

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

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FILER

COLOR TILE INC

CIK: **276780** | IRS No.: **751606185** | State of Incorpor.: **DE** | Fiscal Year End: **1231**
Type: **8-K** | Act: **34** | File No.: **002-62443** | Film No.: **94500377**
SIC: **5211** Lumber & other building materials dealers

Business Address
515 HOUSTON ST
P O BOX 2475
FORT WORTH TX 76102
8178709636

FORM 8-K

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

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 17, 1993.

COLOR TILE, INC.

(Exact name of registrant as specified in its charter)

DELAWARE
(state or other
jurisdiction of
incorporation or
organization)

0-8777
(Commission File
Number)

75-1606185
(IRS Employer
Identification
Number)

515 HOUSTON STREET, FORT WORTH, TEXAS
(Address of principal executive offices)

76102
(Zip Code)

Registrant's telephone number, including area code (817) 870-9400.

Item 5. - Other Events

On December 17, 1993, the Registrant completed its public offering of \$200,000,000 aggregate principal amount of 10-3/4% Senior Notes due 2001. In connection with the offering, the Registrant entered into an underwriting agreement dated December 10, 1993 with Bear, Stearns & Co. Inc., Lehman Brothers Inc. and Chemical Securities Inc. The form of underwriting agreement executed by each of the parties thereto is filed herewith as Exhibit 1.

Upon the consummation of the public offering of the 10-3/4% Senior Notes and the receipt of net proceeds therefrom, American Blind and Wallpaper Factory, Inc., a Delaware corporation and a wholly-owned

subsidiary of the Registrant, acquired substantially all the assets of ABF Acquisition Corp., a Delaware corporation, for a purchase price of \$80,000,000 and the assumption of certain liabilities. The terms and conditions of this acquisition were previously reported in the Registrant's Registration Statement or Form S-1 (Reg. No. 33-50599) filed in respect of the 10-3/4% Senior Notes (the "Registration Statement"). The assets purchased consisted of the operating assets of the direct-response sale of window treatments and wall covering business formerly operated by ABF Acquisition Corp. The remaining net proceeds of the offering were used to repay certain outstanding indebtedness, as described in the Registration Statement.

Item 7. - Exhibits

1. Underwriting Agreement, dated December 10, 1993, among the Registrant, Bear, Stearns & Co. Inc., Lehman Brothers Inc. and Chemical Securities Inc.

SIGNATURES

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

COLOR TILE, INC.
(Registrant)

Date: January 4, 1994

By: _____
Name:
Title:

\$200,000,000

COLOR TILE, INC.

10-3/4% Senior Notes due 2001

UNDERWRITING AGREEMENT

December 10, 1993

Bear, Stearns & Co. Inc.
Lehman Brothers Inc.
Chemical Securities Inc.
c/o Bear, Stearns & Co. Inc.
245 Park Avenue
New York, New York 10167

Dear Sirs:

Color Tile, Inc., a Delaware corporation (the "Company"), proposes to issue and sell to you, upon the terms hereinafter set forth, \$200,000,000 aggregate principal amount of its 10-3/4% Senior Notes due 2001 (the "Securities"). The Securities will be issued pursuant to an indenture between the Company and U.S. Trust Company of Texas, N.A., as Trustee (the "Trustee"), substantially in the form filed as an exhibit to the Registration Statement (the "Indenture") referred to below and are more fully described in the Registration Statement.

1. Registration Statement and Prospectus. The Company has

prepared and filed with the Securities and Exchange Commission (the "Commission") in accordance with the provisions of the Securities Act of 1933, as amended (the "Act"), and the rules and regulations of the Commission promulgated thereunder (the "Regulations"), a registration statement on Form S-1 (File No. 33-50599) relating to the Securities and two amendments thereto, including in each case a preliminary prospectus. The Company proposes to prepare and file with the Commission a further amendment to that registration statement, including therein a final prospectus, necessary to permit the

registration statement to become effective or, if no amendment is required for that purpose, then promptly following the effectiveness of the registration statement, the Company proposes to prepare and file with the Commission, pursuant to Rule 424(b) of the Regulations,

a final prospectus containing all Rule 430A Information (as hereinafter defined) omitted from the registration statement at the time that it is declared effective by the Commission. The Company will not file any such further amendment or final prospectus to which you shall reasonably object in writing after being furnished a copy thereof prior to filing. As used in this Agreement, (i) the term "Effective Date" means the date that the registration statement hereinabove referred to is declared effective by the Commission, (ii) the term "Registration Statement" means such registration statement as last amended prior to the time it was declared effective by the Commission, including all exhibits and schedules thereto and all Rule 430A Information deemed to be included therein at the Effective Date pursuant to Rule 430A of the Regulations, (iii) the term "Rule 430A Information" means information with respect to the Securities and the public offering thereof permitted, pursuant to the

provisions of paragraph (a) of Rule 430A of the Regulations, to be omitted from the form of prospectus included in the Registration Statement at the time it is declared effective by the Commission, (iv) the term "Prospectus" means the form of final prospectus relating to the Securities first filed with the Commission pursuant to Rule 424(b) of the Regulations or, if no filing pursuant to Rule 424(b) is required, the form of final prospectus included in the Registration Statement at the time it is declared effective by the Commission, and (v) the term "preliminary prospectus" means each preliminary prospectus (as described in Rule 430 of the Regulations) with respect to the Securities that omit Rule 430A Information.

2. Representations and Warranties of the Company. The

Company represents and warrants to you as follows:

(a) On the Effective Date, the date the Prospectus is first filed with the Commission pursuant to Rule 424(b) (if required), at all times subsequent thereto to and including the Closing Date (as hereinafter defined) and when any post-effective amendment to the Registration Statement becomes effective or any amendment or supplement to the Prospectus is filed with the Commission, the Registration Statement and, if filed at such time, the Prospectus (as amended or as supplemented if the Company shall have filed with the Commission any amendment or supplement thereto) complied and will comply in all material respects with the applicable provisions of the Act and the Regulations, and the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), and the rules and regulations thereunder, and did not and will not contain an untrue statement of a material fact or omit to state any material fact required to be stated

therein or necessary in order to make the statements therein (in the case of the Prospectus, in light of the circumstances under which they were made) not misleading. When the preliminary prospectus dated November 16, 1993 was first filed with the Commission (whether filed as part of the Registration Statement or an amendment thereof or pursuant to Rule 424(a) of the Regulations) and when any amendment thereof or supplement thereto was first filed with the Commission, such preliminary prospectus and any amendments thereof and supplements thereto complied in all material respects with the applicable provisions of the Act and the Regulations and did not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. No representation or warranty is made in this subsection (a), however, with respect to information relating to any of you or the public offering of the Securities by you contained in or omitted from the Registration Statement or the Prospectus or any related preliminary prospectus or any amendment thereof or supplement thereto in reliance upon and in conformity with information furnished in writing to the Company by Bear, Stearns & Co. Inc. on its or your behalf expressly for use therein. If the Registration Statement has become effective, no stop order suspending the effectiveness of the Registration Statement has been issued and no proceeding for that purpose has been initiated or threatened by the Commission and the Company shall file with the Commission in accordance with Rule 424(b) of the Regulations a final Prospectus containing all Rule 430A Information omitted at the time such Registration Statement was declared effective by the Commission. The Company will not file any such final Prospectus or further amendment to such Registration Statement to which you shall reasonably object in writing after being furnished a copy thereof prior to filing.

(b) Subsequent to the respective dates as of which information is given in the Registration Statement, except as set forth in the Registration Statement, there has not been any

material adverse change, or any development involving a prospective material adverse change, in the business, properties, operations, condition (financial or other) or results of operations of the Company and its subsidiaries taken as a whole, whether or not arising from transactions in the ordinary course of business, and since the date of the latest consolidated balance sheet of the Company and its subsidiaries included in the Registration

Statement, neither the Company nor any of its subsidiaries has incurred or undertaken any liabilities or obligations, direct or contingent, that are material to the Company and its subsidiaries taken as a whole, except for liabilities or obligations that were incurred or undertaken in the ordinary course of business or that are fully disclosed in the Registration Statement.

(c) This Agreement has been duly and validly authorized,

executed and delivered by the Company and is a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, (i) subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, (ii) subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity) and (iii) except to the extent that rights to indemnification thereunder may be limited by federal or state securities laws or public policy relating thereto.

(d) The execution, delivery, and performance of this Agreement, the Indenture and the Securities and the consummation of the transactions contemplated hereby and thereby, including the issuance, sale and delivery of the Securities and application of the proceeds therefrom as set forth in the Registration Statement, will not, except as set forth in the Registration Statement, (i) conflict with or result in a breach of any of the terms and provisions of, or constitute a default (or an event that with notice or lapse of time, or both, would constitute a default) or require consent under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries, pursuant to the terms of any agreement, instrument, franchise, license or permit to or by which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries or their respective properties or assets may be bound (other than those as to which requisite waivers or consents have been obtained by the Company) or (ii) violate or conflict with any provision of the certificate of incorporation, by-laws, or equivalent instruments, of the Company or any of its subsidiaries or any judgment, decree, order, statute, rule or regulation of any court or any public, governmental or regulatory agency or body having jurisdiction over the Company or any of its subsidiaries or any of their respective properties or assets. No consent,

approval, authorization, order, registration, filing, qualification, license or permit of or with any court or any public, governmental or regulatory agency or body having jurisdiction over the Company or any of its subsidiaries or any of their respective properties or assets is required for the execution, delivery and performance of this Agreement, the Indenture or the Securities and the consummation by the Company of the transactions contemplated hereby and thereby, except for the registration under the Act of the Securities, the qualification of the Indenture under the Trust Indenture Act and such consents, approvals, authorizations, orders, registrations, filings, qualifications, licenses and permits as may be required under the state securities or Blue Sky laws in connection with your purchase and distribution of the Securities.

(e) The Company and each of its subsidiaries has been duly incorporated, is validly existing as a corporation in good standing under the laws of its jurisdiction of incorporation and has the corporate power and authority required to carry on its business as described in the Registration Statement and to own, lease and operate its properties, and each is duly qualified and is in good standing as a foreign corporation authorized to do business in each jurisdiction in which the nature of its business or its ownership or leasing of property requires such qualification, except where the failure to be so qualified would not have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole.

(f) All of the outstanding shares of capital stock of each

subsidiary of the Company have been duly and validly authorized and issued and are fully paid and non-assessable, and are owned by the Company, free and clear of any security interest, adverse claim, lien, encumbrance, restriction on transfer, shareholders' agreement, voting trust or encumbrance whatsoever (except as expressly disclosed in the Registration Statement and as will be expressly disclosed in the Prospectus). There are no rights granted to or in favor of any person to acquire any such capital stock except as otherwise expressly disclosed in the Registration Statement and the Prospectus.

(g) The Company had, at October 3, 1993, an authorized and outstanding capitalization as set forth in the Registration Statement and will have the adjusted capitalization described therein at the Closing (as

hereinafter defined) (based on the assumptions set forth in the

Registration Statement). All of the currently outstanding shares of common stock of the Company have been duly authorized and validly issued, are fully paid and non-assessable and were not issued in violation of or subject to any preemptive rights and are owned as set forth in the Registration Statement.

(h) The Indenture conforms in all material respects to the description thereof set forth in the Registration Statement and as shall be set forth in the Prospectus, has been duly and validly authorized by all necessary corporate action on the part of the Company and, when executed and delivered by the Company and the Trustee and qualified under the Trust Indenture Act, will constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, (i) subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws relating to creditors' rights and remedies generally, (ii) subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity) and (iii) except insofar as the usury waiver therein may be deemed to be unenforceable.

(i) The Securities have been duly and validly authorized by all necessary corporate action and, when authenticated by the Trustee and issued, sold and delivered by the Company pursuant to this Agreement against payment therefor, will have been duly and validly executed, authenticated, issued and delivered and will constitute valid and binding obligations of the Company entitled to the benefits of the Indenture and enforceable against the Company in accordance with their terms, (i) subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws relating to creditors' rights and remedies generally, (ii) subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity) and (iii) except insofar as the usury waiver therein may be deemed to be unenforceable. The Securities, when issued, will conform in all material respects to the description thereof set forth in the Registration Statement and as shall be set forth in the Prospectus.

(j) There are no rights of third parties to require registration of any securities of the Company in connection

with the filing of the Registration Statement or to otherwise require the Company to register any securities under the Act except such as have been waived or otherwise disclosed in the Registration Statement.

(k) Neither the Company nor any of its subsidiaries is in violation of its charter or by-laws or in default in the performance of any obligation, agreement or condition contained in any bond, debenture, note or any other evidence of indebtedness or in any other agreement, indenture or instrument to which it is a party or by which it or any of its property is bound, except for those defaults that, individually or in the aggregate, would not have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole.

(l) There are no legal or governmental proceedings pending or, to the knowledge of the Company, threatened to which the Company or any of its subsidiaries is a party or of which any of their respective properties or assets is the subject that are required to be described in the Registration Statement or the Prospectus and are not so described. There is no statute, regulation, contract or other document of a character required to

be described in the Registration Statement or the Prospectus or to be filed as an exhibit to the Registration Statement that is not so described or filed as required.

(m) The Company and each of its subsidiaries have all necessary licenses, consents, authorizations, approvals, orders, certificates and permits, including without limitation those relating to the environment or environmental matters (collectively, "Licenses") of and from, and have made all declarations and filings with and satisfied all eligibility and other similar requirements imposed by all federal, state, local and other governmental authorities, all self-regulatory organizations and all courts and other tribunals, in each case as required for the conduct of the business in which it is engaged, and each such License is in full force and effect, except to the extent that, individually or in the aggregate, the failure to obtain any such License or to keep such License in effect or to make any such declaration or filing or satisfy any such requirement would not have a material adverse effect on the business, prospects, financial condition or results of operations of the Company and its subsidiaries, taken as a whole.

(n) The Company and its subsidiaries are in compliance with all applicable federal, state and local laws and regulations relating to (i) zoning, land use, and human health and safety and (ii) employee or occupational safety, discrimination in hiring, promotion or pay of employees, employee hours and wages or employee benefits, except in each case where such noncompliance would not, individually or in the aggregate, have a material adverse effect upon the Company and its subsidiaries taken as a whole.

(o) Coopers & Lybrand and Grant Thornton, whose reports are included in the Registration Statement, are independent public accountants with respect to the Company, and, in the case of Grant Thornton, with respect to American Blind Factory, Inc. ("ABF"), as required by the Act and the Regulations.

(p) The consolidated financial statements of the Company and its subsidiaries, together with the related schedules and notes, forming part of the Registration Statement (and any amendment thereto) present fairly in all material respects the consolidated financial position, results of operations, cash flow and stockholder's equity of the Company and its subsidiaries in conformity with generally accepted accounting principles on the basis stated in the Registration Statement at the respective dates and for the respective periods to which they apply; such financial statements and related schedules and notes have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods involved, except as disclosed therein; and the other financial and statistical information and data with respect to the Company and its subsidiaries set forth in the Registration Statement (and any amendment thereto) present fairly the information purported to be shown thereby at the respective dates or for the respective periods to which they apply and have been prepared on a basis consistent with such financial statements and the books and records of the Company.

(q) The financial statement of ABF, together with the related schedules and notes, forming part of the Registration Statement (and any amendment thereto) present fairly in all material respects the financial position, results and operations and cash flow of ABF in conformity with generally accepted accounting practices on the basis stated in the Registration Statement at the respective dates and for the respective periods

to which they apply; such

financial statements and related schedules and notes have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods involved, except as disclosed therein; and the other financial and statistical information and data with respect to ABF set forth in the Registration Statement (and any amendment thereto) present fairly the information purported to be shown thereby at the respective dates for the respective periods to which they apply and have been prepared on a basis consistent with such financial statements and the books and records of ABF.

(r) The unaudited pro forma condensed combined financial statements, together with the notes thereto, as set forth in the Registration Statement and as they will be set forth in the Prospectus, comply as to form in all material respects with the

applicable accounting requirements of the Act and the Regulations (including, without limitation, Regulation S-X promulgated by the Commission). Such pro forma financial statements have been prepared on a basis consistent with the historical financial statements of the Company and ABF, except for the pro forma adjustments specified therein, which adjustments have been properly applied to the historical amounts in the compilation of such pro forma financial statements and give effect to the assumptions therein, which assumptions were made on a reasonable basis.

(s) The Company has not received written notice and is not aware of any oral notice of any violations, proceedings, claims, or lawsuits arising out of environmental matters with respect to the operation of its business or the property owned or leased by the Company, any adverse determination relating to which could individually or together with other adverse determinations in respect of such other violations, proceedings, claims or lawsuits have a material adverse effect on the Company and its subsidiaries taken as a whole; there is no treatment, storage, disposal or release of any hazardous or toxic substances, materials, or wastes or any pollutants, contaminants, or petroleum products at, onto or from sites presently or formerly (through the date the Company or such subsidiary last owned, leased or used such property) owned, leased or used by the Company, liability for which is reasonably likely to have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries taken as a whole.

(t) The Company and each of its subsidiaries, and to the Company's knowledge, ABF is the sole and exclusive owner or licensee of the trade names "Color Tile," "Color Carpet," "Floors A Plenty." There are no other trade names, trademarks, service marks or brand names that individually or in the aggregate are material to the Company and its subsidiaries taken as a whole. None of the Company, any of its subsidiaries or ABF has been charged with any infringement of any intangible property of the character described above or been notified or advised of any claim of any other person relating to any of the intangible property which infringements or claims (individually or in the aggregate) would have a material adverse effect on the condition (financial or otherwise), properties, operations, results of operations, earnings or business affairs of the Company and its subsidiaries taken as a whole.

(u) The Company is not an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

3. Purchase, Sale and Delivery of the Securities. (a) On

 the basis of the representations, warranties, covenants and agreements herein contained, but subject to the terms and conditions herein set forth, the Company agrees to sell to each of you, and each of you, severally and not jointly, agrees to purchase from the Company, the principal amount of the Securities set forth opposite your name below, at a purchase price equal to 97% of the principal amount thereof, together with accrued interest, if any, on the Securities from December 17, 1993 to the Closing Date:

Bear, Stearns & Co. Inc.	\$ 110,000,000
Lehman Brothers Inc.	70,000,000
Chemical Securities Inc.	20,000,000

	\$ 200,000,000
	=====

(b) Delivery of the Securities and payment of the purchase price therefor shall be made at the offices of Bear, Stearns & Co. Inc. located at 245 Park Avenue, New York, New York 10167, or at such other location as may be mutually acceptable to the Company and you. Such delivery and payment shall be made at 10:00 A.M., New York City time, on the fifth full business day following the later of the date of this Agreement or the Effective Date (unless such time and date are postponed in accordance with the provisions of Section 8(c) hereof), or at such other time as shall be mutually agreed upon by the Company and you. The time and date of such delivery and payment are

herein called the "Closing Date." Delivery of the Securities shall be made to you against payment of the purchase price therefor in immediately available funds to the account of the Company (wire transfer instructions: Color Tile, Inc., 144-098596, Chemical Bank, New York, ABA # 021-000-128)

(the Company being obligated to pay you three days' interest in respect of such payment at an annual rate based on a 360 day year equal to the federal funds rate in effect at 9:30 a.m. on the Closing

Date plus 1.375%).

(c) The Securities shall be registered in such name or names and in such authorized denominations as you may request in writing at least two full business days prior to the Closing Date, provided that, if you so specify, the Securities may be represented by a global instrument registered in the name of Cede & Co., as nominee of the Depositary Trust Company. The Company will permit you to examine and package the Securities for delivery at least one full business day prior to the Closing Date, unless the Securities are to be represented by a global instrument.

4. Offering. It is understood that, if the Registration

Statement is not already effective at the time of execution of this Agreement, then as soon after the Registration Statement becomes effective as you deem it advisable to do so, you will offer the Securities for sale to the public as set forth in the Prospectus.

5. Agreements of the Company. The Company covenants and

agrees with you as follows:

(a) If the Registration Statement is not already effective, then the Company will use its best efforts to cause the Registration Statement to become effective. If the Registration Statement has become or becomes effective pursuant to Rule 430A of the Regulations, or filing of the Prospectus is otherwise required by Rule 424(b) of the Regulations, the Company will file the Prospectus, properly completed, pursuant to Rule 424(b) of the Regulations within the time period therein prescribed and will provide evidence satisfactory to you of such timely filing.

(b) The Company will advise you promptly and, if so requested by you, will confirm such advice in writing, (i) when the Registration Statement has become effective and when any post-effective amendment thereto becomes effective, (ii) of any request by the Commission for amendments to the Registration Statement or amendments or supplements to the Prospectus or for additional information, (iii) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of the suspension of qualification of the Securities for offering or sale in any jurisdiction, or the initiation or threat of initiation of any proceeding for such purposes, and (iv) of the happening, during the period referred to in paragraph (e) below, of any event of which the Company has knowledge that makes any statement of a material fact made in the Registration Statement or the Prospectus untrue or which requires the making of any additions to or changes in the Registration Statement or the Prospectus in order to comply with the Act or the Regulations or to make the statements therein not misleading. The Company will use every reasonable effort to prevent the issuance of any stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto or any suspension of qualification of the Securities in any jurisdiction and if at any time the Commission shall issue any such stop order, the Company will make every reasonable effort to obtain the withdrawal or lifting of such order or suspension at the earliest possible time.

(c) The Company will furnish (i) to your counsel, for delivery to you, two manually signed copies of the Registration Statement (including all exhibits thereto filed therewith) and

each amendment thereto (including all exhibits filed therewith), and (ii) to you and to those persons who you identify to the Company such number of copies of each preliminary prospectus, the Prospectus, the Registration Statement, the Indenture and all amendments of and supplements to such documents, if any, without exhibits, as you reasonably may request. The Company consents to the respective use of each preliminary prospectus, the Prospectus and any amendment or supplement thereto by you and by all dealers to whom the Securities may be sold, in connection with the offering or sale of the Securities and, as to the Prospectus or any amendment or supplement thereto, during such period of time thereafter as the Prospectus is required by law to be delivered in connection therewith.

(d) The Company will not file any amendment to the

Registration Statement, whether before or after the Effective Date, or issue any supplement to the Prospectus, of which you shall not previously have been advised or to which you shall reasonably object; and the Company will prepare and file with the Commission, promptly upon your reasonable request, any amendment to the Registration Statement or supplement to the Prospectus that may be necessary or advisable in connection with the distribution of the Securities by you, and will use its best efforts to cause the same to become effective promptly.

(e) Promptly after the Registration Statement becomes effective, and from time to time thereafter for such period as in the opinion of your counsel a prospectus is required by law to be delivered in connection with sales of Securities by you or any dealer, the Company will furnish to you and each dealer as many copies of the Prospectus (and of any amendment or supplement to the Prospectus) as you or such dealer reasonably may request.

(f) If during the period specified in paragraph (e) above any event shall occur as a result of which it becomes necessary to amend or supplement the Prospectus in order to make the statements therein, in light of the circumstances existing when the Prospectus is delivered to a purchaser, not misleading, or if it becomes necessary to amend or supplement the Prospectus to comply with any law, the Company will forthwith prepare and file with the Commission an appropriate amendment or supplement to the Prospectus so that the statements in the Prospectus, as so amended or supplemented, will not, in light of the circumstances existing when it is so delivered, be misleading, or so that the Prospectus will comply with law, and the Company will furnish to you and to those dealers as you shall specify, such number of copies thereof as you or those dealers reasonably may request.

(g) Prior to any public offering of the Securities, the Company will cooperate with you and your counsel in connection with the registration or qualification of the Securities under the securities or Blue Sky laws of such jurisdictions as you may request, will continue such qualification in effect so long as required for such purpose and will file such consents to service of process or other documents as may be necessary in order to effect such registration or qualification; provided, however,

that in connection therewith the Company shall not be required to

qualify as a foreign corporation or to file any general consent to service of process in any jurisdiction in which it is not already so qualified or subject.

(h) The Company will mail and make generally available to its securityholders as soon as reasonably practicable an earnings statement covering a period of at least twelve consecutive months commencing after the Effective Date (but in no event commencing later than 90 days after such date) that shall satisfy the provisions of Section 11(a) of the Act and Rule 158 thereunder.

(i) So long as any of the Securities remains outstanding, the Company will (i) mail as soon as reasonably practicable after the end of each fiscal year to the record holders of the Securities, a financial report of the Company and its subsidiaries on a consolidated basis, including in each such financial report a consolidated balance sheet, a consolidated statement of operations, a consolidated statement of cash flows and a consolidated statement of stockholder's equity as of the end of and for such fiscal year, together with comparable information as of the end of and for the preceding year, certified by independent public accountants, and (ii) mail and make generally available to such holders as soon as practicable

after the end of each quarterly period (except for the last quarterly period of each fiscal year), a consolidated balance sheet, a consolidated statement of operations and a consolidated statement of cash flows as of the end of and for such period, and for the period from the beginning of such year to the close of such quarterly period, together with comparable information for the corresponding periods of the preceding year, none of which statements need be audited.

(j) During the period referred to in paragraph (i) above, the Company will furnish you as soon as available a copy of each report mailed by the Company to holders of its securities or filed by the Company with the Commission and such other publicly available information concerning the Company and its subsidiaries as you reasonably may request.

(k) Whether or not the transactions contemplated in this Agreement are consummated or this Agreement is terminated, the Company will pay all costs, expenses and fees incident to (i) the preparation, printing, filing under the Act and distribution of the Registration Statement (including financial statements and exhibits), each preliminary prospectus and all amendments and supplements to

any of them, (ii) the printing, filing under the Act (if required), distribution and delivery of the Prospectus and all amendments thereof or supplements thereto, (iii) the reproduction and delivery of this Agreement, the Blue Sky Memorandum and any supplement thereto and all other agreements, memoranda, correspondence and other documents printed and delivered in connection with the offering of the Securities (including in each case any reasonable disbursements of your counsel relating to such reproduction and delivery), (iv) the registration or qualification of the Securities under the securities or Blue Sky laws of the several states (including in each case the reasonable fees and disbursements of your counsel relating to such registration or qualification and the preparation of a Blue Sky Memorandum relating thereto), (v) filings with the National Association of Securities Dealers, Inc. in connection with its review of the fairness of the underwriting terms and arrangements for the public offering of the Securities by you (including the reasonable fees and disbursements of your counsel in connection therewith), (vi) furnishing such copies of the Registration Statement, the Prospectus and all amendments and supplements thereto as may be requested for use in connection with the offering or sale of the Securities by you or by dealers to whom Securities may be sold, (vii) the fees and expenses of the Trustee and any agent of such Trustee and the fees and disbursements of counsel for such Trustee in connection with the Indenture, (viii) the fees of the national rating agencies in connection with the rating of the Securities, and (ix) the performance by the Company of its other obligations under this Agreement. Notwithstanding the foregoing, the Underwriters shall reimburse the Company for \$500,000 of its legal and other expenses in the same proportion among the Underwriters as that of the principal amount of Securities agreed to be purchased by each Underwriter pursuant to Section 3 hereof.

(l) The Company will apply the proceeds from the sale of the Securities as set forth under "Use of Proceeds" in the Prospectus.

(m) The Company will use its best efforts to do and perform all things required or necessary to be done and performed under this Agreement by the Company prior to the Closing Date and to satisfy all conditions precedent to the delivery of the Securities.

(n) During the period of one hundred eighty (180) days following the date of the Prospectus, the Company will not, without your prior written consent, directly or indirectly issue, sell, offer or agree to sell, or otherwise dispose of any debt or redeemable equity (other than for other non-redeemable equity securities) Securities (or any securities convertible into, exercisable for or exchangeable for any such securities) other than the Securities to be issued and sold pursuant hereto.

6. Indemnification. (a) The Company agrees to indemnify

and hold harmless each of you and each person, if any, who controls each of you within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages, liabilities and judgments arising out of or relating to any

untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or the Prospectus (as amended or supplemented if the Company shall have furnished any amendments or supplements thereto) or any preliminary prospectus, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages, liabilities or judgments arise out of or relate to any such untrue statement or omission or alleged untrue statement or omission based upon information relating to you furnished by Bear, Stearns & Co. Inc. in writing to the Company expressly for use therein; provided,

however, that the foregoing indemnity agreement with respect to any

preliminary prospectus shall not inure to your benefit or that of any such controlling person if the person asserting any such losses, claims or damages purchased Securities from you and if a copy of the Prospectus (as then amended or supplemented if the Company shall have furnished any amendments or supplements thereto) was not sent or given by you or on your behalf to such person, if required by law to have been so delivered, at or prior to the written confirmation of the sale of Securities to such person, if the Prospectus (as so amended or supplemented) would have cured the defect giving rise to such losses, claims, damages, liabilities or judgments and if the Company shall have fully complied in all material respects with Sections 5(c) (other than Section 5(c)(i)) through 5(f) hereof.

(b) In case any action shall be brought against you or any person controlling you, based upon the Registration Statement, any preliminary prospectus or the Prospectus or any amendment or supplement thereto and with respect to which indemnity may be sought against the Company, you shall promptly notify the Company in writing (but failure to so notify an

indemnifying party shall not relieve it from any liability which it may have under this Section 6 except to the extent that it has been prejudiced in any material respect by such failure or from any liability which it may otherwise have) and the Company shall assume the defense thereof, including the employment of counsel reasonably satisfactory to you and payment of all fees and expenses. You or any such controlling person shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at your expense or at the expense of such controlling person unless (i) the employment of such counsel has been specifically authorized in writing by the Company, or (ii) the Company has failed to assume the defense and employ counsel reasonably satisfactory to you or (iii) the named parties to any such action (including any impleaded parties) include both you or such controlling person and the Company, and you or such controlling person shall have been advised by such counsel that there may be one or more legal defenses available to you or such controlling person that are different from or additional to those available to the Company (in which case the Company shall not have the right to assume the defense of such action on behalf of you or such controlling person, it being understood, however, that the Company shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) for you and all such controlling persons, which firm shall be designated in writing by you and that all such fees and expenses shall be reimbursed as they are incurred). The Company shall not be liable for any settlement of any such action effected without its written consent but if settled with its written consent, the Company agrees to indemnify and hold harmless you and each such controlling person from and against any loss or liability by reason of such settlement. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for reasonable fees and expenses of counsel, the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without

its written consent if (i) such settlement is entered into more than 60 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or has been threatened to be made

a party and indemnity could have been sought hereunder by that indemnified party; provided, however, that an indemnifying party may

effect such a settlement without the consent of the indemnified party if such settlement includes an unconditional release of the indemnified party from all liability on claims that are the subject matter of the proceeding or the indemnifying party indemnifies the indemnified party in writing and posts a bond for an amount equal to

the maximum liability on all such claims.

(c) You agree severally to indemnify and hold harmless the Company, its directors, its officers who sign the Registration Statement, and each person, if any, controlling the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, to the same extent as the foregoing indemnity from the Company to you but only with reference to information relating to you furnished in writing by Bear, Stearns & Co. Inc. on its or your behalf expressly for use in the Registration Statement, the Prospectus, any preliminary prospectus or any amendment or supplement thereto. In case any action shall be brought against the Company, any of its directors, any such officer or any such controlling person based on the Registration Statement, the Prospectus or any preliminary prospectus or any amendment or supplement thereto and in respect of which indemnity may be sought against you, you shall have the same rights and duties as are given to the Company by Section 6(b) hereof (except that if the Company shall have assumed the defense thereof, you shall not be required to do so, but may employ separate counsel therein and participate in the defense thereof but the fees and expenses of such separate counsel shall be at your expense), and the Company, its directors, each such officer and each such controlling person shall have the same rights and duties as are given to you by Section 6(b) hereof.

(d) If the indemnification provided for in this Section 6 is unavailable to an indemnified party in respect of any losses, claims, damages, liabilities or judgments referred to therein, then each indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities and judgments (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and you on the other hand from the offering of the Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company and you in connection with the statements or

omissions that resulted in such losses, claims, damages, liabilities or judgments, as well as any other relevant equitable considerations. The relative benefits received by the Company and you shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company, and the total underwriting discounts and commissions received by you, bear to the total price to the public of the Securities, in each case as set forth in the table on the cover page of the Prospectus. The relative fault of the Company and you 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 or you and each party's relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and you agree that it would not be just and equitable if contribution pursuant to this Section 6(d) were determined by any other method of allocation that does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or judgments referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 6, you shall not be required to contribute any amount in excess of the amount by which the underwriting discount applicable to the Securities purchased by you exceeds the amount of any damages which you were otherwise required to pay by reason of such untrue or alleged untrue statement

or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. No party shall be liable for contribution with respect to any action or claim settled without its written consent; provided, however, that such written consent was not

unreasonably withheld.

7. Conditions of Underwriters' Obligations. Your

obligations to purchase and pay for the Securities shall be subject to (i) the accuracy of the representations and warranties of the Company herein contained, as of the date hereof and as of the Closing Date, (ii) the absence from any certificates, opinions, written statements or letters furnished pursuant to this Section 7 to you or to your counsel, of any qualification or

limitation not previously approved by you, (iii) the performance by

the Company of all its obligations hereunder required to be performed on or before the Closing Date, and (iv) the following additional conditions:

(a) Notice that the Registration Statement shall have become effective shall be received by you not later than 5:00 P.M., New York City time, on the date of this Agreement or at such later date and time as you may approve in writing, all filings required by Rule 424 and Rule 430A under the Regulations shall have been made on a timely basis and as of the Closing Date no stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that purpose shall have been commenced or shall be pending before or threatened by the Commission.

(b) (i) Since the date of the latest balance sheet of the Company and its subsidiaries included in the Registration Statement and the Prospectus, there shall not have been any material adverse change, or any development involving a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, affairs, business or operations, whether or not arising in the ordinary course of business, of the Company and its subsidiaries, taken as a whole, or any material change, or any development involving a prospective material adverse change, in the sales, the capital stock or in the long-term debt of the Company or any of its subsidiaries from that set forth in or contemplated by the Registration Statement and the Prospectus, (ii) neither the Company nor any subsidiary shall have any liability or obligation, direct or contingent, that is material to the Company and its subsidiaries, taken as a whole, and that is not disclosed in the Registration Statement and the Prospectus and (iii) on the Closing Date you shall have received a certificate dated the Closing Date, signed by the Chief Executive Officer and the Chief Financial Officer of the Company, and such other certificates of executive officers as you may specify, confirming the matters set forth in the introduction to, and paragraphs (a) and (b) of, this Section 7.

(c) On the Closing Date, you shall have received the opinion of Gibson, Dunn & Crutcher, counsel to the Company, dated the date of its delivery, addressed to you, and in form and scope satisfactory to your counsel, to the effect that:

(i) Each of the Company and its subsidiaries listed in Exhibit 22 to the Registration Statement (the "Material Subsidiaries") has been duly organized and is validly existing and in good standing under the laws of its respective jurisdiction of incorporation.

(ii) Each of the Company and the Material Subsidiaries is duly qualified to do business as a foreign corporation and is in good standing in all jurisdictions where the ownership or leasing of its properties or the conduct of its business requires such qualification, except where the failure to be so qualified or in good standing would not, in the aggregate, have a material adverse effect on the business, operations, financial condition or results of operations of the Company and the Material Subsidiaries taken as a whole.

(iii) Each of the Company and the Material Subsidiaries has the corporate power and authority to own or lease its respective properties and to conduct its business as presently being conducted and as described in the Registration Statement and the Prospectus.

(iv) Except as set forth in the Registration Statement or

the Prospectus, all of the issued and outstanding shares of capital stock of each Material Subsidiary of the Company have been duly authorized and validly issued and are fully paid and non-assessable and free of preemptive rights provided in the certificate of incorporation or other constituent documents of such Material Subsidiary or by any Material Agreement and to such counsel's knowledge based solely upon an examination of the stock records of the Material Subsidiaries and the Material Agreements, are owned of record, directly or indirectly, by the Company free and clear of any lien, encumbrance or other Adverse Claim (as such term is defined in Section 8-302(2) of the New York Uniform Commercial Code), other than the pledge of 100% of the capital stock of each of the Material Subsidiaries to secure the Company's obligations under the Senior Credit Agreement (as defined in the Prospectus).

(v) The authorized capital stock of the Company is as set forth in the Registration Statement and the Prospectus. All of the outstanding shares of the Company's capital stock have been duly authorized and validly issued and are fully paid and non-assessable and were not issued in violation of or subject to any preemptive rights provided for in the Company's Certificate of Incorporation, the Delaware General

Corporation Law (the "DGCL") or any Material Agreement, except as set forth in the Registration Statement or the Prospectus.

(vi) The Indenture has been duly and validly authorized, executed and delivered by the Company, has been duly qualified under the Trust Indenture Act of 1939, as amended, and assuming due authorization, execution and delivery by the Trustee, constitutes a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, (A) subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws now or hereafter in effect relating to or affecting creditors' rights and remedies generally, (B) subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or at equity) and (C) except insofar as the usury waiver therein may be deemed to be unenforceable.

(vii) The Securities have been duly and validly authorized by the Company, and when executed, authenticated and delivered in accordance with the terms of the Indenture and delivered to and paid for by you pursuant to this Agreement, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, (A) subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws now or hereafter in effect relating to creditors' rights and remedies generally, (B) subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or at equity) and (C) except insofar as the usury waiver therein may be deemed to be unenforceable. The holders of the Securities will be entitled to the benefits of the Indenture.

(viii) Upon delivery of the Securities being sold by the Company and payment thereof as contemplated by this Agreement, you will receive the Securities free and clear of any liens, encumbrances, adverse claims, security interests, restrictions on transfer (other than such resale and other restrictions as may be imposed under Federal or state securities laws) and other defects of title (other than those resulting from actions taken by you), assuming you

purchase such Securities without actual knowledge of any lien, encumbrance, equity, claim or other "Adverse Claim" (as such term is defined in Article 8-302 of the New York Uniform Commercial Code).

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

(x) To such counsel's knowledge, there is no action, proceeding, inquiry or investigation, before or brought by any court or governmental agency or body, to which the Company or any of the Material Subsidiaries is a party or to which the property of the Company or any of the Material Subsidiaries is subject, which is required to be disclosed in the Registration Statement or the Prospectus and that has not been so disclosed.

(xi) The execution, delivery and performance by the Company of this Agreement, the Indenture and the Securities and the consummation of the transactions contemplated hereby and thereby, including without limitation the issuance, sale and delivery of the Securities, do not (A) conflict with or result in a breach of any of the terms or provisions of, or constitute a default (or an event which with notice or lapse of time, or both, would constitute a default) or require consent under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its Material Subsidiaries pursuant to the terms of any Material Agreement, (B) conflict with or violate any statute, rule, regulation or, to such counsel's knowledge, any judgment, decree or order of any governmental agency or body or any court having jurisdiction over the Company or any of the Material Subsidiaries or any of their respective properties (provided that we are expressing no opinion in this clause (B) with respect to the Federal securities laws, rules or regulations to the extent such laws are expressly considered in other sections of this opinion, or with respect to state securities or blue sky laws); or (C) conflict with or violate the certificate of incorporation or bylaws or equivalent charter documents of the Company or any of the Material Subsidiaries.

(xii) No consent, approval, authorization, permit or order of, or filing with, any governmental agency or body or, to such counsel's knowledge, any court that has jurisdiction over the Company or any of the Material Subsidiaries or any of their respective assets or properties, is required to be obtained or made by the

Company or any of the Material Subsidiaries for the sale of the Securities to the Underwriters as contemplated by this Agreement and the Indenture, except for such as have been obtained and made and such as may be required under state securities or blue sky laws in connection with the purchase and distribution of the Securities by the Underwriters, as to which we offer no opinion.

(xiii) The Registration Statement and the Prospectus, and each amendment or supplement thereto, as of their respective effective or issue dates, appear on their face to comply as to form in all material respects with the requirements of the Securities Act and the rules and regulations thereunder, except that we express no opinion as to (i) the financial statements or schedules or other financial or statistical data contained in the Registration Statement or the Prospectus, (ii) the Statement of Eligibility and Qualification of the Trustee under the Trust Indenture Act or (iii) the exhibits to the Registration Statement.

(xiv) The Securities and the Indenture conform in all material respects to the respective descriptions thereof in the Registration Statement and the Prospectus.

(xv) The Registration Statement has become effective under the Securities Act and, to the best of such counsel's knowledge, no stop order suspending the effectiveness of the Registration Statement or any part thereof has been issued and no proceedings for that purpose have been instituted or are pending or, to such counsel's knowledge, threatened under the Securities Act.

(xvi) The Company is not required to be registered as, and is not controlled by, an investment company under the Investment Company Act of 1940, as amended.

In addition, such counsel shall state the following:

We have participated in conferences with officers and other

representatives of the Company, representatives of the independent auditors of the Company and your representatives at which the contents of the Registration Statement, the Prospectus and related matters were discussed. Because the purpose of our professional engagement was not to establish or confirm factual matters and because the scope of our examination of the affairs of the Company did not permit us to verify the accuracy, completeness or fairness of the

statements set forth in the Registration Statement or Prospectus, we are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Registration Statement or Prospectus. However, on the basis of the foregoing and relying as to materiality to a large extent upon the opinions of officers and other representatives of the Company, it being understood that we make no statement as to the financial statements or schedules or other

financial or statistical data contained in the Registration Statement or the Prospectus, the Statement of Eligibility and Qualification of the Trustee under the Trust Indenture Act or the exhibits to the Registration Statement, (i) we do not know of any pending or threatened legal or governmental proceedings required to be described in the Registration Statement or the Prospectus that are not described as required or of any contracts or documents of a character required to be described in the Registration Statement or the Prospectus or to be filed as exhibits to the Registration Statement that are not described or filed as required and (ii) no facts have come to our attention that lead us to believe that the Registration Statement, or any supplement or amendment thereto, as of their respective effective dates, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading or that the Prospectus, or any amendment or supplement thereto, as of their respective issue dates and as of the date hereof, included any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein in the light of the circumstances under which they were made, not misleading.

In rendering the foregoing opinion, such counsel may rely (A) as to matters involving the application of laws other than the laws of the United States, the State of New York and Delaware corporate law, to the extent such counsel deems proper and to the extent specified in such opinion, if at all, upon an opinion or opinions (in form and scope reasonably satisfactory to your counsel) of other counsel, reasonably acceptable to your counsel, familiar with the applicable laws, which opinion shall be addressed and delivered to you; and (B) as to matters of fact, to the extent such counsel deems proper, on certificates of responsible officers and other representatives of the Company, certificates of public officials, and certificates or other written statements of officers of departments of

various jurisdictions having custody of documents respecting the corporate existence or good standing of the Company and its subsidiaries, provided that copies of any such statements or certificates shall be delivered to your counsel.

(d) On the Closing Date you shall have received from your counsel, Weil, Gotshal & Manges, an opinion, dated the date of its delivery, addressed to you, with respect to the Company, the Registration Statement, the Prospectus and other related matters as you reasonably may require, and the Company shall have furnished to your counsel such documents as they may reasonably request for the purpose of enabling them to pass upon such matters.

(e) Concurrently with the execution and delivery of this Agreement you shall have received from each of Grant Thornton and Coopers & Lybrand, and on the Closing Date you shall have received from Coopers & Lybrand a letter addressed to you, dated the date of its delivery, substantially in the form and to the effect and with respect to such matters as shall have been previously agreed upon by you.

(f) At the Closing Date, you shall have received an opinion from counsel to the Trustee, dated the date of its delivery, addressed to you and in form and substance satisfactory to your counsel, to the effect that:

(i) the Trustee is a national banking association or state chartered bank or trust company and is validly existing in good standing under the laws of the jurisdiction

in which it is incorporated;

(ii) the Trustee has the power and authority to enter into the Indenture and authenticate the Securities as Trustee under the Indenture;

(iii) the Indenture has been duly authorized, executed and delivered by the Trustee, as Trustee under the Indenture, and the Indenture is valid and binding on the Trustee in accordance with its terms, (i) subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws now or hereafter in effect relating to creditors' rights and remedies generally, (ii) subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good

sought in a proceeding at law or in equity) and (iii) except insofar as the usury waiver therein may be deemed to be unenforceable; and

(iv) the Securities have been duly authenticated and delivered by the Trustee, as Trustee, under the Indenture.

(g) The Company shall have consummated the acquisition of all of the assets and business of ABF.

(h) All proceedings taken in connection with the sale of the Securities as herein contemplated shall be satisfactory in form and substance to you and to your counsel, and you shall have received from your counsel a favorable opinion, dated as of the Closing Date with respect to the issuance and sale of the Securities, as you may reasonably require, and the Company shall have furnished to your counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(i) Prior to the Closing Date the Company shall have furnished to you such further information, certificates and documents as you reasonably may request.

If any of the conditions specified in this Section 7 shall not have been fulfilled when and as required by this Agreement, or if any of the certificates, opinions, written statements or letters furnished to you or to your counsel pursuant to this Section 7 shall not be reasonably satisfactory in form and scope in all material respects to you and to your counsel, all of your obligations hereunder may be canceled by you at, or at any time prior to, the Closing Date. Notice of such cancellation shall be given to the Company in writing or by telephone, telecopy, telex or telegraph, confirmed in writing.

8. Effective Date of Agreement and Termination. (a) This

Agreement shall become effective upon the later of (i) its execution or (ii) when notification of the effectiveness of the Registration Statement has been released by the Commission and communicated by the Company or its counsel to you. Until this Agreement becomes effective as aforesaid, it may be terminated by the Company by notifying you or by you by notifying the Company. Notwithstanding the foregoing, the provisions of this Section 8 and of Sections 2, 5(k) and 6 hereof shall at all times be in full force and effect.

(b) This Agreement may be terminated at any time prior to the Closing Date by you by written notice to the Company if any of the following has occurred: (i) on or prior to such date, the Company shall have failed, refused or been unable to perform in any material respect any agreement on its part to be performed hereunder, (ii) any other condition of your obligations hereunder as provided in Section 5 is not fulfilled when and as required in any material respect, (iii) since the respective dates as of which information is given in the Registration Statement and the Prospectus, any adverse change or development involving a prospective adverse change in, or affecting particularly the condition, financial or otherwise, of the Company, any of its material subsidiaries, or the earnings, affairs, business or operations of the Company or any of its material subsidiaries, whether or not arising in the ordinary course of business, that would, in your reasonable judgment, make it impracticable to market the Securities on the terms and in the manner contemplated in the Prospectus, (iv) any outbreak or escalation of hostilities or other national or international calamity or crisis or material change in economic conditions, if the effect of such outbreak, escalation, calamity, crisis or change on the financial markets of the United States or elsewhere would, in your reasonable judgment, make it impracticable to market the Securities on the terms and in the manner contemplated in the Prospectus, (v) suspension of trading in

securities on the New York Stock Exchange, the American Stock Exchange or NASDAQ or limitation on prices (other than limitations on hours or numbers of days of trading) for securities on any such Exchange or NASDAQ, (vi) the enactment, publication, decree or other promulgation of any federal or state statute, regulation, rule or order of any court or other governmental authority which in your reasonable opinion materially and adversely affects, or will materially and adversely affect, the business or operations of the Company and its subsidiaries, taken as a whole, (vii) declaration of a banking moratorium by either federal or New York State authorities, (viii) the taking of any action by any federal, state or local government or agency in respect of its monetary or fiscal affairs that in your reasonable opinion has a material adverse effect on the financial markets in the United States, (ix) there shall have been any downgrading in the rating accorded any of the Company's debt securities by Moody's Investor Services, Inc. or Standard and Poor's Corporation or any such organization shall have issued a notice that it has its rating under surveillance or review for a possible change (other than one involving no implication of a downgrading), or (x) there shall have been such a material adverse change in general economic, political or financial conditions or if the effect of international conditions on the financial markets in the United

States shall be such as, in your judgment, makes it inadvisable or impracticable to market the Securities on the terms and in the manner contemplated in the Prospectus.

(c) Any notice of termination pursuant to this Section 11 shall be by telephone, telex, telephonic facsimile, or telegraph, confirmed in writing by letter.

(d) If this Agreement shall be terminated pursuant to any of the provisions hereof (otherwise than pursuant to (i) notification by you as provided in Section 8(a) hereof or (ii) Section 8(b) hereof), or if the sale of the Securities provided for herein is not consummated because any condition to your obligations set forth herein is not satisfied or because of any refusal, inability or failure on the part of the Company to perform any agreement herein or comply with any provision hereof, the Company will, subject to demand by you, reimburse you for all out-of-pocket expenses (including the reasonable fees and expenses of your counsel), incurred by you in connection herewith.

9. Survival of Representations and Agreements. All

representations and warranties, covenants and agreements of you and the Company contained in this Agreement, including the agreements contained in Sections 5(k) and 8(d) hereof, the indemnity agreements contained in Section 6 hereof and the contribution agreements contained in Section 6(d) hereof, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of you or any controlling person or by or on behalf of the Company, any of its officers and directors or any controlling person thereof, and shall survive delivery of and payment for the Securities to and by you. The representations contained in Section 2 hereof and the agreements contained in Sections 5(k), 6 and 8(d) hereof shall survive the termination of this Agreement, including pursuant to Section 8 hereof.

10. Default by an Underwriter

(a) If any of you shall default in your obligation to purchase Securities hereunder, the nondefaulting underwriter or underwriters may in its or their discretion arrange for itself or themselves or for another party or parties to purchase such Securities to which such default relates on the terms contained herein. In the event that within five (5) calendar days after such default the

nondefaulting underwriter or underwriters does or do not arrange for the purchase of Securities to which such default relates as provided in this Section 10, this Agreement

shall thereupon terminate, without liability on the part of the Company with respect thereto (except in each case as provided in Section 4, 6(a) and 7 hereof) or the nondefaulting underwriter or underwriters, but nothing in this Agreement shall relieve any defaulting underwriter or underwriters of its or their liability, if any, to the nondefaulting underwriter or underwriters and the Company for damages occasioned by its or their default hereunder.

(b) In the event that the Securities are to be purchased by the nondefaulting underwriter or underwriters, or are to be purchased by another party or parties as aforesaid, the nondefaulting underwriter or underwriters or the Company shall have the right to postpone the Closing Date for a period not exceeding five (5) business days, in order to effect whatever may thereby be made necessary in the Registration Statement or the Prospectus or any other documents and

arrangements, and the Company agrees to file promptly any amendment or supplement to the Registration Statement or the Prospectus which, in the opinion of your counsel, may thereby be made necessary or advisable. The term "underwriter" as used in this Agreement shall include any party substituted under this Section 10 with like effect as if it had originally been a party to this Agreement with respect to such Securities.

11. Miscellaneous. (a) Notices given pursuant to any

provision of this Agreement shall be addressed as follows: (a) if to the Company, to Color Tile, Inc., 515 Houston Street, Fort Worth, Texas 76102, Attention: Eddie M. Lesok, Chairman, and (b) if to you, to Bear, Stearns & Co. Inc., 245 Park Avenue, New York, New York 10167, Attention: Corporate Finance Department.

(b) The Company acknowledges that the statements with respect to the public offering of the Securities set forth on the cover page of the Prospectus and the information with respect thereto and with respect to you under the caption "Underwriting" in the Prospectus constitute the only information furnished in writing by Bear, Stearns & Co. Inc. expressly for use in the Registration Statement and the Prospectus.

(c) If this Agreement shall be terminated by you because of any failure or refusal on the part of the Company to comply with the terms or to fulfill any of the conditions of this Agreement, the Company shall reimburse you for all out-of-pocket expenses (including the reasonable fees and disbursements of your counsel) reasonably incurred by you.

(d) Except as otherwise provided, this Agreement has been and is made solely for the benefit of and shall be binding upon the Company, each of you, the controlling persons, directors, officers, employees and agents referred to in Section 6 hereof, and their respective successors and assigns, all as and to the extent provided in this Agreement, and no other person shall acquire or have any right under or by virtue of this Agreement or any provision herein contained. The term "successors and assigns" shall not include a purchaser of any of the Securities from either of you merely because of such purchase.

(e) The Company shall be entitled to rely and act upon any request, notice, consent, waiver or agreement purportedly given by or on behalf of you, in your capacity as underwriters hereunder, when the same shall have been given in your names and on your behalf by Bear, Stearns & Co. Inc.

(f) This Agreement shall be governed and construed in accordance with the laws of the State of New York.

(g) This Agreement may be signed in various counterparts, all of which together shall constitute one and the same instrument.

Please confirm that the foregoing correctly sets forth the agreement between the Company and each of you.

Very truly yours,

COLOR TILE, INC.

By: /s/ Eddie M. Lesok

Eddie M. Lesok
Chairman of the Board

Accepted in New York, New York

December 10, 1993

BEAR, STEARNS & CO. INC.

By: /s/ Michael L. Offen

LEHMAN BROTHERS INC.

By: /s/ William A. Shutzer

CHEMICAL SECURITIES INC.

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