 6.3 in an aggregate amount not to exceed

Five Million Dollars ($5,000,000) outstanding at any one time; and

(l) Borrower may make the acquisitions permitted by the terms of Section 6.7(h) hereof.

6.4 CONTINGENT OBLIGATIONS. Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create or become or be liable with respect to any Contingent Obligation, except:

(a) Contingent Obligations disclosed in the financial statements and related notes referred to in Section 4.3 of this Agreement or reflected in the Disclosure Statement and any refinancing, renewals or extensions of such Contingent Obligations on terms substantially similar to the original terms;

(b) Contingent Obligations incurred in the ordinary course of business of Borrower and its Subsidiaries;

(c) Contingent Obligations not otherwise permitted under this Section 6.4 in an aggregate amount not to exceed Fifteen Million Dollars ($15,000,000) outstanding at any one time; provided, however, that from and after the date of the consummation of a Qualifying Offering and so long as there has not been a Failed Conversion that was not covered by an Underwritten Call, the foregoing amount shall be increased to Thirty Million Dollars ($30,000,000); and

(d) the Specified Subsidiaries may become and remain liable with respect to the Debt created by the Specified Subsidiaries Guarantees.

6.5 PREFERRED STOCK. Borrower shall not, and shall not permit any of its Subsidiaries to, create, issue, or suffer to exist any Preferred Stock other than Permitted Preferred Stock; provided, however, that, to the extent that Borrower acquires a Person and such Person previously has issued preferred stock that would not have been Permitted Perferred Stock, Borrower shall not be deemed to have breached this Section 6.5 if Borrower could have incurred Acquired Indebtedness in an amount equal to the amount of such preferred stock and so long as, thereafter, it is treated, for all purposes hereunder, as if it were Acquired Indebtedness.

6.6 FINANCIAL COVENANTS.

(a) LEVERAGE RATIO. Borrower shall not permit, on the final day of any fiscal quarter ending on or after the Closing Date, its Leverage Ratio, calculated based upon the four (4) immediately preceding fiscal quarters, including the quarter then ended, to be greater than the correlative amounts indicated below:

<TABLE>
<CAPTION>

Period	Ratio
<S>	<C>
Closing Date through June 30, 1994	7.50:1.00
September 30, 1994 through June 30, 1995	6.50:1.00
September 30, 1995 through June 30, 1996	5.25:1.00
September 30, 1996 through the Maturity Date	3.50:1.00

</TABLE>

(b) CONSOLIDATED TANGIBLE NET WORTH. Borrower shall not permit, as of the Closing Date its Consolidated Tangible Net Worth to be less than One Hundred Fifty Two Million Dollars ($152,000,000). Thereafter, beginning with Borrower's fiscal quarter ended December 31, 1993, Borrower's minimum Consolidated Tangible Net Worth shall be increased, as of the last day

of each of its fiscal quarters, by an amount equal to (a) one hundred percent (100%) of Consolidated Net Income (solely to the extent that, for any fiscal quarter, such number is a positive number) for such fiscal quarter; minus (b) the aggregate Dollar amount of dividends paid or accrued, without duplication of an accrual taken in a prior fiscal quarter, by Borrower on account of its Capital Stock during such fiscal quarter. In addition to the foregoing, (y) Borrower's minimum Consolidated Tangible Net Worth shall be increased, as of the date of the consummation of a Qualifying Offering, by an amount equal to seventy-five percent (75%) of the Net Issuance Proceeds therefrom, and (z) Borrower's minimum Consolidated Tangible Net Worth shall be decreased, as of the date of a Failed Conversion, by the amount equal to seventy-five percent times (i) the Net Issuance Proceeds from Qualifying Offerings, minus (ii) the Balance of Net Issuance Proceeds.

(c) DEBT SERVICE RATIO. Borrower shall not permit, on the final day of any fiscal quarter ending on or after the Closing Date, its Debt Service Ratio, calculated based upon the four (4) immediately preceding fiscal quarters, including the quarter then ended, to be less than the correlative amounts indicated below:

<TABLE>
<CAPTION>

Period	Ratio
<S>	<C>
Closing Date through June 30, 1994	1.50:1.00
September 30, 1994 through	

</TABLE>

<TABLE>

<S>	<C>
June 30, 1995	2.00:1.00
September 30, 1995 through the Maturity Date	2.25:1.00

</TABLE>

(d) MINIMUM CURRENT RATIO. Borrower shall not permit, on the last day of any fiscal quarter, the ratio of: (i) Consolidated Current Assets to (ii) Consolidated Current Liabilities (excluding the current portion of Funded Debt to the extent included in Consolidated Current Liabilities) to be less than 1.25:1.00.

(e) FREE CASH FLOW RATIO. Borrower shall not permit, on the final day of any fiscal year ending after the Closing Date, its Free Cash Flow Ratio, calculated based upon the four (4) immediately preceding fiscal quarters, including the quarter then ended, to be less than the correlative amounts indicated below:

<TABLE>
<CAPTION>

Period	Ratio
<S>	<C>
Fiscal year ended 1993	1.00:1.00
Fiscal year ended 1994	1.00:1.00
Fiscal year ended 1995	1.30:1.00
Fiscal year ended 1996	1.60:1.00

</TABLE>

(f) MINIMUM ASSET COVERAGE RATIO. Borrower shall not permit the ratio of: (i) the fair market value of the Collateral (exclusive of interests of the Specified Subsidiaries in their respective real

and personal property) in which Agent, on behalf of Banks, has a perfected Lien (limited to the extent of any limitation of such Lien); to (ii) the Facility A Commitment, to be less than 1.75:1.00 at any time, such ratio to be measured as of the Closing Date and on the final day of any fiscal year of Borrower ending after the Closing Date.

6.7 RESTRICTION ON FUNDAMENTAL CHANGES. Borrower shall not, and shall not permit any of its Subsidiaries to, change its or their name, enter into any merger or consolidation, enter into any reorganization or recapitalization of Borrower's Debt in connection with a troubled debt restructuring, or liquidate, wind up, or dissolve itself or themselves (or suffer any liquidation or dissolution), or convey, sell, assign, lease, transfer,

or otherwise dispose of, in one transaction or a series of transactions, all or substantially all of its or their property or assets, whether now owned or hereafter acquired, or acquire by purchase or otherwise all or substantially all of the business, property of, assets of, or stock or other evidence of beneficial ownership of, any Person, except:

(a) any Specified Subsidiary of Borrower may be merged or consolidated with or into Borrower or any Specified Subsidiary or be liquidated, wound up, or dissolved, or all or any part of its business, property, or assets may be conveyed, sold, assigned, leased, transferred, or otherwise disposed of, in one transaction or a series of transactions, to Borrower or any Specified Subsidiary; provided, however, that in the case of its merger or consolidation, Borrower shall give notice to Agent thereof and cause any such Specified Subsidiary to comply with Section 5.11 hereof to effect and continue the transactions contemplated by this Agreement and the Loan Documents;

(b) Borrower and its Subsidiaries may make any Investment permitted under Section 6.3 of this Agreement;

(c) Borrower and its Subsidiaries may sell or otherwise dispose of properties or assets in accordance with the provisions of Section 6.9 of this Agreement;

(d) upon thirty (30) days prior written notice to Agent, Borrower or any of the Specified Subsidiaries may change its or their names;

(e) upon three (3) days prior written notice to Agent, any Subsidiary (other than a Specified Subsidiary) of Borrower may change its name;

(f) upon ten (10) days prior written notice to Agent, (i) any of the Specified Subsidiaries may merge with and into any of the other Specified Subsidiaries, (ii) any of the Environmental Subsidiaries may merge with and into any of the other Environmental Subsidiaries, and (iii) any of Borrower's Subsidiaries, other than Environmental Subsidiaries and Specified Subsidiaries, may merge with and into any of Borrower's Subsidiaries, other than Environmental Subsidiaries and Specified Subsidiaries;

(g) Borrower and its Subsidiaries may acquire all or substantially all of the business, properties, or assets of a Person so long as the total purchase consideration per transaction, or series of related transactions, does not exceed Twenty-Five Million Dollars ($25,000,000); and

(h) Borrower may acquire ninety percent (90%) or more of the Capital Stock (or other evidence of beneficial ownership) of a Person and, contemporaneously with such acquisition, cause such Person to be merged with and into Borrower (or its business, properties, and assets to be transferred to Borrower), so long as

the total purchase consideration for such transaction, or a series of related transactions, does not exceed Twenty-Five Million Dollars ($25,000,000).

6.8 SALES AND LEASE-BACKS. Borrower shall not, and shall not permit any of its Subsidiaries to become or remain liable, directly or indirectly, as lessee or as guarantor or other surety with respect to any

lease, whether an Operating or Capitalized Lease, of any property (whether real, personal, or mixed real and personal) whether now owned or hereafter acquired: (a) which Borrower or any of its Subsidiaries has sold or transferred or is to sell or transfer to any other Person, or (b) which Borrower or any of its Subsidiaries intends to use for substantially the same purpose as any other property that has been or is to be sold or transferred by Borrower or any such Subsidiary to any Person in connection with such lease, unless such sale or transfer is permitted pursuant to Section 6.9 hereof or unless effected in compliance with the provisions of Section 5.11 hereof to effect and continue the transactions contemplated by this Agreement and the Loan Documents.

6.9 SALE OF ASSETS. Without obtaining the prior written consent of the Required Banks, Borrower shall not, and shall not permit any of its Subsidiaries to, sell, assign, transfer, convey, or otherwise dispose of their assets, whether now owned or hereafter acquired, except for:

(a) the sale or other disposition by Borrower or any of its Subsidiaries of (i) property or assets having de minimis value, or (ii) inventory, in each case, in the ordinary course of business;

(b) an involuntary sale or other disposition (that does not constitute an Event of Default) of any of the properties or assets of Borrower or any of its Subsidiaries;

(c) the sale or other disposition by Borrower or any of its Subsidiaries, during the period from the Closing Date through the Maturity Date, of properties or assets (the sale of disposition of which would not have a Material Adverse Effect), having an aggregate fair value not to exceed Sixty Million Dollars ($60,000,000); provided, however, that, during any fiscal year of Borrower, such permitted sales or dispositions shall be limited to properties or assets having an aggregate fair value not to exceed Twenty Million Dollars ($20,000,000); provided further, however, that the foregoing shall not be deemed to permit the sale, discount, sale with recourse, or other disposition by Borrower or its Subsidiaries of any of their accounts, general intangibles for the payment of money, or other rights to payment of money, except that this proviso shall not preclude the sale of accounts as part of a sale of the business out of which they arose, an assignment of accounts that is for the purpose of collection only, a transfer of a right to payment under a contract to an assignee that is also to do the performance under the

contract, a transfer of a single account to an assignee in whole or partial satisfaction of a pre-existing indebtedness or any sale, discount or other disposition to Borrower;

(d) the sale or disposition by Borrower or any of its Subsidiaries of the Capital Stock or properties and assets of (i) Rho-Chem Corporation, a California corporation, or (ii) Century Resources, Inc., an Illinois corporation;

(e) the sale or other disposition by any of Borrower's Subsidiaries of properties or assets to Borrower;

(f) the sale or other disposition by (i) any of Borrower's Subsidiaries, other than the Environmental Subsidiaries, of properties or assets to any of Borrower's Subsidiaries, (ii) any of the Environmental Subsidiaries of properties or assets to other Environmental Subsidiaries, or (iii) any of the Environmental Subsidiaries of properties or assets to Borrower's Subsidiaries that are not Environmental Subsidiaries, in each case, upon notice by Borrower to Agent of same and compliance to the extent applicable, at the request of Agent, with Section 5.11 to effect and continue the transactions contemplated by this Agreement or the Loan Documents;

(g) the sale or other disposition by Borrower of any of the Excluded Properties; and

(h) the exchange of approximately 140 acres currently owned by Borrower in Colorado and not necessary for the operation of the Borrower's business for real estate of comparable value in Colorado that is expected to be useful in Borrower's business.

Upon receipt of a written request from Borrower or any of its Subsidiaries with respect to any sale or other disposition permitted under clause (a), (c), or (g) above, Agent shall execute and deliver all agreements and documents as reasonably may be requested to effect a release of the Liens held by Agent, on behalf of Banks, upon the assets or properties that are the subject of such sale or other disposition permitted under this Section 6.9.

6.10 TRANSACTIONS WITH SHAREHOLDERS AND AFFILIATES. Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease, or exchange of any property or the rendering of any service) with any holder of five percent (5%) or more of any class of equity securities of Borrower or with any Affiliate of Borrower on terms that are less favorable to Borrower or any of its Subsidiaries, as the case may be, than those terms which might be obtained at the time from Persons who are not such a holder or Affiliate,

or if such transaction is not one that could be obtained from such other Person, on terms that are not negotiated in good faith on an arm's length basis.

6.11 CONDUCT OF BUSINESS. Borrower shall not, and shall not permit any of its Subsidiaries to, engage in any business if, as a result thereof, the business of Borrower and its Subsidiaries, taken as a whole, would not be substantially the same as that conducted on the Closing Date. For purposes of this Section 6.11, the business of the manufacture and distribution of building products and the business of hazardous or other waste treatment or processing shall be deemed to be within the types of businesses conducted by Borrower and its Subsidiaries on the Closing Date.

6.12 AMENDMENTS OR WAIVERS OF CERTAIN DOCUMENTS. Borrower shall not, and shall not permit any of its Subsidiaries to, agree to any amendment to, or waive any of its rights with respect to, (a) the terms and provisions regarding interest rates, principal or interest payment amounts, total principal amounts, subordination provisions, events of default, or similar terms and provisions (including applicable definitions) of the Debt, and related indentures or agreements, referred to in subsections 6.1(b) or (c) of this Agreement; provided, however, Borrower may agree to an amendment of the Debt, and the related indentures or agreements, that extends the maturity date of such Debt; (b) any of the material terms of that certain Purchase Agreement, dated August 15, 1987, among Borrower, Browning-Ferris Industries, Inc., and the other signatories thereto, regarding the sale of the Azusa, California, land-fill site, or (c) any of the material terms of that certain Purchase Agreement dated as of May 23, 1990, as amended by that certain First Amendment to Purchase Agreement, dated as of June 4, 1990, among Browning-Ferris Industries, Inc., Cecos International, Inc., and Borrower.

6.13 USE OF PROCEEDS. Borrower shall not use the proceeds of the Loans for any purpose other than: (a) on the Closing Date, to replace in full the outstanding principal, accrued interest, and accrued fees and expenses owing under the 1991 Credit Agreement; (b) to pay transactional fees, costs, and expenses incurred in connection with this Agreement; and (c) on and after the Closing Date and up to but not including the Maturity Date, consistent with the terms and conditions hereof, for its lawful and permitted corporate purposes.

6.14 ERISA. Borrower shall not, and shall not permit any member of the Controlled Group to:

(a) engage in any transaction that it knows or has reason to know could subject it or any member of the Controlled Group to either a civil penalty assessed pursuant to Section 502(i) of ERISA or a tax imposed by Section 4975 of the Code or any penalty, tax, or other form of financial obligation under the laws of any foreign country, that would be material to Borrower and its Subsidiaries, taken as a whole; or

(b) permit the present value of all benefits on a termination basis (irrespective of whether vested) under all Pension Plans (excluding unfunded deferred compensation agreements or other arrangements of similar nature not subject to ERISA and welfare plans not subject to funding requirements of ERISA), with assets less than benefits (irrespective of whether vested) to exceed the current value of the assets of such Pension Plans allocable to such benefits by an aggregate amount for the Controlled Group taken together of more than the greater of five percent (5%) of Consolidated Tangible Net Worth; or

(c) fail to make any payments to any Multiemployer Plan that Borrower or any of its ERISA Affiliates may be required

to make under any agreement relating to such Multiemployer Plan, or any law pertaining thereto, that would have a Material Adverse Effect; or

(d) voluntarily terminate any one or more of their Pension Plans, if such termination would result in the imposition of liens on Borrower or any member of the Controlled Group under Section 4068 of ERISA or the applicable laws of any foreign country, in an amount that when aggregated with all such prior liens imposed from previous Pension Plan terminations (voluntary or involuntary) would have a Material Adverse Effect; or

(e) fail to make required contributions to any Pension Plan subject to Section 412(n) of the Code that with the passage of time reasonably could result in a lien upon the assets of Borrower or any member of its Controlled Group, that would have a Material Adverse Effect; or

(f) except as required by law, adopt an amendment to any Pension Plan (i) the effect of which is to increase the current liability under that Plan for the plan year, and (ii) where the funded current liability percentage for that plan year is less than sixty percent (60%), after taking into account the effect of such an amendment.

As used in this Section 6.14, the term "accrued benefit" has the meaning specified in Section 3(23) of ERISA and the term "current value" has the meaning specified in Section 3(26) of ERISA; and the terms "current liability" and "funded current liability percentage" have the meaning specified in Section 401(a)(29)(E) of the Code.

6.15 MISREPRESENTATIONS. Borrower shall not, nor shall it permit any of its Subsidiaries to furnish Agent or any Bank any certificate or other document that, to its or its Subsidiaries' knowledge, contains any untrue statement of material fact or that omits to state a material fact necessary to make it not misleading in light of the circumstances under which it was furnished.

6.16 PARTNERSHIPS. Except in the ordinary course of business consistent with past practices, neither Borrower nor any of its Subsidiaries shall become a general or limited partner in any partnership or a joint venturer in any joint venture.

6.17 CHANGE IN LOCATION OF CHIEF EXECUTIVE OFFICES AND ASSETS. Borrower shall not, nor shall it permit any of its Specified Subsidiaries to, relocate their respective chief executive offices without first giving Agent thirty (30) days prior written notice of any proposed relocation. Borrower shall not, nor shall it permit any of its Specified Subsidiaries to, move any of their respective equipment or inventory to a location other than any one of their respective locations identified in the Disclosure Statement without first giving Agent fifteen (15) calendar days prior written notice of any such proposed relocation; provided, however, that Borrower and its Specified Subsidiaries shall not be considered to be in violation of this sentence to the extent that equipment or inventory of Borrower and its Specified Subsidiaries having an aggregate value of no more than Five Hundred Thousand Dollars ($500,000) is located at a location other than those identified in the Disclosure Statement. To the extent that Borrower or its Specified Subsidiaries, as applicable, timely comply with the notice provisions set forth in this Section 6.17, and timely comply with the provisions of Section 5.11 of this Agreement and the comparable provisions of the Loan Documents (to the extent that each is a party thereto), the Disclosure Statement automatically shall be deemed to be amended to include such new locations or to reflect a change in the location of their chief executive offices, as applicable.

6.18 RESTRICTIVE AGREEMENTS. Borrower shall not, and will not permit any of its Subsidiaries to, enter into any agreement that restricts the ability of such Subsidiary to make payments to Borrower by way of dividends, advances, reimbursements, or otherwise.

6.19 MARGIN REGULATION. No portion of the proceeds of any of the Loans shall be used by Borrower in any manner that might cause the Borrowing, the application of such proceeds, or the transactions contemplated by this Agreement to violate Regulations G, T, U, or X of the Federal Reserve Board or any other regulation of such board or to violate the Exchange Act.

6.20 SUBORDINATED DEBT, PREFERRED STOCK, AND BORROWER COMMON STOCK. Borrower shall not, and shall not cause or permit any of its Subsidiaries to:

(a) other than Permitted Junior Payments, pay,

prepay, or set aside funds for the payment or prepayment of the principal of any Subordinated Debt, other than in connection with a permitted refinancing thereof;

(b) pay any amount with respect to any Subordinated Debt in violation of the terms of the subordination provisions thereof;

(c) other than Permitted Junior Payments, redeem, repurchase, or otherwise retire for value any Subordinated Debt, other than in connection with a permitted refinancing thereof; or

(d) other than Permitted Junior Payments, redeem, repurchase, or otherwise retire for value, or set aside funds for the redemption, repurchase, or other retirement for value of any of its Preferred Stock or the Borrower Common Stock.

6.21 CREATION OF NEW SUBSIDIARIES. Borrower shall not, and shall not permit any of its Subsidiaries to, create or suffer to exist any Subsidiary that is not, either directly or indirectly, a wholly-owned Subsidiary of Borrower; provided, however, that the foregoing shall not prevent Borrower or its Subsidiaries from creating or suffering to exist any less than wholly-owned Subsidiary of Borrower if the creation or acquisition of such Subsidiary arises in connection with attempts by Borrower or its Subsidiaries to collect or otherwise liquidate delinquent accounts.

6.22 ENVIRONMENTAL SUBSIDIARIES. Borrower shall not, directly or indirectly, make any Investment in any Environmental Subsidiary or make, expend, or incur any Capital Expenditure for or on account of the business of the Environmental Subsidiaries if, after giving effect to such Investment or Capital Expenditure, the aggregate amount of all such Investments or Capital Expenditures made in, for, or on account of the Environmental Subsidiaries, after the Closing Date, would exceed Thirty Five Million Dollars ($35,000,000). For purposes of this Section 6.22, the term "Capital Expenditures" shall include (a) any direct or indirect purchase or other acquisition by Borrower of, or beneficial interest in, stock or other securities of any Environmental Subsidiary, (b) any direct or indirect capital contribution by Borrower to any Environmental Subsidiary, and (c) the original amount (irrespective of whether reduced by repayment) of any direct or indirect loan or advance by Borrower to any Environmental Subsidiary for the purpose of acquiring a capital asset.

6.23 HEDGE AGREEMENTS. Borrower shall not, and shall not permit any of its Subsidiaries to, become or remain liable with respect to any Hedge Agreement unless such Hedge Agreement meets the following criteria:

(a) such Hedge Agreement hedges actual outstanding Debt of Borrower or one of its Subsidiaries; and

(b) the pricing and spread under such Hedge Agreement is on market terms.

6.24 DIVIDENDS. Borrower shall not and shall not permit any of its Subsidiaries to make or declare, directly or indirectly, any dividend (in cash, return of capital, or any other form of property or assets) or distribution on account of any shares or interest of any class of Borrower's or its Subsidiaries' Capital Stock, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash, property, assets, or obligations; provided, however, that the foregoing shall not restrict the ability of:

(a) Borrower's Subsidiaries to make any dividend or other distribution;

(b) Borrower to make any dividend or other distribution to its shareholders consisting of shares of Borrower Common Stock or warrants or other rights to acquire Borrower Common Stock;

(c) Borrower to make any dividend or other distribution to the holders of Borrower Common Stock of shares of Series C Preferred Stock pursuant to the terms and conditions of Borrower's Restated

Articles of Incorporation, as amended;

(d) so long as no Event of Default or Unmatured Event of Default has occurred and is continuing and so long as no Event of Default or Unmatured Event of Default would result therefrom, the payment by Borrower of any cash dividend that constitutes a regularly scheduled dividend payment (and not a redemption or partial redemption) with respect to Borrower's Permitted Preferred Stock and any preferred stock of a Subsidiary of Borrower to the extent that it is acquired pursuant to the proviso to Section 6.5 hereof; and

(e) so long as no Event of Default or Unmatured Event of Default has occurred and is continuing and so long as no Event of Default or Unmatured Event of Default would result therefrom, the payment by Borrower of any cash dividend with respect to Borrower Common Stock so long as, (i) on the first date on which such dividends are commenced, Borrower's Adjusted Free Cash Flow Ratio, calculated as of the last day of the immediately preceding fiscal quarter and based upon the four (4) immediately preceding fiscal quarters, including the immediately preceding fiscal quarter (using, in the numerator of such ratio, its then extant level of Funded Debt), is not less than the correlative amounts indicated below, and (ii) on the final day of each fiscal year in which such Borrower Common Stock dividends are paid, Borrower's Adjusted Free Cash Flow Ratio, calculated based upon the four (4) immediately preceding fiscal quarters, including the quarter then ended, is not less than the correlative amounts indicated below:

<TABLE>
<CAPTION>

Period	Ratio
<S>	<C>
Fiscal year 1993	1.00:1.00

</TABLE>

<TABLE>

<S>	<C>
Fiscal year 1994	1.00:1.00
Fiscal year 1995	1.30:1.00
Fiscal year 1996	1.60:1.00

</TABLE>

ARTICLE 7.

EVENTS OF DEFAULT

7.1 EVENTS OF DEFAULT. The occurrence of any one or more of the following events, acts, or occurrences shall constitute an event of default (an "Event of Default") hereunder:

(a) FAILURE TO MAKE PAYMENTS WHEN DUE.

(i) Borrower shall fail to pay any amount owing hereunder or under any of the Notes with respect to the principal of any Loans when such amount is due, whether at stated maturity, as a result of a mandatory prepayment requirement, by acceleration, by notice of prepayment, or otherwise; or

(ii) Borrower shall fail to pay, within five (5) days of the date when due, any amount owing hereunder or under any of the Notes with respect to interest on any of the Loans or with respect to the Commitment Fee or any other amounts (including fees, costs, and expenses payable to Agent or the Banks) payable in connection herewith; or

(b) DEFAULT IN OTHER AGREEMENTS.

(i) Borrower or any of its Subsidiaries shall default (as principal or guarantor or other surety) in the payment when due (subject to any applicable notice or grace period), whether at stated maturity or otherwise, of any monetary obligation on (howsoever designated) any

Debt, whether such Debt now exists or shall hereafter be created; provided, however, that no default under this clause (i) shall occur or result from a default in the payment of any monetary obligation on any Debt of, or Debt guaranteed by, Borrower or any of its Subsidiaries that, when added to the amount of all other such Debt in default, does not exceed Five Million Dollars ($5,000,000); or

(ii) An event of default, as defined in any agreement, mortgage, indenture, instrument, or other agreement relating thereto under which there may be issued, or by which there may be secured or evidenced, any Debt of, or Debt guaranteed by, Borrower or any of its Subsidiaries, whether such Debt now exists or shall hereafter be created, shall occur and Borrower or such Subsidiary shall permit such Debt to become or be declared due prior to its stated maturity or due date; provided, however, that no default under this clause (ii) shall occur or result from a default in any Debt of, or Debt guaranteed by, Borrower or any of its Subsidiaries which, when added to the amount of all other such Debt in default, does not exceed Five Million Dollars ($5,000,000); or

(iii) A default by Borrower or any of its Subsidiaries in the payment of money under any Hedge Agreement to which Borrower or any of its Subsidiaries are parties, whether such Hedge Agreement now exists or shall hereafter be created; provided, however, that no default under this clause (iii) shall occur or result from a payment default in a Hedge Agreement of Borrower or any of its Subsidiaries the net obligations under which, when added to the aggregate amount of all net obligations under other Hedge Agreements as to which Borrower or its Subsidiaries have defaulted in the payment of monetary obligations, and based upon a reasonable estimation of the net obligations under each of such Hedge Agreements, do not exceed Five Million Dollars ($5,000,000); or

(c) BREACH OF CERTAIN COVENANTS.

Borrower or any of its Subsidiaries shall fail to perform or comply with any covenant, term, or condition contained in Sections 5.2(e)(i) or 5.12, or Article 6 of this Agreement; or

(d) BREACH OF WARRANTY.

Except to the extent qualified by the Disclosure Statement, any financial statement, representation, warranty, or certification made or furnished by Borrower or any of its Subsidiaries under this Agreement or in any statement, document, letter, or other writing or instrument furnished or delivered to any Bank or to Agent pursuant to or in connection with this Agreement or as an inducement to Agent or any Bank to enter into this Agreement, shall, at any time, prove to have been materially false, incorrect, or incomplete when made, effective, or reaffirmed, as the case may be; provided, however, if a Loan Document applicable to the Collateral or Lien affected by such occurrence provides Borrower or its Subsidiary, as the case may be, the right to correct or remedy the same, which occurrence is capable of being corrected or remedied, and Borrower or its Subsidiary, as the case may be, diligently prosecutes such correction or remedy, then the same shall not be deemed to be an Event of Default hereunder so long

as such occurrence could not reasonably be expected to have a Material Adverse Effect; or

(e) OTHER DEFAULTS UNDER AGREEMENT.

(i) Borrower shall default in the performance of or compliance with any term contained in Sections 5.2(a), (b), (c), (p), (q), or (r), 5.5, 5.6, 5.7, or 5.11, and such default shall not have been remedied or waived within five (5) Domestic Business Days after the earlier of: (i) receipt of notice from Agent to Borrower of such default; or (ii) the date upon which any Responsible Officer has knowledge of such default; or

(ii) Borrower shall default in the performance of or compliance with any term contained in this Agreement other than: (i) those referred to above in Sections 7.1(a), (c), and (d), or (ii) those set forth in Sections 5.2(a), (b), (c), (p), (q), or (r), 5.5, 5.6, 5.7,

or 5.11, and such default shall not have been remedied or waived within ten (10) Domestic Business Days after the earlier of: (i) receipt of notice from Agent to Borrower of such default; or (ii) the date upon which any Responsible Officer has knowledge of such default; or

(f) DEFAULT UNDER LOAN DOCUMENTS, ETC.

Borrower or any of its Subsidiaries shall fail to observe or perform any term, covenant, condition, agreement, or obligation to be observed or performed by it or them as applicable, under the Loan Documents, to the extent that each is a party thereto, and (i) such failure arises out of the granting by Borrower or any of its Subsidiaries of a Lien or the imposition of a Lien upon any of the material properties or assets of Borrower or any of its Subsidiaries in favor of any Person, except for Permitted Liens; or (ii) such failure arises out of any other act or failure to act of Borrower or any of its Subsidiaries which act materially adversely affects any Lien granted in favor of Banks by Borrower or any of its Subsidiaries; provided, however, that the failure to comply with any further assurance provisions contained in the Loan Documents shall, per se, be deemed to materially adversely affect such Liens; or (iii) such failure arises other than under circumstances set forth in clauses (i) and (ii) above and continues for ten (10) Domestic Business Days after notice to Borrower of such failure from Agent; or (iv) such failure arises other than under circumstances set forth in clauses (i) and (ii) above and continues for fifteen (15) Domestic Business Days after Agent is notified of such failure by Borrower or its Subsidiary; provided, further, however, the provisions of clauses (iii) and (iv) above notwithstanding, if, under the applicable Loan Document, Borrower or any of its Subsidiaries has the right to cure such failure and such failure is capable of being cured, and Borrower or its Subsidiary, as the case may be, commences and diligently prosecutes such cure as required by the terms of such Loan Document, then such failure shall not be

deemed to be an Event of Default hereunder so long as such failure could not reasonably be expected to have a Material Adverse Effect; or

(g) INVOLUNTARY BANKRUPTCY; APPOINTMENT OF RECEIVER, ETC.

(i) An involuntary case seeking the liquidation or reorganization of Borrower or any of its Subsidiaries under Chapter 7 or Chapter 11, respectively, of the federal Bankruptcy Code or any similar proceeding shall be commenced against Borrower or any of its Subsidiaries under any other applicable law and any of the following events occur: (v) Borrower or any of its Subsidiaries, as applicable, consents to the institution of the involuntary case; (w) the petition commencing the involuntary case is not timely controverted; (x) the petition commencing the involuntary case is not dismissed within sixty (60) days of its filing; provided, however, that, during the pendency of such period, the Banks shall be relieved of the Facility A Commitment, the Facility A Florida Subfacility Commitment, and the Facility A Florida LC Subfacility Commitment; (y) an interim trustee is appointed to take possession of all or a substantial portion of the property or to operate all or any substantial portion of the business of Borrower or any of its Subsidiaries; or (z) an order for relief shall have been issued or entered therein; or

(ii) A decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, custodian, trustee, or other officer having similar powers of Borrower or any of its Subsidiaries to take possession of all or a substantial portion of the property or to operate all or a substantial portion of the business of Borrower or any of its Subsidiaries shall have been entered and, within thirty (30) days from the date of entry, is not vacated, discharged, or bonded against, or any similar relief shall be granted against Borrower or any of its Subsidiaries under any applicable federal or state law and, within thirty (30) days from the date of entry, is not vacated, discharged, or bonded against; provided, however, that, during the pendency of such period, the Banks shall be relieved of the Facility A Commitment the Facility A Florida Subfacility Commitment, and the Facility A Florida LC Subfacility Commitment; or

(h) VOLUNTARY BANKRUPTCY; APPOINTMENT OF RECEIVER, ETC.

Borrower or any of its Subsidiaries shall institute a voluntary case seeking liquidation or reorganization under Chapter 7 or Chapter 11, respectively, of the federal Bankruptcy Code; or Borrower or any of its Subsidiaries shall file a petition, answer, or complaint or shall otherwise institute any similar proceeding under any other applicable law, or shall

consent thereto; or Borrower or any of its Subsidiaries shall consent to the conversion of an involuntary case to a voluntary case; or Borrower or any of its Subsidiaries shall consent or acquiesce to the appointment of a receiver, liquidator, sequestrator, custodian, trustee, or other officer with similar powers to take possession of

all or a substantial portion of the property or to operate all or a substantial portion of the business of Borrower or any of its Subsidiaries; or Borrower or any of its Subsidiaries shall make a general assignment for the benefit of creditors; or the board of directors of Borrower or any of its Subsidiaries (or any committee thereof) adopts any resolution or otherwise authorizes action to approve any of the foregoing; or

(i) JUDGMENTS AND ATTACHMENTS.

(i) Borrower or any of its Subsidiaries shall suffer any money judgment, writ, or warrant of attachment, or similar process involving payment of money in an amount in excess of One Million Dollars ($1,000,000) and shall not discharge, vacate, bond, or stay the same within a period of nineteen (19) days or, in any event, within ten (10) days of the date of any proposed sale thereunder; or

(ii) A judgment creditor shall obtain possession of properties or assets of Borrower or any of its Subsidiaries having a value in excess of One Million Dollars ($1,000,000) by any means, including levy, distraint, replevin, or self-help; or

(j) DISSOLUTION.

Any order, judgment, or decree shall be entered decreeing the dissolution or division of Borrower or any of its Subsidiaries, as the case may be, and such order shall remain undischarged or unstayed for a period in excess of thirty (30) days; or

(k) ERISA LIABILITIES.

(i) Any Reportable Event (or similar occurrence under the applicable laws of a foreign country) occurs that reasonably can be expected to result in a liability by Borrower, or any of its ERISA Affiliates, to the PBGC (or foreign regulatory authority), that reasonably would be expected to have a Material Adverse Effect, and that Required Banks determine, in good faith, constitutes grounds for the termination of any Pension Plan by the PBGC (or foreign regulatory authority) or for the appointment of a trustee to administer any Pension Plan; or

(ii) Any Pension Plan maintained by Borrower, or any of its ERISA Affiliates, shall be terminated or a trustee appointed by an appropriate United States district court, or pursuant to the applicable law of a foreign country, to administer any Pension Plan, or the PBGC shall institute proceedings to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan if, as of the date thereof, Borrower's, or any of its ERISA Affiliates' liability or the aggregate liability of Borrower, or its ERISA Affiliates (after giving effect to the tax consequences thereof) for unfunded vested benefits under the Pension Plans exceed the then current value of assets accumulated in such

Pension Plans by more than five percent (5%) of Consolidated Tangible Net Worth (or in the case of a termination involving Borrower, or any of its ERISA Affiliates as a Substantial Employer (within the meaning of ERISA), the withdrawing employer's proportionate share of such excess shall exceed such amount); or

(iii) Failure to make full payment (including all required installments) when due of all amounts which, under the provisions of any Pension Plan or applicable law, Borrower, or any of its ERISA Affiliates, is required to pay as contributions thereto, that would have a Material Adverse Effect; or

(iv) Borrower, or any of its ERISA Affiliates creates any accumulated funding deficiency as defined by ERISA, irrespective of whether waived, with respect to any Pension Plan, that would

have a Material Adverse Effect; or

(v) Borrower, or any of its ERISA Affiliates, as an employer under a Multiemployer Plan, shall have made a complete or partial withdrawal from such Multiemployer Plan and the plan sponsor of such Multiemployer Plan shall have notified such withdrawing employer that such employer has incurred a withdrawal liability in an annual amount exceeding One Million Dollars ($1,000,000) or the aggregate amount of such withdrawal liabilities for Borrower and its ERISA Affiliates together exceeds One Million Dollars ($1,000,000); or

(vi) Any Lien on the properties or assets of Borrower, or any of its Subsidiaries, under the Pension Protection Act shall exceed One Million Dollars ($1,000,000); or

(l) TERMINATION OF LOAN DOCUMENTS.

Any of the Loan Documents shall cease to be in full force and effect for any reason other than: (i) any act or omission of Agent with respect to the filing or recordation of any of such documents or other action necessary for the perfection of Liens in favor of Agent on behalf of the Banks; or (ii) a release or termination thereof upon the full payment and satisfaction of the Debt due hereunder and under the Notes to Banks; or (iii) upon the written consent of the Required Banks; or

(m) SUBORDINATION DEFAULT.

The subordination provisions with respect to the Subordinated Debt, at any time after the execution and delivery thereof and for any reason other than satisfaction in full of all Debt incurred hereunder and under the Notes, cease to be in full force and effect or are declared to be null and void; or any holder of twenty-five percent (25%) or more of an issue thereof denies that it has any further liability or obligation,

including with respect to any future Loans by Banks, under such Subordinated Debt or gives notice to such effect; provided, however, neither an Unmatured Event of Default nor an Event of Default shall be deemed to have occurred or be continuing under this Section 7.1(m) by reason of any such denial or notice if: (a) Borrower promptly obtains an opinion of counsel, from a law firm reasonably acceptable to the Required Banks, addressed to Agent, on behalf of Banks, to the effect that any such denial or notice is not founded upon any reasonable basis at law; and (b) Borrower immediately takes all action necessary to obtain appropriate declaratory and injunctive relief with respect to such denial or notice in order to preserve the full force and effect of such subordination provisions; or

(n) DEFAULT UNDER KEEPWELL AGREEMENT.

A failure by Borrower to comply with a demand made by MARAD in accordance with paragraph 5 of the Keepwell Agreement, if the same shall remain uncured for a period of fifteen (15) Domestic Business Days; or

(o) CHANGE OF CONTROL.

A Change of Control shall have occurred.

7.2 REMEDIES. Upon the occurrence of an Event of Default:

(i) If such Event of Default arises and is continuing under Sections 7.1(g) or (h), then the unpaid principal amount of and any accrued interest on the Loans automatically shall become immediately due and payable, without presentment, demand, protest, notice, or other requirements of any kind, all of which are hereby expressly waived by Borrower and the obligation of any Bank to make any Loan hereunder or issue any Letter of Credit hereunder shall thereupon terminate; and

(ii) In the case of any other Event of Default which is continuing, the Required Banks may request Agent to and Agent thereupon shall, by written notice to Borrower, declare all of the Loans to be and the same shall forthwith become, due and payable, together with any and all accrued interest thereon, and the obligation of Banks to make any Loan hereunder or issue any Letter of Credit hereunder shall thereupon terminate.

The foregoing notwithstanding, if, at any time after acceleration of the maturity of any Note, Borrower shall pay all arrears of interest and all payments on account of principal which shall have become due other than by acceleration (with interest on principal at the rate specified

herein) and all Events of Default and Unmatured Events of Default (other than nonpayment of principal and accrued interest under the Notes, due and payable solely by virtue of acceleration) have been remedied or waived pursuant to

Section 11.1 of this Agreement, then the Required Banks, by written notice to Borrower, may rescind and annul the acceleration and its consequences; provided, however, that such action shall not affect any subsequent Event of Default or Unmatured Event of Default or impair any right consequent thereon.

Upon acceleration, Agent, upon the request of the Required Banks, without notice to or demand upon Borrower, which are expressly waived by Borrower, may proceed to protect, exercise, and enforce their rights and remedies hereunder and under the Notes, or the Loan Documents and any other rights and remedies as are provided by law or equity. The Required Banks may determine, in their sole discretion, the order and manner in which each Bank's rights and remedies are to be exercised, and all payments received by Agent or Banks, or any one or more of them, shall be applied (subject to Section 2.11(c) hereof) as follows (regardless of how each Bank may treat the payments for the purpose of its own accounting): first, to all costs and expenses (including reasonable attorneys fees, costs of maintaining, preserving, or disposing of any of the real, personal, or mixed collateral and costs of settlement) incurred by Agent, or Banks, or any of them, in enforcing any Debt of, or in collecting any payments due from, Borrower hereunder or under the Notes or under the Loan Documents by reason of such Event of Default; second, to all fees due and owing to Banks or Agent, third, to accrued interest on the Loans; fourth, to principal amounts outstanding under the Loans; fifth, to Agent, on behalf of Banks, to be held as cash collateral, in an amount equal to the Letter of Credit Usage in order to secure the obligations of Borrower with respect to such Letters of Credit; sixth, pro rata, to any other Debt of Borrower owing to Agent or Banks, or any of them; and seventh, any remainder to Borrower.

ARTICLE 8.

THE AGENT AND THE BANKS

8.1 APPOINTMENT AND POWERS OF AGENT. Each Bank hereby irrevocably designates and appoints Agent as its agent hereunder and hereby authorizes Agent to execute and deliver or accept, on behalf of each of the Banks, the Loan Documents and any other documents, instruments, and agreements related thereto or hereto and to take such action on its behalf and to exercise such rights, remedies, powers, and privileges hereunder as are specifically authorized to be exercised by Agent by the terms hereof, together with such rights, remedies, powers, and privileges as are reasonably incidental thereto. Agent may execute any of its respective duties as agent hereunder by or through agents or employees and shall be entitled to retain counsel and to act in reasonable reliance upon the advice of such counsel concerning all matters pertaining to the agencies hereby created and its duties hereunder, and Agent shall not be liable for any action taken or omitted to be taken in accordance with the advice of counsel selected by it.

Except as required by the specific terms of this Agreement, Agent shall have no duty to exercise any right, power, remedy, or privilege granted to it hereby, or to ascertain whether any Event of Default or Unmatured Event of Default has occurred and is continuing or otherwise to inquire into the performance or observance on the part of Borrower of any term, covenant, condition, or agreement on its part to be performed or observed, or to take any affirmative action hereunder, unless requested or directed to do so by the Required Banks, the Majority Banks, or all Banks, as provided herein, and shall not, without the requisite prior approval as provided in Section 11.1 hereof, consent to any departure by Borrower from the terms hereof, waive any default on the part of Borrower hereunder or amend, modify, supplement, or terminate, or agree to any surrender of, this Agreement, the Notes, or the Loan Documents.

Agent has and shall have the same rights and powers under this Agreement, the Notes, and the Loan Documents with respect to its pro rata share of the Facility A Commitment, Loans, and Letters of Credit hereunder as each other Bank and may exercise the same as though it were not the agent; and the terms "Bank" or "Banks" include Wells Fargo, or any successor agent, in its individual capacity hereunder. Agent and its Affiliates may accept deposits

from, lend money to, and generally engage in any kind of business with Borrower, or any of Borrower's Subsidiaries or Affiliates, as if it were not the agent hereunder and without any duty to account therefor to Banks.

Neither Agent, nor any of its directors, officers, agents, or employees shall be liable for any action taken or omitted to be taken by them hereunder or in connection herewith, except for their own gross negligence or willful misconduct; nor shall Agent be responsible to any Person for the representations, warranties, or other statements made by any other Person or for the due execution or delivery, validity, effectiveness, genuineness, value, sufficiency, or enforceability against Borrower and the Specified Subsidiaries of this Agreement, the Notes, the Loan Documents, or any other document furnished pursuant thereto or in connection herewith.

Each Bank hereby agrees, in the ratio that such Bank's pro rata share of the Facility A Commitment bears to the total of the Facility A Commitment, to indemnify, defend, and hold Agent harmless, as agent hereunder, from and against any and all losses, liabilities (including attorneys fees and expenses) incurred or suffered by Agent in such capacity as a result of any action taken or omitted to be taken by Agent in such capacity, or otherwise incurred or suffered by, made upon, or assessed against Agent in such capacity; provided, however, that no Bank shall be liable for any portion of any such losses, liabilities (including liabilities for penalties), actions, suits, judgments, demands, damages, costs, or expenses resulting from or attributable to gross negligence or willful misconduct on the part of Agent or its directors, officers, employees or agents. Without limiting the generality of the foregoing and subject to the proviso above, each Bank hereby agrees, in the ratio aforesaid, to reimburse Agent promptly following its demand for any

out-of-pocket expenses (including attorneys fees and expenses) incurred by Agent hereunder and not reimbursed to Agent by Borrower. Each Bank's obligations under this paragraph shall survive the termination of this Agreement and the discharge of Borrower's obligations hereunder.

8.2 NATURE OF DUTIES; INDEPENDENT CREDIT INVESTIGATION. Agent shall have no duties or responsibilities except those expressly set forth in this Agreement. The duties of Agent shall be mechanical and administrative in nature and shall include a duty to distribute copies of this Agreement and the Loan Documents to each Bank promptly after the Closing Date; Agent shall not have by reason of this Agreement a fiduciary relationship in respect of any Bank; and nothing in this Agreement, expressed or implied, is intended to or shall be so construed as to impose upon Agent any obligations in respect of this Agreement except as expressly set forth herein. Each Bank expressly acknowledges: (a) that Agent has not made any representations or warranties to it and that no act by Agent hereafter taken, including any review of the affairs of Borrower, shall be deemed to constitute any representation or warranty by Agent to any Bank; (b) that it has made and will make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of Borrower in connection with this Agreement; and (c) that Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Bank with any credit or other information except as provided herein, whether coming into its possession before the making of any Loans hereunder or at any time or times thereafter.

8.3 ACTIONS IN DISCRETION OF AGENT; INSTRUCTIONS FROM BANKS. Agent agrees, upon the written request of the Required Banks, the Majority Banks, or all Banks, as applicable, to take any action of the type specified as being within Agent's rights, powers, or discretion herein. In the absence of a request by the Required Banks, the Majority Banks, or all Banks, as applicable, Agent shall have authority, in its sole discretion, to take or not to take any such action, unless this Agreement specifically requires the consent of the Required Banks, the Majority Banks, or all Banks, as applicable. Any action taken or failure to act pursuant to such instructions or discretion shall be binding on all Banks and on all holders of Notes. No Bank shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting hereunder in accordance with the instructions of the Required Banks, the Majority Banks, or all Banks, as applicable, or in the absence of such instructions, in the absolute discretion of Agent, subject to the provisions of Section 8.1.

8.4 EXCULPATORY PROVISIONS. Agent shall be under no obligation to any Bank to ascertain the existence or possible existence of any Event of Default or Unmatured Event of Default unless a required payment by Borrower to Agent has not been made or unless Agent has received notice from a Bank or Borrower stating that such notice is a "Notice of Default." In the event that such a payment default occurs or that Agent receives

116
such a notice of the occurrence of an Event of Default or Unmatured Event of Default, Agent shall give prompt notice thereof to Banks. Agent shall (subject to Section 11.1 hereof) take such action with respect to such Event of Default or Unmatured Event of Default as shall be directed by the Required Banks; provided, however, that, unless and until Agent shall have received such directions, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default or Unmatured Event of Default as it shall deem advisable and in the best interests of Banks.

8.5 RELIANCE BY AGENT. Agent shall be entitled to rely upon any communication, instrument, paper, writing, telegram, telex, or teletype message, resolution, notice, consent, certificate, letter, cablegram, statement, order, other document, conversation by telephone, or otherwise, believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons. Agent shall be fully justified in failing or refusing to take any action hereunder unless it shall first be indemnified to its satisfaction by Banks (in the ratio provided in Section 8.1) against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such actions.

8.6 EXCESS PAYMENTS. If any Bank or other holder of a Note shall obtain any payment or other recovery (whether voluntary, involuntary, by application of offset or otherwise) on account of principal or interest on any Note or payment of Commitment Fee in excess of its pro rata share of payments and other recoveries obtained by all Banks or holders of Notes, such Bank or other holder shall purchase from the other Banks or holders such participations in the Notes held by them as shall be necessary to cause such purchasing Bank or holder to share the excess payment or other recovery ratably with each of the other Banks or holders; provided, however, that if all or any portion of the excess payment or other recovery is thereafter recovered from such purchasing Bank or holder, the purchase shall be rescinded and the purchase price restored to such Bank or other holder to the extent of such recovery, but without interest. Borrower agrees that any Bank or holder so purchasing a participation from another Bank or holder pursuant to this Section 8.6 may, to the fullest extent permitted by law, exercise all of its rights of payment (including setoff) with respect to such participation as fully as if such Bank or holder were the direct creditor of Borrower in the amount of such participation.

8.7 OBLIGATIONS SEVERAL. The obligations of Banks hereunder are several, and neither any Bank nor Agent shall be responsible for the obligation of any other Person hereunder, nor will the failure of any Bank to perform any of its obligations hereunder relieve Agent or any other Bank from the performance of its respective obligations hereunder. Nothing contained in this Agreement, and no action taken by Banks or Agent pursuant hereto or in connection herewith or pursuant to or in connection with the Notes,

117
or the Loan Documents shall be deemed to constitute Banks, together or with Agent, a partnership, association, joint venture, or other entity.

8.8 RESIGNATION BY AGENT. Agent may resign its agency at any time by giving at least thirty (30) days prior written notice of its intention to do so to each Bank and to Borrower. Such resignation shall become effective upon the earlier of: (a) the appointment by the Required Banks of a successor Agent (which successor Agent shall be a Bank and shall be reasonably acceptable to Borrower), or (b) the effective date set forth in Agent's notice of resignation. After any resigning Agent's resignation hereunder as Agent, the provisions of this Article 8 shall continue to inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent hereunder. Upon such appointment, the term "Agent" shall for all purposes of this Agreement thereafter mean such successor.

8.9 COLLATERAL FOR BENEFIT OF THE BANKS; APPLICATION OF FUNDS. Agent and, to the extent any Bank receives the same, Banks shall hold all Liens upon the Collateral, and any and all proceeds realized therefrom, for the pro rata benefit of Banks in accordance with each Bank's pro rata share of the Facility A Commitment. While any Loans or Letters of Credit are outstanding hereunder or any portion of the Facility A Commitment exists under the terms of this Agreement, should any Bank receive (whether by voluntary payment for the Loans, realization upon the Collateral, exercise of offset or

banker's lien, counter-claim, cross-action, or otherwise) any sums from Borrower, any guarantor of the Loans, or any Subsidiary of Borrower, the sums so obtained shall be received for the benefit of Banks in accordance with each Bank's pro rata share of the Facility A Commitment. If any right of offset is exercised by any Bank, the entire amount of such offset shall be applied to the Loans made pursuant to this Agreement until paid in full, prior to application to any other Debt of Borrower, any guarantor of the Loans or any Subsidiary of Borrower owing to such Bank.

ARTICLE 9.

BANKS' REPRESENTATIONS

9.1 INVESTMENT REPRESENTATION. Each Bank hereby represents that it will acquire its Notes for its own account, for investment, and not with a view to the distribution or sale of any such Note; provided, however, that the disposition of any Note held by such Bank shall at all times be within such Bank's exclusive control subject to Section 9.2 hereof. Each Bank's acquisition of any Note shall constitute its reaffirmation of the foregoing representation as of the date of such acquisition.

9.2 PARTICIPATION IN NOTES; COMPLIANCE WITH LAW. The provisions of Section 9.1 hereof to the contrary notwithstanding, each Bank shall have the right at any

time and from time to time to do either or both of the following without notice to any Person: (a) furnish one or more purchasers or potential purchasers of all or any portion of the Loans or the Notes or of a participation interest therein, with any and all information concerning Borrower or its Subsidiaries that has been supplied by Borrower to Agent or any Bank or obtained by other means by Agent or any Bank; or (b) to sell, assign, pledge, hypothecate, syndicate, transfer, negotiate or grant participations in all or any portion of such Bank's interests in the Loans or the Notes in accordance with the terms and conditions of Section 11.5 hereof.

9.3 CONFIDENTIALITY. Each Bank agrees that material, non-public information regarding Borrower, its Subsidiaries, operations, assets, and existing and contemplated business plans shall be treated by such Bank in a confidential manner, and shall not be disclosed by it to entities or Persons who are not parties to this Agreement, except: (a) to counsel for and other advisors, accountants, and auditors to such Bank; (b) as may be required by statute, decision, or judicial or administrative order, rule, or regulation; (c) as may be agreed to in advance by Borrower; (d) as to any such information that is or becomes generally available to the public; and (e) in connection with any assignment, prospective assignment, sale, prospective sale, participation or prospective participation, or pledge or prospective pledge of a Bank's interests hereunder, provided that any such assignee, prospective assignee, purchaser, prospective purchaser, participant, prospective participant, pledgee, or prospective pledgee shall have agreed in writing to take its interest hereunder subject to the terms hereof, including those of this Section 9.3, or shall have entered into a confidentiality agreement with Borrower or for the benefit of Borrower substantiality upon the terms of this Section 9.3.

ARTICLE 10.

EXPENSES AND INDEMNITIES

10.1 EXPENSES. Irrespective of whether the transactions contemplated hereby are consummated, Borrower agrees to pay on demand: (a) all of Agent's actual and reasonable out-of-pocket costs and expenses of preparation of this Agreement, the Notes, the Loan Documents, and all other agreements, instruments, and documents contemplated hereby and thereby; (b) the cost of delivering the Notes to Banks pursuant to the provisions of this Agreement; (c) the reasonable fees, expenses, and disbursements of counsel (including in-house counsel to Agent) to Agent in connection with the negotiation, preparation, printing, reproduction, execution, delivery, and administration of this Agreement, the Notes, the Loan Documents, and all other agreements, instruments, and documents contemplated hereby and thereby, and any amendments and waivers hereto or thereto; (d) filing, recording, publication, search, and title fees paid or incurred by or on behalf of Agent or Banks in connection with the transactions contemplated by this

119
Agreement, the Notes, and the Loan Documents; (e) the reasonable costs and expenses incurred by Agent, on behalf of Banks, in connection with audits, inspections, and appraisals contemplated by this Agreement, the Notes, and the Loan Documents; (f) all other actual and reasonable out-of-pocket expenses incurred by Agent in connection with the negotiation, preparation, and execution of this Agreement, the Notes, the Loan Documents, and all other agreements, instruments, and documents contemplated hereby and thereby, and the making of the Loans and the issuance of the Letters of Credit hereunder; and (g) all costs and expenses (including reasonable attorneys fees (including reasonable allocated costs of in-house counsel of Banks) and costs of settlement) incurred by Agent and each Bank in enforcing or collecting any Debt of Borrower or defending the Loan Documents (including attorneys fees and expenses incurred in connection with a "workout," a "restructuring," or any bankruptcy or insolvency proceeding concerning Borrower or any of its Subsidiaries), irrespective of whether suit is brought.

10.2 INDEMNITY. In addition to the payment of expenses pursuant to Section 10.1 hereof, and irrespective of whether the transactions contemplated hereby are consummated, Borrower agrees to indemnify, exonerate, defend, pay, and hold harmless Banks, Agent, and any holder of any interest in the Notes, and the officers, directors, employees, and agents of and counsel to Banks, Agent, and such holders (collectively the "Indemnitees" and individually as "Indemnitee") from and against any and all liabilities, obligations, losses, damages, penalties, actions, causes of action, judgments, suits, claims, costs, expenses, and disbursements of any kind or nature whatsoever (including, the reasonable fees and disbursements of counsel (including, the allocated costs of in-house counsel to Agent) for such Indemnitees in connection with any investigation, administrative, or judicial proceeding, whether such Indemnitee shall be designated a party thereto), that may be imposed on, incurred by, or asserted against such Indemnitee, in any manner relating to or arising out of the Facility A Commitment, the use or intended use of the proceeds of the Loans or Letters of Credit, or the consummation of the transactions contemplated by this Agreement, including any matter relating to or arising out of the filing or recordation of any of the Loan Documents which filing or recordation is done based upon information supplied by Borrower to Agent and its counsel (the "Indemnified Liabilities"); provided, however, that Borrower shall have no obligation hereunder with respect to Indemnified Liabilities arising from the gross negligence or willful misconduct of any such Indemnitee. Each Indemnitee will promptly notify Borrower of each event of which it has knowledge which may give rise to a claim under the indemnification provisions of this Section 10.2. If any investigative, judicial, or administrative proceeding arising from any of the foregoing is brought against any Indemnitee indemnified or intended to be indemnified pursuant to this Section 10.2, Borrower, to the extent and in the manner directed by the Indemnitee or intended Indemnitee, will resist and defend such action, suit, or proceeding or cause the same to be resisted and defended by counsel designated by Borrower (which counsel shall be reasonably satisfactory to the Indemnitee or intended Indemnitee). Each Indemnitee will use its best efforts to cooperate in the

120
defense of any such action, writ, or proceeding. To the extent that the undertaking to indemnify, pay, and hold harmless set forth in the preceding sentence may be unenforceable because it is violative of any law or public policy, Borrower shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities that is permissible under applicable law. The obligations of Borrower under this Section 10.2 shall survive the termination of this Agreement and the discharge of Borrower's other obligations hereunder.

ARTICLE 11.

MISCELLANEOUS

11.1 MODIFICATIONS IN WRITING. No amendment, modification, supplement, termination, or waiver of or to, or consent to any departure from, any provision of this Agreement, the Notes, or the Loan Documents shall in any event be effective unless the same shall be in writing and signed by or on behalf of the Majority Banks (or Agent acting upon the written instructions of the Majority Banks) and Borrower (or any of its Subsidiaries to the extent a party to an affected Loan Document), to the extent a party thereto; provided, however, that no amendment, modification, supplement, termination, waiver, or consent, as the case may be, that has the effect of: (a) reducing the rate or amount, or extending the stated maturity or due date, of any sum payable by Borrower hereunder or under any of the Notes

or Loan Documents, including any Commitment Fee or any payment or prepayment of principal or interest; or (b) increasing the amount, or extending the stated expiration or termination date, of any Bank's portion of the Facility A Commitment hereunder; or (c) releasing all or a material portion of the Collateral or guaranties (except to the extent expressly provided herein or in any of the Loan Documents) supporting the Loans hereunder; or (d) changing this Section 11.1 or Section 11.5 hereof or the definitions of the terms "Facility A Commitment," "Majority Banks," or "Required Banks," shall be effective unless the same shall be signed by or on behalf of all Banks; provided further, however, that no such amendment, modification, supplement, termination, waiver, or consent, as the case may be, that has the effect of changing any provision of this Agreement requiring the consent of Agent or some specified percentage of Banks shall be effective unless the same shall be signed by or on behalf of Agent or such specified percentage of Banks, as the case may be; provided further, however, that no amendment, modification, supplement, termination, waiver, or consent, as the case may be, that has the affect of: (y) changing any provision of this Agreement that, by its terms, requires the consent of Required Banks; or (z) changing the provisions of Section 6.6 hereof or the definitions of the terms used to calculate such financial covenants, shall be effective unless the same shall be signed by or on behalf of the Required Banks; provided further, however, that no such amendment, modification, supplement, termination, waiver, or consent, as the case may be, that has the effect of (aa) increasing the duties or

obligations of Agent or an Issuing Bank hereunder; or (bb) increasing the standard of care or performance required on the part of the Agent or an Issuing Bank hereunder; or (cc) reducing or eliminating the indemnities or immunities to which Agent or an Issuing Bank is entitled hereunder (including any amendment or modification of this Section 11.1), shall be effective unless the same shall be signed by or on behalf of Agent or an Issuing Bank, as applicable. Any waiver of any provision of this Agreement, the Notes, or the Loan Documents, and any consent to any departure by Borrower or any of its Subsidiaries from the terms of any provisions of this Agreement, the Notes, or the Loan Documents shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances. Any amendment, modification, supplement, termination, waiver, or consent effected in accordance with this Section 11.1 shall be binding upon each holder of a Note and Borrower (or any of its Subsidiaries to the extent a party to an affected Loan Document).

11.2 WAIVERS; FAILURE OR DELAY. No failure or delay on the part of Banks, Agent, or any holder of any Note in the exercise of any power, right, remedy, or privilege under this Agreement, the Notes, or the Loan Documents shall impair such power, right, remedy, or privilege or shall operate as a waiver thereof; nor shall any single or partial exercise of any such power, right, or privilege preclude any other or further exercise of any other power, right, or privilege. The waiver of any such right, power, or remedy with respect to particular facts and circumstances shall not be deemed to be a waiver with respect to other facts and circumstances. The remedies provided for under this Agreement, in the Notes, and in the Loan Documents are cumulative and are not exclusive of any remedies that may be available to Agent or any Bank at law, in equity, or otherwise.

11.3 NOTICES, ETC. Except to the extent provided in Sections 2.8 and 2.9 hereof, all notices, demands, instructions, and other communications required or permitted to be given to or made upon any party hereto shall be in writing and (except for financial statements and other information to be furnished pursuant hereto (but not inclusive of any notices required to be provided pursuant hereto) that may be sent by first-class mail, postage prepaid) shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or by prepaid telex, TWX, telecopy, or telegram (with messenger delivery specified) and shall be deemed to be given for purposes of this Agreement on the day that such writing is received by the Person to whom it is to be sent pursuant to the provisions of this Agreement. Unless otherwise specified in a notice sent or delivered in accordance with the foregoing provisions of this Section 11.3, notices, demands, instructions, and other communications in writing shall be given to or made upon the respective parties hereto at their respective addresses (or to their respective telex, TWX, or telecopier numbers) indicated on Schedule 11.3 attached hereto.

11.4 CONFIRMATIONS. Borrower and each holder of a Note agree that, upon written request received from time to time by one from another, each will confirm to the other in writing (with a copy of each such confirmation sent to the Agent) the aggregate unpaid principal amount of the Loans or Letters of Credit then outstanding under any Note. Each holder of a Note agrees that, upon written request received from time to time by it from Borrower, to make any Note held by it (including any schedule attached thereto) available for reasonable inspection by Borrower at the office of such holder.

11.5 BENEFIT OF AGREEMENT. (a) This Agreement and any amendments hereto shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns and no other Person is intended to be a beneficiary hereof; provided, however, that Borrower may not assign or transfer any interest hereunder without the prior written consent of all Banks and, provided further, that, although any Bank may grant participations in its rights hereunder, (i) such Bank shall remain a "Bank" for all purposes hereunder and the participant shall not constitute a "Bank" hereunder, (ii) any such grant of a participation shall not require Borrower to file a registration statement with the SEC or qualify the Loans or the Notes under the blue sky laws of any state, (iii) such Bank, together with its Affiliates, shall continue at all times to hold beneficial interests in Loans and such Bank's portion of the Facility A Commitment having an aggregate principal amount of not less than an amount equal to: (y) twenty percent (20%) (or such lesser percentage as may be approved by Borrower and Agent) multiplied by (z) that Bank's pro rata share of the Facility A Commitment in effect at the time it first acquired its interests hereunder; provided, however, that such Bank's obligation shall be proportionately reduced to the extent that Borrower elects to reduce the Facility A Commitment pursuant to Section 2.12 hereof, (iv) no Bank shall grant any participation (other than to an Affiliate of such Bank) under which the participant shall have rights to approve any amendment to or waiver of this Agreement or of any other agreement, instrument, or document executed in connection herewith, except to the extent such amendment to or waiver of this Agreement or of any other agreement, instrument, or document executed in connection herewith would (aa) extend the final maturity date of the Loans hereunder in which such participant is participating; (bb) reduce the interest rate applicable to Loans hereunder in which such participant is participating; (cc) release all or a material portion of the Collateral or guaranties (except to the extent expressly provided herein or in any of the Loan Documents) supporting the Loans hereunder in which such participant is participating; (dd) postpone the payment of interest or the Commitment Fee or reduce the amount of the Commitment Fee payable to such participant; (ee) change the amount or due dates of scheduled principal repayments or prepayments; and (v) no Bank shall grant any participation (other than to an Affiliate of such Bank) unless either (xx) such participation is in an amount equal to or greater than Ten Million Dollars ($10,000,000), or (yy) the provisions of clause (iv) of this Section 11.5 to the contrary notwithstanding, such participation is granted upon terms under which the participant shall have no rights to approve any amendment or waiver of any provision hereof or of any other agreement,

instrument, or document executed in connection herewith. In the case of any participation, the participant shall not have any rights under this Agreement or any of the other documents entered into in connection herewith (the participant's rights against such Bank in respect of such participation to be those set forth in the agreement executed by such Bank in favor of the participant relating thereto) and all amounts payable to any Bank hereunder shall be determined as if such Bank had not sold such participation.

(b) The foregoing notwithstanding and subject to paragraph (d) of this Section 11.5, any Bank may assign a portion of its rights and obligations hereunder to (i) one or more Banks upon the consent of Borrower, which consent will not be unreasonably withheld, or (ii) with the prior written consent of Borrower and Agent, which consent will not be unreasonably withheld, to one or more commercial banks, insurance companies, savings and loan associations, savings banks, other financial institutions, pension fund, or mutual fund, each of which assignees shall become a party to this Agreement as a "Bank" prior to or after the Closing Date by the execution and delivery of an Assignment and Assumption Agreement with the assigning Bank, Borrower, and Agent; provided, however, that (v) each such assignment shall be an amount of not less than Ten Million Dollars ($10,000,000) and shall be for a pro-rated portion of the Facility A Commitment, the Facility A Florida Subfacility Commitment, and the Facility A Florida LC Subfacility Commitment, (w) Agent shall have received an assignment processing fee of $3,000 payable by such assignee, (x) any such assignment shall not require Borrower to file a registration statement with the SEC or qualify the Loans or the Notes under the

blue sky laws of any state, (y) at such time Schedule F-1 shall be modified to reflect the pro rata share of the Facility A Commitment, the Facility A Florida Subfacility Commitment, and the Facility A Florida LC Subfacility Commitment of such new Bank and of the pre-existing Banks, and (z) new Notes will be issued, against delivery of the Notes being replaced thereby, to such new Bank and to the assigning Bank in conformity with the requirements of Article 2 to the extent needed to reflect their revised pro rata share of the Facility A Commitment, the Facility A Florida Subfacility Commitment, the Facility A Florida LC Subfacility Commitment. To the extent of any assignment pursuant to this Section 11.5, the assigning Bank shall be relieved of its obligations hereunder with respect to its assigned portion of the Facility A Commitment.

(c) Anything contained in this Agreement to the contrary notwithstanding, if any Bank assigns or participates a portion of its Facility A Commitment, its Facility A Florida LC Subfacility Commitment, and its Facility A Florida Subfacility Commitment to an assignee or participant that is deemed to have a tax situs in the State of Florida for purposes of determining whether the Florida recurring intangibles tax is payable with respect to the Loans or Letters of Credit made or issued hereunder, then, at the time of such assignment or participation, by an agreement or other instrument in form reasonably satisfactory to Borrower, such assignee shall agree to reimburse Borrower for the payment of all such Florida recurring intangibles tax (but not the

nonrecurring intangibles tax, if any) that becomes due and payable as a result of such assignee or participant being a party to this Agreement.

(d) In the event that the Federal Deposit Insurance Corporation or its successor assumes control of any Bank, as receiver, Borrower shall be permitted to select a financial institution to assume the Facility A Commitment of such Bank, subject to the approval of Agent, which approval shall not be unreasonably withheld.

(e) In addition to the assignments and participations permitted under subsections (a) and (b) of this Section 11.5, any Bank may assign, as collateral or otherwise, any of its rights (including rights to payments of principal of or interest on the Notes) under any Loan Document to any Federal Reserve Bank without notice to or consent of the Borrower or the Agent; provided, however, that no such assignment under this subsection (e) shall release the assigning Bank from its obligations hereunder.

11.6 AVAILABILITY OF FUNDS. Unless Agent shall have been notified by a Bank prior to the date upon which any Loan is to be made that such Bank does not intend to make available to Agent such Bank's portion of such Loan, Agent may assume that such Bank has made or will make such proceeds available to Agent on such date and Agent may, in reliance upon such assumption (but shall not be required to), make available to Borrower a corresponding amount. If such corresponding amount is not in fact made available to Agent by such Bank, Agent shall be entitled to recover such amount on demand from such Bank (or, if such Bank fails to pay such amount forthwith upon such demand, from Borrower) together with interest thereon from such Bank in respect of each day during the period commencing on the date such amount was made available to such Borrower and ending on the date Agent recovers such amount, at a rate, per annum, equal to the customary rate set by Agent for the correction of errors among banks for the first three (3) Domestic Business Days and, thereafter, the applicable interest rate in respect of such Loan. The provisions of this Section 11.6 are solely for the benefit of Agent and Banks and their successors and assigns and are not intended to benefit Borrower, its Subsidiaries, its successors and assigns, or any other Person.

11.7 HEADINGS. Article and Section headings used in this Agreement and the table of contents preceding this Agreement are for convenience of reference only and shall not constitute a part of this Agreement for any purpose or affect the construction of this Agreement.

11.8 EXECUTION IN COUNTERPARTS; TELEFACSIMILE EXECUTION. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement. This Agreement shall become effective upon the

execution of a counterpart hereof by each of the parties hereto. Delivery of an executed counterpart of the signature pages of this Agreement by telecopier shall be equally effective as delivery of a manually executed counterpart. Any party delivering an executed counterpart of the signature pages of this Agreement by telecopier shall thereafter also promptly deliver a manually executed counterpart , but the failure to deliver such manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

11.9 GOVERNING LAW. EXCEPT AS SPECIFICALLY SET FORTH IN ANY LOAN DOCUMENT: (A) THIS AGREEMENT, THE NOTES, AND THE LOAN DOCUMENTS SHALL BE DEEMED TO HAVE BEEN MADE IN THE STATE OF CALIFORNIA; AND (B) THE VALIDITY OF THIS AGREEMENT, THE NOTES, AND THE LOAN DOCUMENTS, THE CONSTRUCTION, INTERPRETATION, AND ENFORCEABILITY THEREOF, AND THE RIGHTS OF THE PARTIES THERETO WITH RESPECT TO ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION THEREWITH, SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

11.10 JURISDICTION AND VENUE. TO THE EXTENT PERMITTED BY LAW, THE PARTIES HERETO AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT, THE NOTES, OR THE LOAN DOCUMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA PROVIDED, HOWEVER, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT THE AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. BORROWER, BANKS, AND AGENT, TO THE EXTENT THEY MAY LEGALLY DO SO, WAIVE ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 11.10 AND STIPULATE THAT THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA SHALL HAVE IN PERSONAM JURISDICTION AND VENUE OVER SUCH PARTY FOR THE PURPOSE OF LITIGATING ANY SUCH DISPUTE, CONTROVERSY, OR PROCEEDING ARISING OUT OF RELATED TO THIS AGREEMENT, THE NOTES, OR THE LOAN DOCUMENTS. TO THE EXTENT PERMITTED BY LAW, SERVICE OF PROCESS, SUFFICIENT FOR PERSONAL JURISDICTION IN ANY ACTION AGAINST BORROWER MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO ITS ADDRESS

INDICATED IN SCHEDULE 11.3 HERETO. TO THE EXTENT IT MAY LEGALLY DO SO, BORROWER AGREES THAT ANY FINAL JUDGMENT RENDERED AGAINST IT IN ANY ACTION OR PROCEEDING SHALL BE CONCLUSIVE AS TO THE SUBJECT OF SUCH FINAL JUDGMENT AND MAY BE ENFORCED IN OTHER JURISDICTIONS IN ANY MANNER PROVIDED BY LAW.

11.11 WAIVER OF TRIAL BY JURY. BORROWER, BANKS, AND AGENT, TO THE EXTENT THEY MAY LEGALLY DO SO, EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS AGREEMENT, THE NOTES, OR THE LOAN DOCUMENTS, OR IN ANY WAY CONNECTED WITH, OR RELATED TO, OR INCIDENTAL TO, THE DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS AGREEMENT, THE NOTES, THE LOAN DOCUMENTS, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND IRRESPECTIVE OF WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE EXTENT THEY MAY LEGALLY DO SO, BORROWER, BANKS, AND AGENT AGREE THAT ANY SUCH CLAIM, DEMAND, ACTION, CAUSE OF ACTION, OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 11.11 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE OTHER PARTY OR PARTIES HERETO TO THE WAIVER OF ITS OR THEIR RIGHT TO TRIAL BY JURY.

11.12 SEVERABILITY OF PROVISIONS. Any provision of this Agreement that is illegal, invalid, prohibited, or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such illegality, invalidity, prohibition, or unenforceability without invalidating or impairing the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

11.13 CHANGES IN ACCOUNTING PRINCIPLES. (a) If any changes in accounting principles from those used in the preparation of the financial statements referred to in this Agreement are hereafter occasioned by the promulgation of rules, regulations, pronouncements, or opinions of, or required by, the Financial Accounting Standards Board or the American Institute of Certified Public Accountants (or successors thereto or agencies with similar functions), or there shall occur any change in Borrower's or any of its Subsidiaries' fiscal or tax years and, as a result of any such changes, there shall result a change in the method of calculating any of the financial covenants, negative covenants, standards, or other terms or conditions found in this Agreement, or (b) if Borrower, for reasonable business purposes, shall desire to change such accounting principles or the

127
application thereof (which change shall be consistent with accounting principles then in effect pursuant to rules, regulations, pronouncements, or opinions of the Financial Accounting Standards Board or the American Institute of Certified Public Accountants) and such desired change would result in a change in the method of calculating any of the financial covenants, negative covenants, standards, or other terms and conditions found in this Agreement, then the parties hereto agree to enter into negotiations in order to amend such provisions and the definition of "GAAP" set forth in Section 1.1 so as to equitably reflect such changes with the desired result that the criteria for evaluating the financial condition of Borrower and its Subsidiaries shall be the same after such changes as if such changes had not been made.

11.14 SURVIVAL OF AGREEMENTS, REPRESENTATIONS AND WARRANTIES. All agreements, representations, and warranties made herein shall survive the execution and delivery of this Agreement, the making of the Loans hereunder, and the execution and delivery of the Notes.

11.15 SETOFF. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuation of any Event of Default, each Bank and each holder or transferee of any Note or any Person with any interest in any Note is hereby authorized by Borrower at any time or from time to time, without notice to Borrower or to any other Person, any such notice being hereby expressly waived, to offset and to appropriate and to apply any and all deposits (general or special, time or demand, including indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other indebtedness at any time held or owing by that Bank or that subsequent holder to or for the credit or the account of Borrower against and on account of the Debt of Borrower to that Bank or that subsequent holder under this Agreement and the Notes, including all claims of any nature of description arising out of or connected with this Agreement, the Notes, or the Loan Documents, irrespective of whether that Bank or that subsequent holder shall have made any demand under this Agreement; provided, however, that Banks and the holder or transferee of any Note or any Person with any interest in any Note expressly agree to refrain from exercising such rights unless authorized to do so in writing by the Required Banks. After the exercise by any Bank or any holder or transferee of any Note or any Person with any interest in any Note of any right of offset against deposit accounts of Borrower maintained with that Bank or that subsequent holder, that Bank or that subsequent holder shall give Borrower written notice thereof, but without liability for the failure to do so, and no such failure of notice shall affect the validity of such offset.

128
11.16 INDEPENDENCE OF COVENANTS. All covenants under this Agreement shall each be given independent effect so that if a particular action or condition is not permitted by any such covenant, the fact that it would be permitted by another covenant, by an exception thereto, or would otherwise be within the limitations thereof, shall not avoid the occurrence of an Event of Default or Unmatured Event of Default if such action is taken or condition exists.

11.17 COMPLETE AGREEMENT. This Agreement, together with the exhibits and schedules to this Agreement, the Disclosure Statement, the Notes, and the Loan Documents is intended by the parties as a final expression of their agreement and is intended as a complete statement of the terms and conditions of their agreement, reflects the entire understanding of the parties with respect to the transactions contemplated hereby, and shall not be contradicted or qualified by any other agreement, oral or written. The foregoing and anything else contained in this Agreement, the Notes, or the Loan Documents to the contrary notwithstanding, any term or provision of the 1991 Credit Agreement that, by the terms thereof, is intended to survive the termination of the 1991 Credit Agreement shall continue in full force and effect.

11.18 REVIVAL AND REINSTATEMENT OF OBLIGATIONS. If the incurrence or payment of any amount due hereunder or under the Notes or the Loan Documents by Borrower or any of its Subsidiaries or the transfer by Borrower or any such Subsidiaries to Agent, on behalf of Banks, of any property or assets of Borrower or such Subsidiaries, as applicable, should for any reason subsequently be declared to be void or voidable under any state or federal law relating to creditors' rights, including provisions of the

Bankruptcy Code relating to fraudulent conveyances, preferences, and other voidable or recoverable payments of money or transfers of property (collectively, a "Voidable Transfer"), and if Agent or the Banks are is required to repay or restore, in whole or in part, any such Voidable Transfer, or elect to do so upon the reasonable advice of their counsel, then, as to any such Voidable Transfer, or the amount thereof that Agent or the Banks, as applicable, are required or elect to repay or restore, and as to all reasonable costs, expenses, and attorneys fees of Agent and the Banks related thereto, the liability of Borrower or such Subsidiary automatically shall be revived, reinstated, and restored and shall exist as though such Voidable Transfer never had been made.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date first hereinabove set forth.

SOUTHDOWN, INC.,
a Louisiana corporation

By_____
Title:_____

WELLS FARGO BANK, N.A.,
a national banking association,
in its individual capacity and
as Agent

By_____
Title:_____

SOCIETE GENERALE, SOUTHWEST AGENCY

By_____
Title:_____

CREDIT SUISSE

By_____
Title:_____

By_____
Title:_____

CAISSE NATIONAL DE CREDIT AGRICOLE

By_____
Title:_____

BANQUE PARIBAS

By_____
Title:_____

CIBC INC.

By_____
Title:_____

THE BANK OF NOVA SCOTIA

By_____
Title:_____

THE FIRST NATIONAL BANK OF

BOSTON

By_____
Title:_____