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

FORM 10-Q

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

For the quarterly period ended September 30, 2003

OR

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

For the transition period from _____ to _____

Commission file number 1-5975

HUMANA INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

61-0647538
(I.R.S. Employer
Identification Number)

500 West Main Street
Louisville, Kentucky 40202
(Address of principal executive offices, including zip code)

(502) 580-1000
(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act). Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date.

Class of Common Stock
\$0.16 ²/₃ par value

Outstanding at
September 30, 2003
161,094,579 shares

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Humana Inc.
FORM 10-Q
SEPTEMBER 30, 2003

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Humana Inc.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited)

	September 30, 2003	December 31, 2002
(in thousands, except share amounts)		
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 635,837	\$ 721,357
Investment securities	1,682,402	1,405,833
Receivables, less allowance for doubtful accounts of \$34,097 at September 30, 2003 and \$30,178 at December 31, 2002:		
Premiums	461,684	348,562
Administrative services fees	10,952	68,316
Other	288,836	250,857
Total current assets	3,079,711	2,794,925
Property and equipment, net	413,402	459,842
Other assets:		
Long-term investment securities	320,464	288,724
Goodwill	776,874	776,874
Other	159,273	279,665
Total other assets	1,256,611	1,345,263
Total assets	\$ 4,749,724	\$ 4,600,030
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Medical and other expenses payable	\$ 1,296,566	\$ 1,142,131
Trade accounts payable and accrued expenses	438,926	552,689
Book overdraft	218,751	94,882
Unearned revenues	108,161	335,757
Short-term debt	—	265,000
Total current liabilities	2,062,404	2,390,459
Long-term debt	644,440	339,913
Other long-term obligations	283,756	263,184
Total liabilities	2,990,600	2,993,556
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, \$1 par; 10,000,000 shares authorized, none issued	—	—
Common stock, \$0.16 ² / ₃ par; 300,000,000 shares authorized; 173,112,860 shares issued at September 30, 2003 and 171,334,893 shares issued at December 31, 2002	28,854	28,556
Capital in excess of par value	961,015	931,089
Retained earnings	883,502	720,877
Accumulated other comprehensive income	20,086	22,455
Unearned restricted stock compensation	(357)	(6,516)
Treasury stock, at cost, 12,018,281 shares at September 30, 2003 and 8,362,537 shares at December 31, 2002	(133,976)	(89,987)
Total stockholders' equity	1,759,124	1,606,474
Total liabilities and stockholders' equity	\$ 4,749,724	\$ 4,600,030

See accompanying notes to condensed consolidated financial statements.

Humana Inc.
CONDENSED CONSOLIDATED STATEMENTS OF INCOME
(Unaudited)

	Three months ended September 30,		Nine months ended September 30,	
	2003	2002	2003	2002
	(in thousands, except per share results)			
Revenues:				
Premiums	\$ 3,016,298	\$ 2,752,336	\$ 8,772,652	\$ 8,137,887
Administrative services fees	66,984	61,056	199,788	189,900
Investment and other income	28,483	28,235	100,999	78,362
Total revenues	<u>3,111,765</u>	<u>2,841,627</u>	<u>9,073,439</u>	<u>8,406,149</u>
Operating expenses:				
Medical	2,528,123	2,301,021	7,344,534	6,811,748
Selling, general and administrative	458,381	429,019	1,371,196	1,278,516
Depreciation and amortization	27,112	30,523	100,232	90,556
Total operating expenses	<u>3,013,616</u>	<u>2,760,563</u>	<u>8,815,962</u>	<u>8,180,820</u>
Income from operations	98,149	81,064	257,477	225,329
Interest expense	4,737	4,107	12,473	12,888
Income before income taxes	93,412	76,957	245,004	212,441
Provision for income taxes	31,293	24,626	82,379	67,981
Net income	<u>\$ 62,119</u>	<u>\$ 52,331</u>	<u>\$ 162,625</u>	<u>\$ 144,460</u>
Basic earnings per common share	<u>\$ 0.39</u>	<u>\$ 0.32</u>	<u>\$ 1.03</u>	<u>\$ 0.88</u>
Diluted earnings per common share	<u>\$ 0.38</u>	<u>\$ 0.31</u>	<u>\$ 1.01</u>	<u>\$ 0.86</u>

See accompanying notes to condensed consolidated financial statements.

Humana Inc.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	Nine months ended September 30,	
	2003	2002
(in thousands)		
Cash flows from operating activities		
Net income	\$ 162,625	\$ 144,460
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation and amortization	100,232	90,556
Writedown of property and equipment	17,233	—
Provision for deferred income taxes	30,213	34,221
Changes in operating assets and liabilities:		
Receivables	7,509	(231,012)
Other assets	(17,022)	268
Medical and other expenses payable	154,435	78,045
Other liabilities	(85,899)	4,742
Unearned revenues	(227,596)	(235,063)
Other	(18,810)	12,481
Net cash provided by (used in) operating activities	122,920	(101,302)
Cash flows from investing activities		
Purchases of property and equipment, net	(62,497)	(83,581)
Divestiture	—	1,109
Purchases of investment securities	(3,659,394)	(1,639,803)
Maturities of investment securities	585,461	273,199
Proceeds from sales of investment securities	2,768,446	1,339,124
Net cash used in investing activities	(367,984)	(109,952)
Cash flows from financing activities		
Common stock repurchases	(44,147)	(25,439)
Proceeds from issuance of senior notes	299,139	—
Net commercial paper conduit (repayments) borrowings	(265,000)	2,000
Change in book overdraft	123,869	(48,355)
Proceeds from swap exchange	31,556	—
Other	14,127	7,364
Net cash provided by (used in) financing activities	159,544	(64,430)
Decrease in cash and cash equivalents	(85,520)	(275,684)
Cash and cash equivalents at beginning of period	721,357	651,420
Cash and cash equivalents at end of period	\$ 635,837	\$ 375,736
Supplemental cash flow disclosures:		
Interest payments	\$ 11,324	\$ 8,099
Income tax payments, net	\$ 43,335	\$ 25,552

See accompanying notes to condensed consolidated financial statements.

Humana Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

(1) Basis of Presentation

The accompanying condensed consolidated financial statements are presented in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the disclosures normally required by accounting principles generally accepted in the United States of America, or those normally made in an Annual Report on Form 10-K. References throughout this document to “we,” “us,” “our,” the “Company,” and “Humana,” mean Humana Inc. and all entities we own. For further information, the reader of this Form 10-Q should refer to our Form 10-K for the year ended December 31, 2002, that was filed with the Securities and Exchange Commission, or the SEC, on March 21, 2003.

The preparation of our condensed consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires us to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. The areas involving the most significant use of estimates are the estimation of medical expenses payable, the recognition of revenue related to our TRICARE contracts, the valuation and related impairment recognition of investment securities, and the valuation and related impairment recognition of long-lived assets, including goodwill. Although our estimates are based on knowledge of current events and anticipated future events, actual results may ultimately differ materially from those estimates. Refer to “Critical Accounting Policies and Estimates” in Humana’s 2002 Annual Report on Form 10-K for information on accounting policies that the Company considers critical in preparing its Consolidated Financial Statements.

The financial information has been prepared in accordance with our customary accounting practices and has not been audited. In our opinion, the information presented reflects all adjustments necessary for a fair statement of interim results. All such adjustments are of a normal and recurring nature.

(2) Significant Accounting Policies

New Accounting Standards

On January 1, 2003, we adopted Statement of Financial Accounting Standards No. 146, *Accounting for Exit or Disposal Activities*, or Statement 146. Statement 146 addresses the recognition, measurement, and reporting of costs that are associated with exit and disposal activities, including certain lease termination costs and severance-type costs under a one-time benefit arrangement rather than an ongoing benefit arrangement or an individual deferred-compensation contract. Statement 146 requires liabilities associated with exit and disposal activities to be expensed as incurred and impacts the timing of recognition for exit or disposal activities that were initiated after December 31, 2002. The adoption of Statement 146 did not have a material impact on our consolidated financial position or results of operations.

In November 2002, the Financial Accounting Standards Board, or FASB, issued FASB Interpretation No. 45, *Guarantor’s Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, an interpretation of FASB Statements No. 5, 57, and 107 and Rescission of FASB Interpretation No. 34, or FIN 45. FIN 45 requires that upon issuance of a guarantee, the entity must recognize a liability for the fair value of the obligation it assumes under that guarantee. FIN 45 requires disclosure about each guarantee even if the likelihood of the guarantors having to make any payments under the guarantee is remote. The provisions for initial recognition and measurement are effective on a prospective basis for guarantees that are issued or modified after December 31, 2002. Refer to Note 9 for guarantee disclosures. The adoption of the recognition provision of FIN 45 did not have a material impact on our financial position, results of operations or cash flows.

In January 2003, the FASB issued Interpretation No. 46, *Consolidation of Variable Interest Entities, an Interpretation of ARB 51*, or FIN 46. The primary objectives of FIN 46 are to provide guidance on the identification of entities for which control is achieved through means other than through voting rights (variable interest entities, or VIEs) and how to determine when and which business enterprise should consolidate the VIE (the primary beneficiary). The provisions of FIN 46 as amended by FASB Staff Position 46-6, *Effective Date of FASB Interpretation No. 46, Consolidation of Variable Interest Entities* are effective immediately for VIEs created after January 31, 2003 and no later than December 31, 2003 for VIEs created before February 1, 2003. In addition, FIN

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46 requires that both the primary beneficiary and all other enterprises with a significant variable interest make additional disclosure in filings issued after January 31, 2003. The adoption of FIN 46 is not expected to have a material impact on our financial position, results of operations or cash flows.

Stock-Based Compensation

We have stock-based employee compensation plans, including stock options and restricted stock awards, which are described more fully in Note 9 to the consolidated financial statements in Humana's 2002 Annual Report on Form 10-K.

We account for our stock option plans under Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees* and related interpretations, or APB No. 25. No compensation cost is reflected in net income related to fixed-based stock option awards to employees when the option has an exercise price equal to the market value of the underlying common stock on the date of grant. Compensation expense is recorded for restricted stock grants over their vesting periods based on fair value, which is equal to the market price of Humana common stock on the date of the grant. The following table illustrates the effects on net income and earnings per share if we had applied the fair value recognition provisions of FASB Statement No. 123, *Accounting for Stock-Based Compensation*, to our stock-based awards.

	Three months ended September 30,		Nine months ended September 30,	
	2003	2002	2003	2002
	(in thousands, except per share results)			
Net income, as reported	\$62,119	\$52,331	\$162,625	\$144,460
Add: Restricted stock compensation expense included in reported net income, net of related tax	644	915	3,448	3,981
Deduct: Total stock-based employee compensation expense determined under fair value based method for all fixed-based options and restricted stock awards, net of related tax	(1,925)	(2,084)	(7,085)	(6,913)
Adjusted net income	<u>\$60,838</u>	<u>\$51,162</u>	<u>\$158,988</u>	<u>\$141,528</u>
Earnings per share:				
Basic, as reported	\$ 0.39	\$ 0.32	\$ 1.03	\$ 0.88
Basic, pro forma	\$ 0.38	\$ 0.31	\$ 1.00	\$ 0.86
Diluted, as reported	\$ 0.38	\$ 0.31	\$ 1.01	\$ 0.86
Diluted, pro forma	\$ 0.37	\$ 0.31	\$ 0.99	\$ 0.84

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(3) Restructuring Charge

During the fourth quarter of 2002, we finalized a plan to realign our administrative cost structure with the consolidation of seven customer service centers into four and an enterprise-wide workforce reduction.

The following table presents a rollforward of the restructuring charge for the year ended December 31, 2002 and the nine months ended September 30, 2003:

	Severance		Lease Discontinuance	Total
	No. of Employees	Cost		
(dollars in thousands)				
<u>Year ended December 31, 2002</u>				
Provision	2,600	\$ 32,105	\$ 1,324	\$ 33,429
Cash payments	(500)	(910)	—	(910)
Balance at December 31, 2002	2,100	31,195	1,324	32,519
<u>Nine months ended September 30, 2003</u>				
Cash payments	(1,600)	(16,085)	(800)	(16,885)
Balance at September 30, 2003	500	\$ 15,110	\$ 524	\$ 15,634

Severance

During the fourth quarter of 2002, we recorded severance and related employee benefit costs of \$32.1 million (\$19.6 million after tax) in connection with the customer service center consolidation and an enterprise-wide workforce reduction. Severance costs were estimated based upon the provisions of the Company's existing employee benefit plans and policies. The plan to reduce our administrative cost structure is expected to ultimately affect approximately 2,600 positions throughout the entire organization, including customer service, claim administration, clinical operations, provider network administration, as well as other corporate and field-based positions. As of September 30, 2003, approximately 2,100 positions had been eliminated. Severance is paid biweekly resulting in payments in periods subsequent to termination. We expect additional positions will be eliminated by December 31, 2003, and the remaining positions eliminated no later than June 30, 2004.

(4) Long-lived Asset Charge

Impairment

Our decision to eliminate the Jacksonville, Florida, San Antonio, Texas and Madison, Wisconsin customer service centers during the fourth quarter of 2002 prompted a review for the possible impairment of long-lived assets associated with these centers. Assets under operating leases supported the Madison service center and, therefore, were not applicable to our impairment analysis. Under a transition plan, we continued to use the long-lived assets of the Jacksonville and San Antonio customer service centers until mid-2003, the completion date for consolidating these two customer service centers. The long-lived assets of our customer service centers were supported by the future cash flows expected to result from members serviced by those centers. Cash flows from members serviced by a particular service center represented the lowest level of independently identifiable cash flows. For example, cash flows from members located primarily in the state of Florida and serviced by the Jacksonville service center supported the Jacksonville center's long-lived assets until those members' service was transitioned elsewhere.

Our impairment review during the fourth quarter of 2002 indicated that estimated undiscounted cash flows expected to result from the remaining use of the San Antonio, Texas customer service center long-lived assets, primarily buildings, were insufficient to recover their carrying value. Accordingly, we reduced the carrying value of these long-lived assets to their estimated fair value resulting in a non-cash impairment charge of \$2.4 million (\$1.5 million after tax) during the fourth quarter of 2002.

Unlike our San Antonio impairment review, a greater number of more profitable members in Florida caused the estimated undiscounted cash flows expected to result from the remaining use of the Jacksonville, Florida customer service center's long-lived assets, primarily a building, to exceed the carrying value as of the fourth quarter of 2002 impairment review. However, impairment was triggered during the first quarter of 2003 with the passage of time and the approaching date for closing the center. As members serviced by the Jacksonville, Florida customer service

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(Unaudited)

center were transferred to other service centers during 2003, the undiscounted cash flows expected from the remaining members serviced by the center fell during the first quarter of 2003 to a level no longer supporting the carrying value of the center's long-lived assets. Accordingly, we reduced the carrying value of these long-lived assets to their estimated fair value resulting in a non-cash impairment charge of approximately \$17.2 million (\$10.5 million after tax) during the first quarter of 2003.

We used an independent third party appraisal to assist us in evaluating the fair value of the buildings. The non-cash impairment charges are included with selling, general and administrative expenses in the accompanying consolidated statements of income.

We are in the process of selling the buildings previously used in our Jacksonville and San Antonio customer service operations and have classified them as held for sale. The carrying amount of the buildings approximated \$27.6 million at September 30, 2003 based on their fair value less estimated costs to sell the buildings. We are no longer depreciating these buildings effective July 1, 2003. The impact of ceasing depreciation of the buildings was not material to our results of operations.

Accelerated Depreciation

After finalizing plans during the first quarter of 2003 to abandon software used in the Jacksonville, Florida operations by March 2003, we reduced the estimated useful life of the software effective January 1, 2003. Accordingly, we accelerated the depreciation of the remaining software balance of approximately \$13.5 million (\$8.3 million after tax) during the first quarter of 2003.

(5) Other Intangible Assets

Other intangible assets primarily relate to acquired subscriber, provider, and government contracts, and the cost of acquired licenses and are included with other long-term assets on the condensed consolidated balance sheets. Amortization expense for other intangible assets was approximately \$9.2 million for the nine months ended September 30, 2003, and \$11.8 million for the nine months ended September 30, 2002. The following table presents our estimate of amortization expense for the remaining three months of 2003, and for each of the five succeeding fiscal years:

	(in thousands)
For the three month period ending December 31, 2003	\$ 2,389
For the years ending December 31,:	
2004	\$ 9,060
2005	\$ 5,440
2006	\$ 352
2007	\$ 352
2008	\$ 227

The following table presents details of our other intangible assets at September 30, 2003 and December 31, 2002:

	September 30, 2003			December 31, 2002		
	Cost	Accumulated Amortization	Net	Cost	Accumulated Amortization	Net
	(in thousands)					
Other intangible assets:						
Subscriber contracts	\$ 85,496	\$ 73,466	\$ 12,030	\$ 85,496	\$ 68,284	\$ 17,212
Provider contracts	12,128	7,468	4,660	12,128	5,644	6,484
Government contracts	11,820	11,820	—	11,820	9,764	2,056
Licenses and other	5,065	1,322	3,743	5,065	1,161	3,904
Total other intangible assets	\$ 114,509	\$ 94,076	\$ 20,433	\$ 114,509	\$ 84,853	\$ 29,656

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

(6) Comprehensive Income

The following table presents details supporting the computation of comprehensive income for the three and nine months ended September 30, 2003 and 2002:

	Three months ended September 30,		Nine months ended September 30,	
	2003	2002	2003	2002
	(in thousands)			
Net income	\$62,119	\$52,331	\$162,625	\$144,460
Net unrealized investment (losses) gains, net of tax	(9,753)	17,184	(2,369)	24,149
Comprehensive income, net of tax	\$52,366	\$69,515	\$160,256	\$168,609

(7) Earnings Per Common Share

We compute basic earnings per common share on the basis of the weighted average number of unrestricted common shares outstanding. Diluted earnings per common share is computed on the basis of the weighted average number of unrestricted common shares outstanding plus the dilutive effect of outstanding employee stock options and restricted shares using the treasury stock method. There were no adjustments required to be made to net income for purposes of computing basic or diluted earnings per common share.

The following table presents details supporting the computation of basic and diluted earnings per common share for the three and nine months ended September 30, 2003 and 2002:

	Three months ended September 30,		Nine months ended September 30,	
	2003	2002	2003	2002
	(in thousands, except per share results)			
Net income available for common stockholders	\$62,119	\$52,331	\$162,625	\$144,460
Weighted average outstanding shares of common stock used to compute basic earnings per common share	159,454	163,933	158,202	164,348
Dilutive effect of:				
Stock options	1,713	885	872	1,107
Restricted stock	1,382	2,716	2,310	2,787
Shares used to compute diluted earnings per common share	162,549	167,534	161,384	168,242
Basic earnings per common share	\$0.39	\$0.32	\$1.03	\$0.88
Diluted earnings per common share	\$0.38	\$0.31	\$1.01	\$0.86
Number of antidilutive stock options excluded from computation	1,568	5,081	4,427	4,947

Humana Inc.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

(8) Equity

For the nine months ended September 30, 2003, we purchased 2.2 million shares in the open market at a cost of \$20.8 million, or an average of \$9.31 per share under prior authorization by the Board of Directors and 1.4 million shares in connection with employee stock plans at a cost of \$23.3 million, or an average of \$16.27 per share. In July 2003, the Board of Directors authorized an additional use of up to \$100 million for the repurchase of our common shares exclusive of shares repurchased in connection with employee stock plans. No amounts have been repurchased under the July 2003 authorization as of September 30, 2003. The shares may be purchased from time to time at prevailing prices in the open market or in privately negotiated transactions.

For the nine months ended September 30, 2003, capital in excess of par value increased \$16.7 million from the exercise of 1.9 million employee stock options and \$13.6 million from the excess tax benefit associated with the August 7, 2003 vesting of 3.9 million shares of restricted stock and the exercise of 1.9 million employee stock options.

(9) Guarantees and Contingencies

Guarantees

Our 5-year and 7-year airplane operating leases provide for a residual value guarantee of no more than \$13.6 million at the end of the lease terms which expire December 29, 2004 for the 5-year leases and January 1, 2010 for the 7-year lease. We have the right to exercise a purchase option with respect to the leased equipment or the equipment can be sold to a third party. If we decide not to exercise our purchase option at the end of the lease, we must pay the lessor a maximum amount of \$8.8 million related to the 5-year leases and \$4.8 million related to the 7-year lease. The amount will be reduced by the net sales proceeds of the airplanes to a third party. A \$1.7 million gain in connection with a 1999 sale/leaseback transaction is being deferred until the residual value guarantee is resolved at the end of the lease. After considering the current fair value of the airplanes and any deferred gain, we do not believe that we will have any exposure from the residual value guarantee at the end of the lease because we will exercise the purchase obligation, or the net proceeds from the sale of the airplanes will exceed the maximum amount payable to the lessor. During the second quarter of 2003, we terminated one 5-year airplane lease early. The impact of this transaction was not material.

We have \$19.2 million in undrawn letters of credit outstanding at September 30, 2003. Letters of credit totaling \$13.7 million have been issued to ensure our payment to a beneficiary for assumed obligations of our wholly owned captive insurance subsidiary related to pre-1993 professional liability risks for which the beneficiary remains directly liable. Other letters of credit totaling \$5.5 million were issued to ensure our payment to various beneficiaries for miscellaneous contractual obligations. These letters of credit are required to be renewed automatically on an annual basis unless the beneficiary otherwise notifies us. Over the past 10 years, we have not had to fund any letters of credit.

Through indemnity agreements approved by the state regulatory authorities, certain of our regulated subsidiaries generally are guaranteed by Humana Inc., our parent company, in the event of insolvency for one, member coverage for which premium payment has been made prior to insolvency; two, benefits for members then hospitalized until discharged; and three, payment to providers for services rendered prior to insolvency.

Government Contracts

Our Medicare+Choice contracts with the federal government are renewed for a one-year term each December 31 unless notice of termination is received at least 90 days prior thereto. Separate legislative proposals to add a prescription drug benefit and increase private plan options for the program passed by both houses are currently being debated by House and Senate conferees. Although President Bush's deadline for passage of this legislation has passed, negotiations are still underway. There is considerable uncertainty regarding the passage of a final bill and we are unable to predict the provisions of any final bill that would emerge from the Conference Committee or its impact on our financial position, results of operations or cash flows.

We have extended our current TRICARE contracts with the Department of Defense. The contract for Regions 2 and 5 was extended to April 30, 2004 and the contract for Regions 3 and 4 was extended to June 30, 2004, each subject to a one-year renewal at the Government's option. We believe these extensions should continue our contracts until the new TRICARE transition described below.

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On August 21, 2003, the Department of Defense notified us that we were awarded the contract for the South Region, one of three newly created regions under the government's revised TRICARE Program. The Department of Defense's bid process provided that a bidder could be awarded only one prime contract, although a bidder would be allowed to participate in another prime contract as a subcontractor. Aetna Government Health Plans, LLC, a subsidiary of Aetna, Inc., submitted a bid for the North Region contract with us as a subcontractor. HealthNet Federal Services, Inc., a subsidiary of HealthNet, Inc., was awarded the North Region contract in August 2003.

Pursuant to the Department of Defense's bid process, each of the three awards is subject to protests by unsuccessful bidders of prime contracts. Protests have been filed that affect the contract awards in each of the three regions. The transition to the new regions is not expected until at least mid to late 2004, subject to the final outcome of the pending appeals.

In addition, retail pharmacy benefits for TRICARE beneficiaries will be administered separately under the new Department of Defense TRICARE Retail Pharmacy Program. On September 26, 2003, we were notified that we were not awarded the retail pharmacy contract. Under government contract procurement regulations, we have the right to protest the award decision, which we did on October 14, 2003. We do not believe the loss of the retail pharmacy contract or the ultimate outcome of our appeal will have a material adverse effect on our financial position, results of operations and cash flows.

We currently have Medicaid contracts with the Puerto Rico Health Insurance Administration through June 30, 2005, subject to each party agreeing upon annual rates. In July 2003, we signed amendments to the Puerto Rico Medicaid contracts regarding a premium rate increase for the annual period ending June 30, 2004. Our other Medicaid contracts are in Florida and Illinois, and are annual contracts. As of September 30, 2003, Puerto Rico accounted for approximately 84% of our total Medicaid membership.

The loss of any of our existing government contracts or significant changes in these programs as a result of legislative action, including reductions in premium payments to us, or increases in member benefits without corresponding increases in premium payments to us, may have a material adverse effect on our financial position, results of operations, and cash flows.

Legal Proceedings

Securities Litigation

In late 1997, three purported class action complaints were filed in the United States District Court for the Southern District of Florida by former stockholders of Physician Corporation of America, or PCA, against PCA and certain of its former directors and officers. We acquired PCA by a merger that became effective on September 8, 1997. The three actions were consolidated into a single action entitled *In re Physician Corporation of America Securities Litigation*. The consolidated complaint alleges that PCA and the individual defendants knowingly or recklessly made false and misleading statements in press releases and public filings with respect to the financial and regulatory difficulties of PCA's workers' compensation business. On July 24, 2002, the Court denied the defendants' motion for summary judgment and set the case on the Court's trial calendar for December 2, 2002. The Court subsequently postponed the trial subject to the plaintiff's motion for class certification, which was granted on May 20, 2003. On June 4, 2003, the defendants requested the Court of Appeals for the Eleventh Circuit to grant permission to appeal the class certification order. Thereafter, the parties reached agreement to settle the case for the amount of \$10.2 million. The settlement agreement is subject to notice to the class and approval by the Court. A final hearing on the settlement is scheduled for November 24, 2003. A provision for the settlement was previously made in our financial statements during the fourth quarter of 2002. The Company has pursued insurance coverage for this matter from two insurers, each of which has denied coverage. The Company intends to continue to pursue the insurance proceeds.

Managed Care Industry Purported Class Action Litigation

We have been involved in several purported class action lawsuits that are part of a wave of generally similar actions that target the health care payer industry and particularly target managed care companies. These include a lawsuit against us and nine of our competitors that purports to be brought on behalf of physicians who have treated our members. As a result of action by the Judicial Panel on Multi District Litigation, the case was consolidated in the United States District Court for the Southern District of Florida, and has been styled *In re Managed Care Litigation*.

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The plaintiffs assert that we and other defendants improperly paid providers' claims and "downcoded" their claims by paying lesser amounts than they submitted. The complaint alleges, among other things, multiple violations under RICO as well as various breaches of contract and violations of regulations governing the timeliness of claim payments. We moved to dismiss the complaint on September 8, 2000, and the other defendants filed similar motions thereafter. On March 2, 2001, the Court dismissed certain of the plaintiffs' claims pursuant to the defendants' several motions to dismiss. However, the Court allowed the plaintiffs to attempt to correct the deficiencies in their complaint with an amended pleading with respect to all of the allegations except a claim under the federal Medicare regulations, which was dismissed with prejudice. The Court also left undisturbed the plaintiffs' claims for breach of contract. On March 26, 2001, the plaintiffs filed their amended complaint, which, among other things, added four state or county medical associations as additional plaintiffs. Two of those, the Denton County Medical Society and the Texas Medical Association, purport to bring their actions against us, as well as against several other defendant companies. The Medical Association of Georgia and the California Medical Association purport to bring their actions against various other defendant companies. The associations seek injunctive relief only. The defendants filed a motion to dismiss the amended complaint on April 30, 2001.

On September 26, 2002, the Court granted the plaintiffs' request to file a second amended complaint, adding additional plaintiffs, including the Florida Medical Association, which purports to bring its action against all defendants. On October 21, 2002, the defendants moved to dismiss the second amended complaint. The Court has not yet ruled on that motion.

Also on September 26, 2002, the Court certified a global class consisting of all medical doctors who provided services to any person insured by any defendant from August 4, 1990, to September 26, 2002. The class includes two subclasses. A national subclass consists of medical doctors who provided services to any person insured by a defendant when the doctor has a claim against such defendant and is not required to arbitrate that claim. A California subclass consists of medical doctors who provided services to any person insured in California by any defendant when the doctor was not bound to arbitrate the claim. On October 10, 2002, the defendants asked the Court of Appeals for the Eleventh Circuit to review the class certification decision. On November 20, 2002, the Court of Appeals agreed to review the class issue. The appellate court heard oral argument on September 11, 2003. Discovery is ongoing, and the Court has set a trial date of June 30, 2004. In the meantime, Aetna Inc., announced on May 22, 2003, that it has entered into a settlement agreement with the plaintiffs. Another defendant, Cigna Corporation, entered into a settlement agreement September 4, 2003. The agreements have been filed with the Court and are subject to approval by the Court.

We intend to defend this action vigorously.

Other

The Academy of Medicine of Cincinnati, the Butler County Medical Society, the Northern Kentucky Medical Society, and several physicians filed antitrust suits in state courts in Ohio and Kentucky against Aetna Health, Inc., Humana Health Plan of Ohio, Inc., Anthem Blue Cross Blue Shield, and United Healthcare of Ohio, Inc., alleging that the defendants have violated the Ohio and Kentucky antitrust laws by conspiring to fix the reimbursement rates paid to physicians in the Greater Cincinnati and Northern Kentucky region. Each suit seeks class certification, damages and injunctive relief. Plaintiffs cite no evidence that any such conspiracy existed, but base their allegations on assertions that physicians in the Greater Cincinnati region are paid less than physicians in other major cities in Ohio and Kentucky.

The state courts in Ohio and Kentucky each denied motions by the defendants to compel arbitration or alternatively to dismiss. Defendants filed notices of appeal with respect to the orders denying arbitration. The Ohio court agreed to stay proceedings pending resolution of the appeal. The Kentucky court granted a similar request with respect to the physician plaintiffs, who are subject to arbitration agreements, but denied the requested stay with respect to the association plaintiffs and any physician plaintiffs whose contracts do not contain arbitration provisions. Defendants requested a stay from the Kentucky Court of Appeals pending appeal of the arbitration issue. The Court of Appeals denied the stay, and discovery began in the Kentucky action. The plaintiffs filed

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motions to certify a class in each case. The purported classes allegedly consist of all physicians who have practiced medicine at any time since January 1, 1992, in a four county region in Southwestern Ohio or a three county region in Northern Kentucky.

On October 23, 2003, we entered into a settlement agreement with the plaintiffs that specifies an increase in future reimbursement we pay to a class consisting of physicians in a 12-county area in Southern Ohio and Northern Kentucky over the next three years. We expect to increase the reimbursement, in the aggregate, we will pay physicians for future services over the amounts paid to them in 2003 as follows: \$20 million in 2004, an additional \$15 million in 2005 and an additional \$10 million in 2006. The agreement also provides for a committee to monitor our contracting practices for the period 2007 through 2010, with reporting to us if any anticompetitive behavior is believed to have occurred. The agreement is subject to approval by the courts.

Government Audits and Other Litigation and Proceedings

In July 2000, the Office of the Florida Attorney General initiated an investigation, apparently relating to some of the same matters that are involved in the managed care industry purported class action litigation described above. On September 21, 2001, the Texas Attorney General initiated a similar investigation. No actions have been filed against us by either state. These investigations are ongoing, and we have cooperated with the regulators in both states.

On May 31, 2000, we entered into a five-year Corporate Integrity Agreement, or CIA, with the Office of Inspector General, or OIG, of the Department of Health and Human Services. Under the CIA, we are obligated to, among other things, provide training, conduct periodic audits and make periodic reports to the OIG.

In addition, our business practices are subject to review by various state insurance and health care regulatory authorities and federal regulatory authorities. There has been increased scrutiny by these regulators of the managed health care companies' business practices, including claims payment practices and utilization management practices. We have been and continue to be subject to such reviews. Some of these have resulted in fines and could require changes in some of our practices and could also result in additional fines or other sanctions.

We also are involved in other lawsuits that arise in the ordinary course of our business operations, including claims of medical malpractice, bad faith, nonacceptance or termination of providers, failure to disclose network discounts, and various other provider arrangements, as well as challenges to subrogation practices. We also are subject to claims relating to performance of contractual obligations to providers, members, and others, including failure to properly pay claims and challenges to the use of certain software products in processing claims. Pending state and federal legislative activity may increase our exposure for any of these types of claims.

In addition, several courts, including several federal appellate courts, recently have issued decisions which have the effect of eroding the scope of ERISA preemption for employer-sponsored health plans, thereby exposing us to greater liability for medical negligence claims. This includes decisions which hold that plans may be liable for medical negligence claims in some situations based solely on medical necessity decisions made in the course of adjudicating claims. In addition, some courts have issued rulings which make it easier to hold plans liable for medical negligence on the part of network providers on the theory that providers are agents of the plans and that the plans are therefore vicariously liable for the injuries to members by providers.

Personal injury claims and claims for extracontractual damages arising from medical benefit denials are covered by insurance from our wholly owned captive insurance subsidiary and excess carriers, except to the extent that claimants seek punitive damages, which may not be covered by insurance in certain states in which insurance coverage for punitive damages is not permitted. In addition, insurance coverage for all or certain forms of liability has become increasingly costly and may become unavailable or prohibitively expensive in the future. On January 1, 2002, and again on January 1, 2003, we reduced the amount of coverage purchased from third party insurance carriers and increased the amount of risk we retain due to substantially higher insurance rates.

We do not believe that any pending or threatened legal actions against us or any pending or threatened audits or investigations by state or federal regulatory agencies will have a material adverse effect on our financial position, results of operations, or cash flows. However, the likelihood or outcome of current or future suits, like the purported class action lawsuits described above, or governmental investigations, cannot be accurately predicted with certainty. In addition, the increased litigation, which has accompanied the negative publicity and public perception of our industry, adds to this uncertainty. Therefore, such legal actions and governments audits and investigations could have a material adverse effect on our financial position, results of operations, and cash flows.

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(10) Segment Information

We manage our business with two segments: Commercial and Government. The Commercial segment consists of members enrolled in products marketed to employer groups and individuals, and includes three lines of business: fully insured medical, administrative services only, or ASO, and specialty. The Government segment consists of members enrolled in government-sponsored programs, and includes three lines of business: Medicare+Choice, Medicaid, and TRICARE. We identified our segments in accordance with the aggregation provisions of Statement of Financial Accounting Standards No. 131, *Disclosures About Segments of an Enterprise and Related Information*, which is consistent with information used by our Chief Executive Officer in managing our business. The segment information aggregates products with similar economic characteristics. These characteristics include the nature of customer groups and pricing, benefits and underwriting requirements.

The results of each segment are measured by income before income taxes. We allocate all selling, general and administrative expenses, investment and other income, interest expense, and goodwill, but no other assets or liabilities, to our segments. Members served by our two segments generally utilize the same medical provider networks, enabling us to obtain more favorable contract terms with providers. Our segments also share overhead costs and assets. As a result, the profitability of each segment is interdependent.

Our segment results for the three and nine months ended September 30, 2003 and 2002 are as follows:

	Commercial Segment			
	Three months ended September 30,		Nine months ended September 30,	
	2003	2002	2003	2002
	(in thousands)			
Revenues:				
Premiums:				
Fully insured				
HMO	\$ 710,491	\$ 656,803	\$ 2,174,539	\$ 1,936,472
PPO	856,793	723,094	2,481,317	2,139,959
Total fully insured	1,567,284	1,379,897	4,655,856	4,076,431
Specialty	81,199	84,806	238,737	251,347
Total premiums	1,648,483	1,464,703	4,894,593	4,327,778
Administrative services fees	31,035	26,567	90,981	77,290
Investment and other income	24,700	23,594	83,451	60,145
Total revenues	1,704,218	1,514,864	5,069,025	4,465,213
Operating expenses:				
Medical	1,379,781	1,235,141	4,046,845	3,608,662
Selling, general and administrative	277,981	253,737	838,061	748,691
Depreciation and amortization	16,442	18,052	66,941	52,682
Total operating expenses	1,674,204	1,506,930	4,951,847	4,410,035
Income from operations	30,014	7,934	117,178	55,178
Interest expense	4,062	3,394	10,230	9,650
Income before income taxes	\$ 25,952	\$ 4,540	\$ 106,948	\$ 45,528

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	Government Segment			
	Three months ended September 30,		Nine months ended September 30,	
	2003	2002	2003	2002
	(in thousands)			
Revenues:				
Premiums:				
Medicare+Choice	\$ 626,840	\$ 647,265	\$ 1,893,114	\$ 1,981,931
TRICARE	620,477	521,466	1,627,212	1,484,789
Medicaid	120,498	118,902	357,733	343,389
Total premiums	1,367,815	1,287,633	3,878,059	3,810,109
Administrative services fees	35,949	34,489	108,807	112,610
Investment and other income	3,783	4,641	17,548	18,217
Total revenues	1,407,547	1,326,763	4,004,414	3,940,936
Operating expenses:				
Medical	1,148,342	1,065,880	3,297,689	3,203,086
Selling, general and administrative	180,400	175,282	533,135	529,825
Depreciation and amortization	10,670	12,471	33,291	37,874
Total operating expenses	1,339,412	1,253,633	3,864,115	3,770,785
Income from operations	68,135	73,130	140,299	170,151
Interest expense	675	713	2,243	3,238
Income before income taxes	\$ 67,460	\$ 72,417	\$ 138,056	\$ 166,913

As discussed in Note 4, we recorded non-cash pretax charges related to the writedown and accelerated depreciation of certain long-lived assets of \$30.8 million for the nine months ended September 30, 2003. The following table details the impact of these charges on our Commercial and Government segments:

	For the nine months ended September 30, 2003		
	Commercial	Government	Total
	(in thousands)		
Line item affected:			
Selling, general and administrative	\$ 4,325	\$ 12,908	\$17,233
Depreciation and amortization	13,527	—	13,527
Total pretax impact	\$ 17,852	\$ 12,908	\$30,760

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(11) Debt

The following table presents our short-term and long-term debt outstanding at September 30, 2003 and December 31, 2002:

	September 30, 2003	December 31, 2002
(in thousands)		
Short-term debt:		
Conduit commercial paper financing program	\$ —	\$ 265,000
Long-term debt:		
6.30% senior, unsecured notes due 2018, net of unamortized discount of \$852 at September 30, 2003	\$ 299,148	\$ —
7.25% senior, unsecured notes due 2006, net of unamortized discount of \$412 at September 30, 2003 and \$521 at December 31, 2002	299,588	299,479
Fair value of interest rate swap agreements	12,047	34,889
Deferred gain from interest rate swap exchange	28,578	—
Total senior notes	639,361	334,368
Other long-term borrowings	5,079	5,545
Total long-term debt	\$ 644,440	\$ 339,913

Senior Notes

On August 5, 2003, we issued \$300 million 6.30% senior notes due August 1, 2018. Our net proceeds, reduced for the cost of the offering, were approximately \$295.7 million. The net proceeds are being used for general corporate purposes, including the funding of our short term cash needs.

In order to hedge the risk of changes in the fair value of our \$300 million 6.30% senior notes and our \$300 million 7.25% senior notes attributable to fluctuations in interest rates, we entered into interest rate swap agreements. Interest rate swap agreements, which are considered derivatives, are contracts that exchange interest payments on a specified principal amount, or notional amount, for a specified period. Changes in the fair value of the 6.30% or 7.25% senior notes and the swap agreements due to changing interest rates are assumed to offset each other completely, resulting in no impact to earnings from hedge ineffectiveness. Our swap agreements are recognized in our consolidated balance sheet at fair value with an equal and offsetting adjustment to the carrying value of our senior notes. The fair value of our interest rate swap agreements are estimated based on quoted market prices of comparable agreements, and reflect the amounts we would receive (or pay) to terminate the agreements at the reporting date.

Our interest rate swap agreements exchange the fixed interest rate under our 6.30% and 7.25% senior notes for a variable interest rate. At September 30, 2003, the variable interest rate was 2.04% for the 6.30% senior notes and 6.27% for the 7.25% senior notes. The \$300 million swap agreements for the 6.30% senior notes mature on August 1, 2018, and the \$300 million swap agreements for the 7.25% senior notes mature on August 1, 2006, and each has the same critical terms as the related senior notes.

In June 2003, we recorded a deferred gain and received proceeds of \$31.6 million in exchange for new swap agreements having current market terms related to our 7.25% senior notes. The new swap agreements have the same critical terms as our 7.25% senior notes. The corresponding deferred swap gain of \$31.6 million is being amortized to reduce interest expense over the remaining term of the 7.25% senior notes. The carrying value of our 7.25% senior notes has been increased \$28.6 million by the remaining deferred swap gain balance at September 30, 2003.

At September 30, 2003, the \$12.0 million fair value of our swap agreements is included in other long-term assets. Likewise, the carrying value of our senior notes has been increased \$12.0 million to its fair value. The counterparties to our swap agreements are major financial institutions with which we also have other financial relationships.

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Credit Agreements

We maintain two unsecured revolving credit agreements consisting of a \$265 million, 4-year revolving credit agreement and a \$265 million, 364-day revolving credit agreement with a one-year term out option. A one year term out option converts the outstanding borrowings, if any, under the credit agreement to a one year term loan upon expiration. The 4-year revolving credit agreement expires in October 2005. In October 2003, for the second time, we renewed the 364-day revolving credit agreement which expires in October 2004, unless extended.

There were no balances outstanding under either agreement at September 30, 2003. Under these agreements, at our option, we can borrow on either a competitive advance basis or a revolving credit basis. The revolving credit portion of both agreements bear interest at either a fixed rate or floating rate based on LIBOR plus a spread. The spread, which varies depending on our credit ratings, ranges from 80 to 125 basis points for our 4-year agreement, and 85 to 137.5 basis points for our 364-day agreement. We also pay an annual facility fee regardless of utilization. This facility fee, currently 25 basis points, may fluctuate between 15 and 50 basis points, depending upon our credit ratings. The competitive advance portion of any borrowings under either credit agreement will bear interest at market rates prevailing at the time of borrowing on either a fixed rate or a floating rate basis, at our option.

These credit agreements, and the agreement relating to the conduit commercial paper program described below, contain customary restrictive and financial covenants as well as customary events of default, including financial covenants regarding the maintenance of net worth, and minimum interest coverage and maximum leverage ratios. At September 30, 2003, we were in compliance with all applicable financial covenant requirements. The terms of each of these credit agreements also include standard provisions related to conditions of borrowing, including a customary material adverse effect clause which could limit our ability to borrow. We have not experienced a material adverse effect and we know of no circumstances or events which would be reasonably likely to result in a material adverse effect. We do not believe the material adverse effect clause poses a material funding risk to Humana in the future.

Commercial Paper Programs

We maintain indirect access to the commercial paper market through our conduit commercial paper financing program. Under this program, a third party issues commercial paper and loans the proceeds of those issuances to us so that the interest and principal payments on the loans match those on the underlying commercial paper. The \$265 million, 364-day revolving credit agreement supports the conduit commercial paper financing program of up to \$265 million. At September 30, 2003, we had no conduit commercial paper borrowings outstanding.

We also maintain and may issue short-term debt securities under a commercial paper program when market conditions allow. The program is backed by our credit agreements described above. Under the terms of our credit agreements, aggregate borrowings under both the credit agreements and commercial paper program cannot exceed \$530 million.

Other Borrowings

Other borrowings of \$5.1 million at September 30, 2003 represent financing for the renovation of a building, bear interest at 2%, are collateralized by the building, and are payable in various installments through 2014.

Humana Inc.
MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The consolidated financial statements of Humana Inc. in this document present the Company's financial position, results of operations and cash flows, and should be read in conjunction with the following discussion and analysis. References to "we," "us," "our," "Company," and "Humana" mean Humana Inc. and its subsidiaries. This discussion includes forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. When used in this filing and in future filings with the Securities and Exchange Commission, in our press releases, investor presentations, and in oral statements made by or with the approval of one of our executive officers, the words or phrases like "expects," "anticipates," "intends," "likely will result," "estimates," "projects" or variations of such words and similar expressions are intended to identify such forward-looking statements. These forward-looking statements are not guarantees of future performance and are subject to risks, uncertainties and assumptions, including, among other things, information set forth in the "Cautionary Statements" section of this document. In light of these risks, uncertainties and assumptions, the forward-looking events discussed in this document might not occur. There may also be other risks that we are unable to predict at this time. Any of these risks and uncertainties may cause actual results to differ materially from the results discussed in the forward-looking statements.

Introduction

Headquartered in Louisville, Kentucky, Humana is one of the nation's largest publicly traded health benefits companies, based on our 2002 revenues of \$11.3 billion. We offer coordinated health insurance coverage and related services through a variety of traditional and Internet-based plans for employer groups, government-sponsored programs, and individuals. As of September 30, 2003, we had approximately 6.6 million members in our medical insurance programs, as well as approximately 1.6 million members in our specialty products programs.

We manage our business with two segments: Commercial and Government. The Commercial segment consists of members enrolled in products marketed to employer groups and individuals, and includes three lines of business: fully insured medical, administrative services only, or ASO, and specialty. The Government segment consists of members enrolled in government-sponsored programs, and includes three lines of business: Medicare+Choice, Medicaid, and TRICARE. We identified our segments in accordance with the aggregation provisions of Statement of Financial Accounting Standards No. 131, *Disclosures About Segments of an Enterprise and Related Information*, which is consistent with information used by our Chief Executive Officer in managing our business. The segment information aggregates products with similar economic characteristics. These characteristics include the nature of customer groups and pricing, benefits and underwriting requirements.

The results of each segment are measured by income before income taxes. We allocate all selling, general and administrative expenses, investment and other income, interest expense, and goodwill, but no other assets or liabilities, to our segments. Members served by our two segments generally utilize the same medical provider networks, enabling us to obtain more favorable contract terms with providers. Our segments also share overhead costs and assets. As a result, the profitability of each segment is interdependent.

Our business strategy centers on increasing Commercial segment profitability while maintaining our existing strength in the Government segment. Our strategy to increase Commercial segment profitability focuses on providing solutions for employers to the rising cost of health care through the use of innovative and consumer-centric product designs which are supported by service excellence and advanced electronic capabilities, including education, tools and technologies for our members provided primarily through the Internet. The intent of our Commercial segment strategy is to enable us to further penetrate commercial markets with potential for profitable growth and to transform the traditional consumer experience for both employers and members to result in a high degree of consumer engagement, satisfaction, loyalty and brand awareness.

Restructuring Charge

During the fourth quarter of 2002, we finalized a plan to realign our administrative cost structure with the consolidation of seven customer service centers into four and an enterprise-wide workforce reduction.

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The following table presents a rollforward of the restructuring charge for the year ended December 31, 2002 and the nine months ended September 30, 2003:

	Severance			Total
	No. of Employees	Cost	Lease Discontinuance	
(dollars in thousands)				
<u>Year ended December 31, 2002</u>				
Provision	2,600	\$ 32,105	\$ 1,324	\$ 33,429
Cash payments	(500)	(910)	—	(910)
Balance at December 31, 2002	2,100	31,195	1,324	32,519
<u>Nine months ended September 30, 2003</u>				
Cash payments	(1,600)	(16,085)	(800)	(16,885)
Balance at September 30, 2003	500	\$ 15,110	\$ 524	\$ 15,634

Severance

During the fourth quarter of 2002, we recorded severance and related employee benefit costs of \$32.1 million (\$19.6 million after tax) in connection with the customer service center consolidation and an enterprise-wide workforce reduction. Severance costs were estimated based upon the provisions of the Company's existing employee benefit plans and policies. The plan to reduce our administrative cost structure is expected to ultimately affect approximately 2,600 positions throughout the entire organization, including customer service, claim administration, clinical operations, provider network administration, as well as other corporate and field-based positions. As of September 30, 2003, approximately 2,100 positions had been eliminated. Severance is paid biweekly resulting in payments in periods subsequent to termination. We expect additional positions will be eliminated by December 31, 2003, and the remaining positions eliminated no later than June 30, 2004.

Long-lived Asset Charge

Impairment

Our decision to eliminate the Jacksonville, Florida, San Antonio, Texas and Madison, Wisconsin customer service centers during the fourth quarter of 2002 prompted a review for the possible impairment of long-lived assets associated with these centers. Assets under operating leases supported the Madison service center and, therefore, were not applicable to our impairment analysis. Under a transition plan, we continued to use the long-lived assets of the Jacksonville and San Antonio customer service centers until mid-2003, the completion date for consolidating these two customer service centers. The long-lived assets of our customer service centers were supported by the future cash flows expected to result from members serviced by those centers. Cash flows from members serviced by a particular service center represented the lowest level of independently identifiable cash flows. For example, cash flows from members located primarily in the state of Florida and serviced by the Jacksonville service center supported the Jacksonville center's long-lived assets until those members' service was transitioned elsewhere.

Our impairment review during the fourth quarter of 2002 indicated that estimated undiscounted cash flows expected to result from the remaining use of the San Antonio, Texas customer service center long-lived assets, primarily buildings, were insufficient to recover their carrying value. Accordingly, we reduced the carrying value of these long-lived assets to their estimated fair value resulting in a non-cash impairment charge of \$2.4 million (\$1.5 million after tax) during the fourth quarter of 2002.

Unlike our San Antonio impairment review, a greater number of more profitable members in Florida caused the estimated undiscounted cash flows expected to result from the remaining use of the Jacksonville, Florida customer service center's long-lived assets, primarily a building, to exceed the carrying value as of the fourth quarter of 2002 impairment review. However, impairment was triggered during the first quarter of 2003 with the passage of time and the approaching date for closing the center. As members serviced by the Jacksonville, Florida customer service center were transferred to other service centers during 2003, the undiscounted cash flows expected from the remaining members serviced by the center fell during the first quarter of 2003 to a level no longer supporting the carrying value of the center's long-lived assets. Accordingly, we reduced the carrying value of these long-lived assets to their estimated fair value resulting in a non-cash impairment charge of approximately \$17.2 million (\$10.5 million after tax) during the first quarter of 2003.

We used an independent third party appraisal to assist us in evaluating the fair value of the buildings. The non-cash impairment charges are included with selling, general and administrative expenses in the accompanying consolidated statements of income.

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We are in the process of selling the buildings previously used in our Jacksonville and San Antonio customer service operations and have classified them as held for sale. The carrying amount of the buildings approximated \$27.6 million at September 30, 2003 based on their fair value less estimated costs to sell the buildings. We are no longer depreciating these buildings effective July 1, 2003. The impact of ceasing depreciation of the buildings was not material to our results of operations.

Accelerated Depreciation

After finalizing plans during the first quarter of 2003 to abandon software used in the Jacksonville, Florida operations by March 2003, we reduced the estimated useful life of the software effective January 1, 2003. Accordingly, we accelerated the depreciation of the remaining software balance of approximately \$13.5 million (\$8.3 million after tax) during the first quarter of 2003.

The following table details the impact of the non-cash pretax charges related to the writedown and accelerated depreciation of certain long-lived assets on our Commercial and Government segments for the nine months ended September 30, 2003:

	For the nine months ended September 30, 2003		
	Commercial	Government	Total
	(in thousands)		
Line item affected:			
Selling, general and administrative	\$ 4,325	\$ 12,908	\$ 17,233
Depreciation and amortization	13,527	—	13,527
Total pretax impact	\$ 17,852	\$ 12,908	\$ 30,760

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Comparison of Results of Operations

The following table presents certain consolidated financial data for our two segments for the three and nine months ended September 30, 2003 and 2002:

	Three months ended September 30,		Nine months ended September 30,	
	2003	2002	2003	2002
(in thousands, except ratios)				
Premium revenues:				
Fully insured	\$ 1,567,284	\$ 1,379,897	\$ 4,655,856	\$ 4,076,431
Specialty	81,199	84,806	238,737	251,347
Total Commercial	1,648,483	1,464,703	4,894,593	4,327,778
Medicare+Choice	626,840	647,265	1,893,114	1,981,931
TRICARE	620,477	521,466	1,627,212	1,484,789
Medicaid	120,498	118,902	357,733	343,389
Total Government	1,367,815	1,287,633	3,878,059	3,810,109
Total	\$ 3,016,298	\$ 2,752,336	\$ 8,772,652	\$ 8,137,887
Administrative services fees:				
Commercial	\$ 31,035	\$ 26,567	\$ 90,981	\$ 77,290
Government	35,949	34,489	108,807	112,610
Total	\$ 66,984	\$ 61,056	\$ 199,788	\$ 189,900
Medical expense ratios:				
Commercial	83.7%	84.3%	82.7%	83.4%
Government	84.0%	82.8%	85.0%	84.1%
Total	83.8%	83.6%	83.7%	83.7%
SG&A expense ratios:				
Commercial	16.6%	17.0%	16.8%	17.0%
Government	12.9%	13.3%	13.4%	13.5%
Total	14.9%	15.2%	15.3%	15.4%
Income before income taxes:				
Commercial	\$ 25,952	\$ 4,540	\$ 106,948	\$ 45,528
Government	67,460	72,417	138,056	166,913
Total	\$ 93,412	\$ 76,957	\$ 245,004	\$ 212,441

The following table presents a comparison of our medical membership at September 30, 2003 and 2002:

	September 30,		Change	
	2003	2002	Members	Percentage
Commercial segment medical members:				
Fully insured	2,324,600	2,323,600	1,000	0.0%
ASO	711,800	658,600	53,200	8.1%
Total Commercial	3,036,400	2,982,200	54,200	1.8%
Government segment medical members:				
Medicare+Choice	324,600	349,000	(24,400)	(7.0)%
Medicaid	460,800	506,100	(45,300)	(9.0)%
TRICARE	1,746,300	1,755,700	(9,400)	(0.5)%
TRICARE ASO	1,057,000	1,038,400	18,600	1.8%
Total Government	3,588,700	3,649,200	(60,500)	(1.7)%

Total medical membership	<u>6,625,100</u>	<u>6,631,400</u>	<u>(6,300)</u>	<u>(0.1)%</u>
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The following discussion deals with our results of operations for the three months ended September 30, 2003, or the 2003 quarter, and the three months ended September 30, 2002, or the 2002 quarter, as well as the nine months ended September 30, 2003, or the 2003 period, and the nine months ended September 30, 2002, or the 2002 period.

Overview

Net income was \$62.1 million, or \$0.38 per diluted share in the 2003 quarter compared to \$52.3 million, or \$0.31 per diluted share in the 2002 quarter. Net income was \$162.6 million, or \$1.01 per diluted share in the 2003 period compared to \$144.5 million, or \$0.86 per diluted share in the 2002 period. The increase in net income was driven by the improvement in our Commercial segment. Included in net income for the 2003 period was the previously discussed \$18.8 million after tax, or \$0.12 per diluted share, non-cash charge related to long-lived assets and accelerated depreciation of software partially offset by a \$10.1 million after tax gain, or \$0.06 per diluted share, from the sale of an interest in a privately held venture capital investment. The net impact of these items reduced net income for the 2003 period by \$8.7 million, or \$0.05 per diluted share.

Premium Revenues and Medical Membership

Premium revenues increased 9.6% to \$3.02 billion for the 2003 quarter, compared to \$2.75 billion for the 2002 quarter. For the 2003 period, premium revenues were \$8.77 billion, an increase of 7.8% compared to \$8.14 billion for the 2002 period. Higher premium revenues resulted primarily from increasing fully insured commercial per member premiums. Items impacting per member premiums include changes in premium and government reimbursement rates, as well as changes in the geographic mix of membership, the mix of product offerings, and the mix of benefit plans selected by our membership.

Commercial segment premium revenues increased 12.5% to \$1.65 billion for the 2003 quarter, compared to \$1.46 billion for the 2002 quarter. For the 2003 period, commercial segment premium revenues were \$4.89 billion, an increase of 13.1% compared to \$4.33 billion for the 2002 period. These increases resulted from higher per member premiums on our fully insured commercial business, which were in the 12% to 14% range.

We expect Commercial fully insured and ASO medical membership to achieve a combined increase for all of 2003 in the range of 2% to 3%. We also expect growth of Commercial fully insured per member premiums to range from 12% to 14% for 2003.

Government segment premium revenues increased 6.2% to \$1.37 billion for the 2003 quarter, compared to \$1.29 billion for the 2002 quarter. For the 2003 period, government segment premium revenues were \$3.88 billion, a increase of 1.8% compared to \$3.81 billion for the 2002 period. These increases primarily were attributable to our TRICARE business, partially offset by a reduction in our Medicare+Choice membership. Our annual renewal increased rates under our base TRICARE contract and led to an increase in TRICARE premium revenues of \$99.0 million or 19.0% for the 2003 quarter compared to the 2002 quarter and \$142.4 million or 9.6% for the 2003 period compared to the 2002 period. Medicare+Choice membership was 324,600 at September 30, 2003, compared to 349,000 at September 30, 2002, a decline of 24,400 members, or 7.0%. This decline was due to our exit of various counties on January 1, 2003, as well as attrition of some members leaving our plans in certain markets as a result of new benefit designs. Medicare+Choice per member premiums increased in the 4% to 6% range. We expect Medicare+Choice per member premiums to continue to increase in the 4% to 6% range for 2003 with membership falling to between 325,000 to 330,000 by December 31, 2003.

Administrative Services Fees

Our administrative services fees for the 2003 quarter were \$67.0 million, an increase of \$5.9 million, or 9.7%, from \$61.1 million for the 2002 quarter. For the 2003 period, our administrative services fees were \$199.8 million, an increase of \$9.9 million, or 5.2%, compared to the 2002 period. For the Commercial segment, administrative services fees increased \$4.4 million, or 16.8%, from \$26.6 million for the 2002 quarter to \$31.0 million for the 2003 quarter, and increased \$13.7 million, or 17.7%, from \$77.3 million to \$91.0 million when comparing the 2003 period with the 2002 period. These increases reflect a higher average fee per member and growth in ASO membership of 8.1%, which was 711,800 members at September 30, 2003, compared to 658,600 members at September 30, 2002. Administrative services fees for the Government segment increased \$1.5 million, or 4.2%, when comparing the 2003 quarter with the 2002 quarter, and decreased \$3.8 million, or 3.4%, when comparing the 2003 period with the 2002 period. The changes in Government segment administrative services fees primarily were due to the timing of contractual adjustments related to TRICARE for Life, a program for seniors where we provide medical benefit administrative services.

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Investment and Other Income

Investment and other income totaled \$28.5 million for the 2003 quarter, an increase of \$0.3 million from \$28.2 million for the 2002 quarter, as higher average invested balances compensated for lower investment yields. For the 2003 period, investment and other income totaled \$101.0 million, an increase of \$22.6 million from \$78.4 million for the 2002 period. This increase in the 2003 period primarily resulted from an increase in capital gains consisting primarily of the \$15.2 million pretax gain from the sale of an interest in a privately held venture capital investment.

Medical Expense

The medical expense ratio, or MER, is computed by taking total medical expenses as a percentage of premium revenues. MER for the 2003 quarter was 83.8%, increasing 20 basis points from the 2002 quarter of 83.6%. For the 2003 period, our medical expense ratio was 83.7%, which was the same as the 2002 period.

The Commercial segment's MER for the 2003 quarter was 83.7%, a decrease of 60 basis points from the 2002 quarter of 84.3%. Likewise, the 2003 period's MER decreased 70 basis points to 82.7% from 83.4% in the 2002 period. The improvement in MER primarily resulted from pricing discipline and attrition of groups with a high medical expense ratio. Pricing discipline produces the delivery of premium rate increases commensurate with underlying claims costs to ensure margins.

The Government segment's 84.0% MER for the 2003 quarter increased 120 basis points compared to 82.8% in the 2002 quarter. For the 2003 period, the ratio was 85.0%, an increase of 90 basis points when compared to the 2002 period of 84.1%. The MER increase for the 2003 quarter and 2003 period was primarily due to TRICARE. Our MER for TRICARE was higher than the prior year due primarily to increases in utilization of services. The increase in utilization was largely attributable to an increase in activity and deployments surrounding the military conflicts in the Middle East.

SG&A Expense

Total selling, general and administrative, or SG&A, expenses as a percentage of premium revenues and administrative services fees, or SG&A expense ratio, for the 2003 quarter was 14.9%, a decrease of 30 basis points from the 2002 quarter of 15.2%. For the 2003 period, the SG&A expense ratio was 15.3%, a decrease of 10 basis points when compared to the 2002 period of 15.4%. The 2003 period included \$17.2 million of costs associated with a building writedown in connection with our service center closures, increasing the SG&A ratio 20 basis points.

The SG&A expense ratio for the Commercial segment decreased 40 basis points and 20 basis points, respectively in the 2003 quarter and period compared to the 2002 quarter and period. Likewise, the Government segment's SG&A expense ratio decreased 40 basis points and 10 basis points, respectively, in the 2003 quarter and period compared to the 2002 quarter and period. These decreases were attributable to operational efficiencies gained from completing the consolidation of service centers by the end of the second quarter of 2003. We expect our Commercial segment SG&A ratio to range from 16.5% to 16.9% and our Government segment SG&A ratio to range from 12.8% to 13.2% for the 2003 year.

Depreciation and amortization for the 2003 quarter totaled \$27.1 million compared to \$30.5 million for the 2002 quarter, a decrease of \$3.4 million, or 11.2%. For the 2003 period, depreciation and amortization totaled \$100.2 million compared to \$90.6 million for the 2002 period, an increase of \$9.6 million, or 10.7%. The decrease in the 2003 quarter primarily was due to lower amortization related to other intangible assets as costs associated with an acquired government contract became fully amortized in the second quarter of 2003. The increase in the 2003 period versus the 2002 period is due to the previously discussed accelerated depreciation of software recorded in the first quarter of 2003 of \$13.5 million.

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Interest Expense

Interest expense was \$4.7 million for the 2003 quarter, compared to \$4.1 million for the 2002 quarter, an increase of \$0.6 million, or 15.3%. For the 2003 period, interest expense was \$12.5 million, compared to \$12.9 million for the 2002 period, a decrease of \$0.4 million, or 3.2%. The increase in the 2003 quarter compared to the 2002 quarter primarily was due to the issuance of \$300 million senior notes in August 2003 while the decrease in the 2003 period versus the 2002 period primarily resulted from lower interest rates.

Income Taxes

Our effective tax rate for the 2003 quarter and period was approximately 34% compared to 32% for the 2002 quarter and period. The higher effective tax rate in the 2003 quarter and period resulted primarily from a lower proportion of tax-exempt investment income to pretax income.

Membership

The following table presents our medical and specialty membership at September 30, 2003, June 30, 2003, March 31, 2003, and at the end of each quarter in 2002:

	2003			2002			
	Sept. 30	June 30	March 31	Dec. 31	Sept. 30	June 30	March 31
Medical Membership:							
Commercial segment:							
Fully insured	2,324,600	2,350,400	2,348,800	2,340,300	2,323,600	2,319,600	2,332,400
ASO	711,800	670,300	654,600	652,200	658,600	627,500	621,800
Total Commercial	3,036,400	3,020,700	3,003,400	2,992,500	2,982,200	2,947,100	2,954,200
Government segment:							
Medicare+Choice	324,600	324,200	327,100	344,100	349,000	354,100	363,700
Medicaid	460,800	492,700	491,400	506,000	506,100	487,900	476,800
TRICARE	1,746,300	1,750,800	1,752,500	1,755,800	1,755,700	1,761,000	1,742,300
TRICARE ASO	1,057,000	1,052,500	1,050,800	1,048,700	1,038,400	1,021,900	997,900
Total Government	3,588,700	3,620,200	3,621,800	3,654,600	3,649,200	3,624,900	3,580,700
Total medical members	6,625,100	6,640,900	6,625,200	6,647,100	6,631,400	6,572,000	6,534,900
Specialty Membership:							
Commercial segment	1,639,100	1,642,000	1,650,100	1,640,000	1,629,400	1,638,200	1,659,300

Liquidity

Cash flows provided by operating activities of \$122.9 million for the 2003 period improved from cash flows used in operating activities of \$101.3 million for the 2002 period by \$224.2 million. This increase primarily was attributable to an improvement in earnings and collections of receivables primarily associated with our TRICARE business.

The timing of Medicare+Choice premium receipts significantly impacts cash flows from operations. This timing resulted in only eight monthly Medicare+Choice premium receipts during the 2003 and 2002 periods rather than a normal nine. The Medicare+Choice premium receipt is payable to us on the first day of each month. When the first day of a month falls on a weekend or holiday, we receive this payment at the end of the previous month. This receipt is significant, the timing of which causes material fluctuation in operating cash flows. The Medicare+Choice premium receipts for January 2003 of \$205.8 million and for January 2002 of \$216.6 million were received early in December 2002 and December 2001, respectively, because January 1 is always a holiday.

Medical and other expenses payable increased \$154.4 million from \$1,142.1 million at December 31, 2002 to \$1,296.6 million at September 30, 2003 primarily due to higher medical claims trend and membership levels.

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Total net premium and ASO receivables increased \$55.7 million, or 13.4%, from \$416.9 million at December 31, 2002 to \$472.6 million at September 30, 2003, as presented in the following table:

	September 30, 2003	December 31, 2002	Change	
			Dollars	Percentage
(in thousands)				
TRICARE:				
Base receivable	\$ 275,578	\$ 197,544	\$ 78,034	39.5%
Bid price adjustments (BPAs)	55,141	104,044	(48,903)	(47.0)%
Change orders	2,370	57,630	(55,260)	(95.9)%
	333,089	359,218	(26,129)	(7.3)%
Less: long-term portion of BPAs	—	(86,471)	86,471	100.0%
TRICARE subtotal	333,089	272,747	60,342	22.1%
Commercial	173,644	174,309	(665)	(0.4)%
Allowance for doubtful accounts	(34,097)	(30,178)	(3,919)	(13.0)%
Total net receivables	\$ 472,636	\$ 416,878	\$ 55,758	13.4%

TRICARE base receivables are collected monthly in the ordinary course of business. The timing of BPA collections occurs at contractually specified intervals, typically in excess of 6 months after the end of a contract year. At December 31, 2002, we classified \$86.5 million of the BPA receivables associated with our Regions 3 and 4 TRICARE contract as long-term because the federal government was not contractually obligated to pay us the amounts until January 2004. As of September 30, 2003, since the receivable was due within 12 months, these amounts were classified into current assets and included with premium receivables at September 30, 2003. We also had a net BPA amount, payable within one year under the Regions 3 and 4 contract, of \$23.3 million at December 31, 2002, which required classification in trade accounts payable and accrued expenses in our consolidated balance sheet. As of September 30, 2003, we had a net BPA receivable, rather than payable, under the Regions 3 and 4 contract. Thus, excluding the impact of changes in balance sheet classifications, TRICARE receivables decreased \$2.8 million and total receivables decreased \$7.5 million. Collections of BPA and change order receivables during the 2003 period contributed to the reduction.

Book overdraft increased \$123.9 million to \$218.8 million at September 30, 2003. The timing of normal check processing procedures caused a higher number of claim checks to be outstanding at September 30, 2003 than at December 31, 2002.

Capital Expenditures

Our ongoing capital expenditures relate primarily to our technology initiatives and administrative facilities necessary for activities such as claims processing, billing and collections, medical utilization review and customer service. Total capital expenditures were \$62.5 million for the 2003 period, compared to \$83.6 million for the 2002 period. We expect our total capital expenditures for the full 2003 year to be approximately \$95 million, most of which will be used for our technology initiatives and improvement of administrative facilities.

Stock Repurchase Plan

For the nine months ended September 30, 2003, we purchased 2.2 million shares in the open market at a cost of \$20.8 million, or an average of \$9.31 per share under prior authorization by the Board of Directors and 1.4 million shares in connection with employee stock plans at a cost of \$23.3 million, or an average of \$16.27 per share. In July 2003, the Board of Directors authorized an additional use of up to \$100 million for the repurchase of our common shares exclusive of shares repurchased in connection with employee stock plans. No amounts have been repurchased under the July 2003 authorization as of September 30, 2003. The shares may be purchased from time to time at prevailing prices in the open market or in privately negotiated transactions.

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Debt

The following table presents our short-term and long-term debt outstanding at September 30, 2003 and December 31, 2002:

	September 30, 2003	December 31, 2002
(in thousands)		
Short-term debt:		
Conduit commercial paper financing program	\$ —	\$ 265,000
Long-term debt:		
6.30% senior, unsecured notes due 2018, net of unamortized discount of \$852 at September 30, 2003	\$ 299,148	\$ —
7.25% senior, unsecured notes due 2006, net of unamortized discount of \$412 at September 30, 2003 and \$521 at December 31, 2002	299,588	299,479
Fair value of interest rate swap agreements	12,047	34,889
Deferred gain from interest rate swap exchange	28,578	—
Total senior notes	639,361	334,368
Other long-term borrowings	5,079	5,545
Total long-term debt	\$ 644,440	\$ 339,913

Senior Notes

On August 5, 2003, we issued \$300 million 6.30% senior notes due August 1, 2018. Our net proceeds, reduced for the cost of the offering, were approximately \$295.7 million. The net proceeds are being used for general corporate purposes, including the funding of our short term cash needs.

In order to hedge the risk of changes in the fair value of our \$300 million 6.30% senior notes and our \$300 million 7.25% senior notes attributable to fluctuations in interest rates, we entered into interest rate swap agreements. Interest rate swap agreements, which are considered derivatives, are contracts that exchange interest payments on a specified principal amount, or notional amount, for a specified period. Changes in the fair value of the 6.30% or 7.25% senior notes and the swap agreements due to changing interest rates are assumed to offset each other completely, resulting in no impact to earnings from hedge ineffectiveness. Our swap agreements are recognized in our consolidated balance sheet at fair value with an equal and offsetting adjustment to the carrying value of our senior notes. The fair value of our interest rate swap agreements are estimated based on quoted market prices of comparable agreements, and reflect the amounts we would receive (or pay) to terminate the agreements at the reporting date.

Our interest rate swap agreements exchange the fixed interest rate under our 6.30% and 7.25% senior notes for a variable interest rate. At September 30, 2003, the variable interest rate was 2.04% for the 6.30% senior notes and 6.27% for the 7.25% senior notes. The \$300 million swap agreements for the 6.30% senior notes mature on August 1, 2018, and the \$300 million swap agreements for the 7.25% senior notes mature on August 1, 2006, and each has the same critical terms as the related senior notes.

In June 2003, we recorded a deferred gain and received proceeds of \$31.6 million in exchange for new swap agreements having current market terms related to our 7.25% senior notes. The new swap agreements have the same critical terms as our 7.25% senior notes. The corresponding deferred swap gain of \$31.6 million is being amortized to reduce interest expense over the remaining term of the 7.25% senior notes. The carrying value of our 7.25% senior notes has been increased \$28.6 million by the remaining deferred swap gain balance at September 30, 2003.

At September 30, 2003, the \$12.0 million fair value of our swap agreements is included in other long-term assets. Likewise, the carrying value of our senior notes has been increased \$12.0 million to its fair value. The counterparties to our swap agreements are major financial institutions with which we also have other financial relationships.

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Credit Agreements

We maintain two unsecured revolving credit agreements consisting of a \$265 million, 4-year revolving credit agreement and a \$265 million, 364-day revolving credit agreement with a one-year term out option. A one year term out option converts the outstanding borrowings, if any, under the credit agreement to a one year term loan upon expiration. The 4-year revolving credit agreement expires in October 2005. In October 2003, for the second time, we renewed the 364-day revolving credit agreement which expires in October 2004, unless extended.

There were no balances outstanding under either agreement at September 30, 2003. Under these agreements, at our option, we can borrow on either a competitive advance basis or a revolving credit basis. The revolving credit portion of both agreements bear interest at either a fixed rate or floating rate based on LIBOR plus a spread. The spread, which varies depending on our credit ratings, ranges from 80 to 125 basis points for our 4-year agreement, and 85 to 137.5 basis points for our 364-day agreement. We also pay an annual facility fee regardless of utilization. This facility fee, currently 25 basis points, may fluctuate between 15 and 50 basis points, depending upon our credit ratings. The competitive advance portion of any borrowings under either credit agreement will bear interest at market rates prevailing at the time of borrowing on either a fixed rate or a floating rate basis, at our option.

These credit agreements, and the agreement relating to the conduit commercial paper program described below, contain customary restrictive and financial covenants as well as customary events of default, including financial covenants regarding the maintenance of net worth, and minimum interest coverage and maximum leverage ratios. At September 30, 2003, we were in compliance with all applicable financial covenant requirements. The terms of each of these credit agreements also include standard provisions related to conditions of borrowing, including a customary material adverse effect clause which could limit our ability to borrow. We have not experienced a material adverse effect and we know of no circumstances or events which would be reasonably likely to result in a material adverse effect. We do not believe the material adverse effect clause poses a material funding risk to Humana in the future.

Commercial Paper Programs

We maintain indirect access to the commercial paper market through our conduit commercial paper financing program. Under this program, a third party issues commercial paper and loans the proceeds of those issuances to us so that the interest and principal payments on the loans match those on the underlying commercial paper. The \$265 million, 364-day revolving credit agreement supports the conduit commercial paper financing program of up to \$265 million. At September 30, 2003, we had no conduit commercial paper borrowings outstanding.

We also maintain and may issue short-term debt securities under a commercial paper program when market conditions allow. The program is backed by our credit agreements described above. Under the terms of our credit agreements, aggregate borrowings under both the credit agreements and commercial paper program cannot exceed \$530 million.

Other Borrowings

Other borrowings of \$5.1 million at September 30, 2003 represent financing for the renovation of a building, bear interest at 2%, are collateralized by the building, and are payable in various installments through 2014.

Shelf Registration

On April 1, 2003, our universal shelf registration became effective with the Securities and Exchange Commission. This allows us to register debt or equity securities, from time to time, with the amount, price and terms to be determined at the time of the sale. After the issuance of our \$300 million, 6.30% senior notes, we have up to \$300 million remaining from a total of \$600 million under the universal shelf registration. The universal shelf registration allows us to use the net proceeds from any future sales of our securities for our operations and for other general corporate purposes, including repayment or refinancing of borrowings, working capital, capital expenditures, investments, acquisitions, or the repurchase of our outstanding securities.

Regulatory Requirements

Certain of our subsidiaries operate in states that regulate the payment of dividends, loans or other cash transfers to Humana Inc., our parent company, require minimum levels of equity, and limit investments to approved securities. The amount of dividends that may be paid to Humana Inc. by these subsidiaries, without prior approval by state regulatory authorities, is limited based on the entity's level of statutory income and statutory capital and surplus. In most states, prior notification is provided before paying a dividend even if approval is not required. During the 2003 period, dividends of \$121 million were paid to Humana Inc. by these subsidiaries.

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As of September 30, 2003, we maintained aggregate statutory capital and surplus of an estimated \$1,057 million in our state regulated health insurance subsidiaries. Each of these subsidiaries was in compliance with applicable statutory requirements, which aggregated approximately \$612 million. Although the minimum required levels of equity are largely based on premium volume, product mix, and the quality of assets held, minimum requirements can vary significantly at the state level. Certain states rely on risk-based capital requirements, or RBC, to define the required levels of equity. RBC is a model developed by the National Association of Insurance Commissioners to monitor an entity's solvency. This calculation indicates recommended minimum levels of required capital and surplus and signals regulatory measures should actual surplus fall below these recommended levels. Some states are in the process of phasing in these RBC requirements over a number of years. If RBC were fully implemented by all states at September 30, 2003, each of our subsidiaries would be in compliance, and we would have an estimated \$377 million of aggregate capital and surplus above any of the levels that require corrective action under RBC.

One TRICARE subsidiary under the Regions 3 and 4 contract with the Department of Defense is required to maintain current assets at least equivalent to its current liabilities. We were in compliance with this requirement at September 30, 2003.

Future Liquidity Needs

We believe that funds from future operating cash flows and funds available under our credit agreements and commercial paper program are sufficient to meet future liquidity needs. We also believe these sources of funds together with the ability to issue securities under the shelf registration statement are adequate to allow us to fund selected expansion opportunities, as well as to fund capital requirements.

Cautionary Statements

This document includes both historical and forward-looking statements. The forward-looking statements are made within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. We intend such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995, and we are including this statement for purposes of complying with these safe harbor provisions. We have based these forward-looking statements on our current expectations and projections about future events. These forward-looking statements are not guarantees of future performance and are subject to risks, uncertainties and assumptions, including, among other things, the information discussed below. In making these statements, we are not undertaking to address or update each factor in future filings or communications regarding our business or results. Our business is highly complicated, regulated and competitive with many different factors affecting results.

If the premiums we charge are insufficient to cover the cost of health care services delivered to our members, or if our estimates of medical claim reserves based upon our estimates of future medical claims are inadequate, our profitability could decline.

We use a significant portion of our revenues to pay the costs of health care services delivered to our members. These costs include claims payments, capitation payments, allocations of some centralized expenses and various other costs incurred to provide health insurance coverage to our members. These costs also include estimates of future payments to hospitals and others for medical care provided to our members. Generally, premiums in the health care business are fixed for one-year periods. Accordingly, costs we incur in excess of our medical cost projections generally are not recovered in the contract year through higher premiums. We estimate the costs of our future medical claims and other expenses using actuarial methods and assumptions based upon claim payment patterns, medical inflation, historical developments, including claim inventory levels and claim receipt patterns, and other relevant factors. We also record medical claims reserves for future payments. We continually review estimates of future payments relating to medical claims costs for services incurred in the current and prior periods and make necessary adjustments to our reserves. However, increases in the use or cost of services by our members, competition, government regulations and many other factors may and often do cause actual health care costs to exceed what was estimated and reflected in premiums.

These factors may include:

- increased use of medical facilities and services, including prescription drugs;
- increased cost of such services;

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- termination of capitation arrangements resulting in the transfer of membership to fee-for-service arrangements;
- changes or reductions of our utilization management functions such as preauthorization of services, concurrent review or requirements for physician referrals;
- catastrophes or epidemics;
- the introduction of new or costly treatments, including new technologies;
- medical cost inflation;
- new government mandated benefits or other regulatory changes; and
- increased use of health care, including doctors' office visits and prescriptions resulting from terrorists' attacks and subsequent terrorist threats, including bioterrorism.

Failure to adequately price our products or estimate sufficient medical claim reserves may result in a material adverse effect on our financial position, results of operations and cash flows.

If we do not design and price our products properly and competitively, our membership and profitability could decline.

We are in a highly competitive industry. Many of our competitors are more established in the health care industry and have a larger market share and greater financial resources than we do in some markets. In addition, other companies may enter our markets in the future. Contracts for the sale of commercial products are generally bid upon or renewed annually. While health plans compete on the basis of many factors, including service and the quality and depth of provider networks, we expect that price will continue to be a significant basis of competition. In addition to the challenge of controlling health care costs, we face competitive pressure to contain premium prices.

Premium increases, introduction of new product designs, and our relationship with our providers in various markets, among other issues, could affect our membership levels. Other actions that could affect membership levels include the possible exit of or entrance to Medicare+Choice or Commercial markets. If we do not compete effectively in our markets, if we set rates too high or too low in highly competitive markets to keep or increase our market share, if membership does not increase as we expect, or if it declines, or if we lose accounts with favorable medical cost experience while retaining accounts with unfavorable medical cost experience, our business and results of operations could be materially adversely affected.

If we fail to effectively implement our operational and strategic initiatives, our business could be materially adversely affected.

Our future performance depends in large part upon our management team's ability to execute our strategy to position the company for the future. This strategy includes the growth of our Commercial segment business, introduction of new products and benefit designs, including our Smart products, the successful implementation of our e-business initiatives and the selection and adoption of new technologies. We believe that the adoption of new technologies will contribute toward a reduction in administrative costs as we more closely align our workforce with our membership. Additionally, we have consolidated our service centers and their related systems as part of our operational initiatives. There can be no assurance that we will be able to successfully implement our operational and strategic initiatives that are intended to position the company for future growth. Failure to implement this strategy may result in a material adverse effect on our financial position, results of operations and cash flows.

If we fail to continue to properly maintain the integrity of our data or to strategically implement new information systems, our business could be materially adversely affected.

Our business depends significantly on effective information systems and the integrity and timeliness of the data we use to run our business. Our business strategy involves providing members and providers with easy to use products that leverage our information to meet their needs. Our ability to adequately price our products and services, provide effective and efficient service to our customers, and to accurately report our financial results depends significantly on the integrity of the data in our information systems. As a result of our past acquisition activities, we have acquired additional systems. We have been taking steps to reduce the number of systems we operate, have upgraded and expanded our information systems capabilities, and are gradually migrating existing business to fewer systems. If the information we rely upon to run our businesses was found to be inaccurate or unreliable or if we fail to maintain effectively our information systems and data integrity, we could have operational disruptions, have problems in determining medical cost estimates and establishing appropriate pricing, have customer and physician

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and other health care provider disputes, have regulatory problems, have increases in operating expenses, lose existing customers, have difficulty in attracting new customers, or suffer other adverse consequences. Our information systems require an ongoing commitment of significant resources to maintain and enhance existing systems and develop new systems to keep pace with continuing changes in information processing technology, evolving industry and regulatory standards, and changing customer preferences.

We depend on independent third parties for significant portions of our systems-related support, equipment, facilities, and certain data, including data center operations, data network, voice communication services and pharmacy data processing. This dependence makes our operations vulnerable to such third parties' failure to perform adequately under the contract, due to internal or external factors. Due to continued consolidation in the industry, there are a limited number of service organizations with the size, scale and capabilities to effectively provide certain of these services, especially with regard to pharmacy benefits processing and management, we believe that other organizations could provide similar services on comparable terms. A change in service providers, however, could result in a decline in service quality and effectiveness or less favorable contract terms which could adversely affect our operating results.

There can be no assurance that our process of improving existing systems, developing new systems to support our operations and improving service levels will not be delayed or that additional systems issues will not arise in the future. Failure to adequately maintain the integrity of our information systems and data may result in a material adverse effect on our financial positions, results of operations and cash flows.

If we fail to manage prescription drug costs successfully, our financial results could suffer.

In general, prescription drug costs have been rising over the past few years. These increases are due to the introduction of new drugs costing significantly more than existing drugs, direct to consumer advertising by the pharmaceutical industry that creates consumer demand for particular brand-name drugs, and members seeking medications to address lifestyle changes. In order to control prescription drug costs, we have implemented multi-tiered copayment benefit designs for prescription drugs, including our four-tiered copayment benefit design, Rx4 and an Rx allowance program. We are also evaluating other multi-tiered designs. We cannot assure that these efforts will be successful in controlling costs. Failure to control these costs could have a material adverse effect on our financial position, results of operations and cash flows.

We are involved in various legal actions, which, if resolved unfavorably to us, could result in substantial monetary damages.

We are a party to a variety of legal actions that affect our business, including employment and employment discrimination-related suits, employee benefit claims, breach of contract actions, and tort claims.

We and some of our competitors in the health benefits business are defendants in a number of purported class action lawsuits. These include an action against us and nine of our competitors that purports to be brought on behalf of health care providers. This suit alleges breaches of federal statutes, including ERISA and RICO.

In addition, because of the nature of the health care business, we are subject to a variety of legal actions relating to our business operations, including the design, management and offering of products and services. These include and could include in the future:

- claims relating to the methodologies for calculating premiums;
- claims relating to the denial of health care benefits;
- challenges to the use of some software products used in administering claims;
- medical malpractice actions based on our medical necessity decisions or brought against us on the theory that we are liable for our providers' alleged malpractice;
- allegations of anti-competitive and unfair business activities;
- provider disputes over compensation and termination of provider contracts;
- disputes related to self-funded business, including actions alleging claim administration errors;
- claims related to the failure to disclose some business practices; and
- claims relating to customer audits and contract performance.

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In some cases, substantial non-economic or punitive damages as well as treble damages under the federal False Claims Act, RICO and other statutes may be sought. While we currently have insurance coverage for some of these potential liabilities, other potential liabilities may not be covered by insurance, insurers may dispute coverage or the amount of insurance may not be enough to cover the damages awarded.

In addition, some types of damages, like punitive damages, may not be covered by insurance, particularly in those jurisdictions in which coverage of punitive damages is prohibited. Insurance coverage for all or some forms of liability may become unavailable or prohibitively expensive in the future.

A description of material legal actions in which we are currently involved is included under “Legal Proceedings” of Item 1 in Part II. We cannot predict the outcome of these suits with certainty, and we are incurring expenses in the defense of these matters. In addition, recent court decisions, including some that erode protections under the Employee Retirement Income Security Act, or ERISA, and legislative activity may increase our exposure for any of these types of claims. Therefore, these legal actions could have a material adverse effect on our financial position, results of operations and cash flows.

As a government contractor, we are exposed to additional risks that could adversely affect our business or our willingness to participate in government health care programs.

A significant portion of our revenues relates to federal, state and local government health care coverage programs, including the TRICARE, Medicare+Choice, and Medicaid programs. These programs involve various risks, including:

- the possibility of reduced or insufficient government reimbursement in the future;
- the possibility that we will not be able to extend or renew any of the contracts relating to these programs. These contracts also are generally subject to frequent change, including changes that may reduce the number of persons enrolled or eligible to enroll, reduce the revenue we receive or increase our administrative or health care costs under those programs. We have extended our current TRICARE contracts with the Department of Defense. The contract for Regions 2 and 5 was extended to April 30, 2004 and the contract for Regions 3 and 4 was extended to June 30, 2004, each subject to a one-year renewal at the Government’s option. We believe these extensions should continue our contracts until the new TRICARE program transition. On August 21, 2003, the Department of Defense notified us that we were awarded the contract for the South Region, one of three newly created regions under the government’s revised TRICARE Program. The Department of Defense’s bid process provided that a bidder could be awarded only one prime contract, although a bidder would be allowed to participate in another prime contract as a subcontractor. Aetna Government Health Plans, LLC, a subsidiary of Aetna, Inc., submitted a bid for the North Region contract with us as a subcontractor. HealthNet Federal Services, Inc., a subsidiary of HealthNet, Inc. was awarded the North Region contract in August 2003. Pursuant to the Department of Defense’s bid process, each of the three awards is subject to protests by unsuccessful bidders of prime contracts. Protests have been filed that affect the contract awards in each of the three regions. The transition to the new regions is not expected until at least mid to late 2004, subject to the final outcome of the pending appeals. In addition, retail pharmacy benefits for TRICARE beneficiaries will be administered separately under the new Department of Defense TRICARE Retail Pharmacy Program. On September 26, 2003, we were notified that we were not awarded the retail pharmacy contract. Under government contract procurement regulations, we have the right to protest the award decision, which we did on October 14, 2003. We do not believe the loss of the retail pharmacy contract or the ultimate outcome of our appeal will have a material adverse effect on our financial position, results of operations and cash flows.
- in the event government reimbursement were to decline from projected amounts, our failure to reduce the health care costs associated with these programs could have a material adverse effect on our business. Changes to these government programs in the future may also affect our ability or willingness to participate in these programs. The loss of our current TRICARE contracts, or an unsuccessful outcome of the protests for the South region would have a material adverse effect on our financial position, results of operations and cash flows;
- at September 30, 2003, under one of our contracts with the Centers for Medicare and Medicaid Services, or CMS, we provided health insurance coverage to approximately 227,400 members in Florida. This contract accounted for approximately 15% of our total premiums and ASO fees for the nine months ended September 30, 2003. The loss of this and other CMS contracts or significant changes in the Medicare+Choice program as a result of legislative action, including reductions in payments to us or increases in benefits to members without corresponding increases in payments, may have a material adverse effect on our financial condition, results of operations and cash flows;

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- higher comparative medical costs;
- government regulatory and reporting requirements;
- higher marketing and advertising costs per member as a result of marketing to individuals as opposed to groups; and
- the possibility of temporary or permanent suspension from participating in government health care programs, including Medicare and Medicaid, if we are convicted of fraud or other criminal conduct in the performance of a health care program or if there is an adverse decision against us under the federal False Claims Act.

Our industry is currently subject to substantial government regulation, which, along with possible increased governmental regulation or legislative reform, increases our costs of doing business and could adversely affect our profitability.

The health care industry in general, and health management organizations, or HMOs, and preferred provider organizations, or PPOs, in particular, are subject to substantial federal and state government regulation, including:

- regulation relating to minimum net worth;
- licensing requirements;
- approval of policy language and benefits;
- mandated benefits and processes;
- provider compensation arrangements;
- member disclosure;
- premium rates; and
- periodic examinations by state and federal agencies.

State regulations require our licensed, operating subsidiaries to maintain minimum net worth requirements and restrict some investment activities. Additionally, those regulations restrict the ability of our subsidiaries to make dividend payments, loans, loan repayments or other payments to us.

In recent years, significant federal and state legislation affecting our business has been enacted. State and federal governmental authorities are continually considering changes to laws and regulations applicable to us and are currently considering regulations relating to:

- mandatory benefits and products, including a Medicare pharmacy benefit or discount card;
- rules tightening time periods in which claims must be paid;
- medical malpractice reform;
- defining medical necessity;
- health insurance access;
- provider compensation and contract language;
- disclosure of provider fee schedules and other data impacting payments to providers;
- disclosure of provider quality information;
- health plan liability to members who fail to receive appropriate care;
- disclosure and composition of physician networks;
- formation of regional/national association health plans for small employers
- physicians' ability to collectively negotiate contract terms with carriers, including fees; and
- mental health parity.

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All of these proposals could apply to us.

There can be no assurance that we will be able to continue to obtain or maintain required governmental approvals or licenses or that legislative or regulatory changes will not have a material adverse effect on our business. Delays in obtaining or failure to obtain or maintain required approvals, or moratoria imposed by regulatory authorities, could adversely affect our revenue or the number of our members, increase costs or adversely affect our ability to bring new products to market as forecasted.

The National Association of Insurance Commissioners, or NAIC, has adopted risk-based capital requirements, also known as RBC, which is subject to state-by-state adoption and to the extent implemented, sets minimum capitalization requirements for insurance and HMO companies. The NAIC recommendations for life insurance companies were adopted in all states and the prescribed calculation for HMOs has been adopted in most states in which we operate. The HMO rules may increase the minimum capital required for some of our subsidiaries.

The Health Insurance Portability and Accountability Act of 1996, or HIPAA, includes administrative provisions directed at simplifying electronic data interchange through standardizing transactions, establishing uniform health care provider, payer and employer identifiers and seeking protections for confidentiality and security of patient data. Under the new HIPAA standard transactions and code sets rules, we must make significant systems enhancements and invest in new technological solutions. The compliance and enforcement date for standard transactions and code sets rules was October 16, 2003. We have continued to be in compliance with this regulation. However, as many providers indicated that they could not yet comply, CMS stated that covered entities making a good faith effort to comply with HIPAA transactions and code-set standards would be allowed to implement contingency plans to maintain their operations and cash flows. On October 15, 2003, we announced implementation of a contingency plan to accept non-compliant electronic transactions from our providers. We will continue to accept and process transactions sent in pre-HIPAA electronic formats from providers who are showing a good-faith effort until all providers and clearinghouses are capable of transmitting fully compliant standards transactions as defined in the HIPAA implementation guidelines or until CMS begins enforcement of the HIPAA Electronic Data Interchange regulations. Management believes that the implementation of our contingency plans will minimize any disruptions in our business operations during this transition. However, if entities with which we do business do not ultimately comply with the HIPAA transactions and code set standards, it could result in disruptions of certain of our business operations.

Additionally, under the new HIPAA privacy rules, which became effective on April 14, 2003, we must now comply with a variety of requirements concerning the use and disclosure of individuals' protected health information, establish rigorous internal procedures to protect health information and enter into business associate contracts with those companies to whom protected health information is disclosed. Regulations issued in February 2003 set standards for the security of electronic health information requiring compliance by April 21, 2005. Violations of these rules will subject us to significant penalties. Compliance with HIPAA regulations requires significant systems enhancements, training and administrative effort. The final rules do not provide for complete federal preemption of state laws, but rather preempt all inconsistent state laws unless the state law is more stringent. HIPAA could also expose us to additional liability for violations by our business associates.

Another area receiving increased focus is the time in which various laws require the payment of health care claims. Many states already have legislation in place covering payment of claims within a specific number of days. However, due to provider groups advocating for laws or regulations establishing even stricter standards, procedures and penalties, we expect additional regulatory scrutiny and supplemental legislation with respect to claims payment practices. The provider-sponsored bills are characterized by stiff penalties for late payment, including high interest rates payable to providers and costly fines levied by state insurance departments and attorneys general. This legislation and possible future regulation and oversight could expose our Company to additional liability and penalties.

Separate legislative proposals to add a prescription drug benefit and increase private plan options for the program passed by both houses are currently being debated by House and Senate conferees. Although President Bush's deadline for passage of this legislation has passed, negotiations are still underway. There is considerable uncertainty regarding the passage of a final bill and we are unable to predict the provisions of any final bill that would emerge from the Conference Committee or its impact on our financial position, results of operations or cash flows.

We are also subject to various governmental audits and investigations. These can include audits and investigations by state attorneys general, CMS, the Office of the Inspector General of Health and Human Services,

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the Office of Personnel Management, the Department of Justice, the Department of Labor, and state Departments of Insurance and Departments of Health. These activities could result in the loss of licensure or the right to participate in various programs, or the imposition of fines, penalties and other sanctions. In addition, disclosure of any adverse investigation or audit results or sanctions could negatively affect our reputation in various markets and make it more difficult for us to sell our products and services.

If we fail to maintain satisfactory relationships with the providers of care to our members, our business could be adversely affected.

We contract with physicians, hospitals and other providers to deliver health care to our members. Our products encourage or require our customers to use these contracted providers. These providers may share medical cost risk with us or have financial incentives to deliver quality medical services in a cost-effective manner.

In any particular market, providers could refuse to contract with us, demand higher payments, or take other actions that could result in higher health care costs for us, less desirable products for customers and members or difficulty meeting regulatory or accreditation requirements. In some markets, some providers, particularly hospitals, physician/hospital organizations or multi-specialty physician groups, may have significant market positions and negotiating power. In addition, physician or practice management companies, which aggregate physician practices for administrative efficiency and marketing leverage, may, in some cases, compete directly with us. If these providers refuse to contract with us, use their market position to negotiate favorable contracts or place us at a competitive disadvantage, our ability to market products or to be profitable in those areas could be adversely affected.

In some situations, we have contracts with individual or groups of primary care physicians for an actuarially determined, fixed, per-member-per-month fee under which physicians are paid an amount to provide all required medical services to our members (i.e. capitation). The inability of providers to properly manage costs under these capitation arrangements can result in the financial instability of these providers and the termination of their relationship with us. In addition, payment or other disputes between a primary care provider and specialists with whom the primary care provider contracts can result in a disruption in the provision of services to our members or a reduction in the services available to our members. The financial instability or failure of a primary care provider to pay other providers for services rendered could lead those other providers to demand payment from us, even though we have made our regular fixed payments to the primary provider. There can be no assurance that providers with whom we contract will properly manage the costs of services, maintain financial solvency or avoid disputes with other providers. Any of these events could have an adverse effect on the provision of services to our members and our operations.

Our ability to obtain funds from our subsidiaries is restricted.

Because we operate as a holding company, we are dependent upon dividends and administrative expense reimbursements from our subsidiaries to fund the obligations of Humana Inc., the parent company. These subsidiaries generally are regulated by state Departments of Insurance. In most states, we are required to seek prior approval by these state regulatory authorities before we transfer money or pay dividends from these subsidiaries that exceed specified amounts, or, in some states, any amount. In addition, we normally notify the state Departments of Insurance prior to making payments that do not require approval. We are also required by law to maintain specific prescribed minimum amounts of capital in these subsidiaries. One TRICARE subsidiary under the Regions 3 and 4 contract with the Department of Defense is required to maintain assets at least equivalent to its current liabilities.

Increased litigation and negative publicity could increase our cost of doing business.

The health benefits industry continues to receive significant negative publicity reflecting the public perception of the industry. This publicity and perception have been accompanied by increased litigation, including some large jury awards, legislative activity, regulation and governmental review of industry practices. These factors may adversely affect our ability to market our products or services, may require us to change our products or services, may increase the regulatory burdens under which we operate and may require us to pay large judgments or fines. Any combination of these factors could further increase our cost of doing business and adversely affect our financial position, results of operations and cash flows.

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Item 3. Quantitative and Qualitative Disclosure about Market Risk

We are exposed to market risks, such as changes in interest rates. To manage the volatility relating to these exposures, we net the exposures on a consolidated basis to take advantage of natural offsets. A portion of our natural offsets changed when we issued \$300 million 7.25% senior notes during 2001 and \$300 million 6.30% senior notes during 2003. This change was mitigated when we entered into interest rate swap agreements as discussed in Management's Discussion and Analysis herein. Changes in the fair value of the 7.25% and 6.30% senior notes and the swap agreements due to changing interest rates are assumed to offset each other completely, resulting in no impact to earnings from hedge ineffectiveness.

No material changes have occurred in our exposures to market risk since the date of our Annual Report on Form 10-K for the fiscal year ended December 31, 2002.

Item 4. Controls and Procedures

We carried out an evaluation, under the supervision and with the participation of our Chief Executive Officer, or CEO, and Chief Financial Officer, or CFO, of the effectiveness of the design and operation of our disclosure controls and procedures including our internal controls over financial reporting for the quarter ended September 30, 2003.

The company's management, including the CEO and CFO, does not expect that our disclosure controls and procedures including our internal controls over financial reporting will prevent all error and all fraud. However, they have been designed to give reasonable assurance about the effectiveness of the design and operation of our disclosure controls and procedures including our internal controls over financial reporting. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Control system limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

Based on this evaluation, our CEO and CFO concluded that our disclosure controls and procedures including our internal controls over financial reporting are effective in timely alerting them to material information required to be included in our periodic SEC reports. There have been no significant changes in our internal controls over financial reporting or in other factors that are reasonably likely to affect those controls over financial reporting during the Company's quarter ended September 30, 2003.

Part II. Other Information

Item 1: Legal Proceedings

Securities Litigation

In late 1997, three purported class action complaints were filed in the United States District Court for the Southern District of Florida by former stockholders of Physician Corporation of America, or PCA, against PCA and certain of its former directors and officers. We acquired PCA by a merger that became effective on September 8, 1997. The three actions were consolidated into a single action entitled *In re Physician Corporation of America Securities Litigation*. The consolidated complaint alleges that PCA and the individual defendants knowingly or recklessly made false and misleading statements in press releases and public filings with respect to the financial and regulatory difficulties of PCA's workers' compensation business. On July 24, 2002, the Court denied the defendants' motion for summary judgment and set the case on the Court's trial calendar for December 2, 2002. The Court subsequently postponed the trial subject to the plaintiff's motion for class certification, which was granted on May 20, 2003. On June 4, 2003, the defendants requested the Court of Appeals for the Eleventh Circuit to grant permission to appeal the class certification order. Thereafter, the parties reached agreement to settle the case for the amount of \$10.2 million. The settlement agreement is subject to notice to the class and approval by the Court. A final hearing on the settlement is scheduled for November 24, 2003. A provision for the settlement was previously made in our financial statements during the fourth quarter of 2002. The Company has pursued insurance coverage for this matter from two insurers, each of which has denied coverage. The Company intends to continue to pursue the insurance proceeds.

Managed Care Industry Purported Class Action Litigation

We have been involved in several purported class action lawsuits that are part of a wave of generally similar actions that target the health care payer industry and particularly target managed care companies. These include a lawsuit against us and nine of our competitors that purports to be brought on behalf of physicians who have treated our members. As a result of action by the Judicial Panel on Multi District Litigation, the case was consolidated in the United States District Court for the Southern District of Florida, and has been styled *In re Managed Care Litigation*.

The plaintiffs assert that we and other defendants improperly paid providers' claims and "downcoded" their claims by paying lesser amounts than they submitted. The complaint alleges, among other things, multiple violations under RICO as well as various breaches of contract and violations of regulations governing the timeliness of claim payments. We moved to dismiss the complaint on September 8, 2000, and the other defendants filed similar motions thereafter. On March 2, 2001, the Court dismissed certain of the plaintiffs' claims pursuant to the defendants' several motions to dismiss. However, the Court allowed the plaintiffs to attempt to correct the deficiencies in their complaint with an amended pleading with respect to all of the allegations except a claim under the federal Medicare regulations, which was dismissed with prejudice. The Court also left undisturbed the plaintiffs' claims for breach of contract. On March 26, 2001, the plaintiffs filed their amended complaint, which, among other things, added four state or county medical associations as additional plaintiffs. Two of those, the Denton County Medical Society and the Texas Medical Association, purport to bring their actions against us, as well as against several other defendant companies. The Medical Association of Georgia and the California Medical Association purport to bring their actions against various other defendant companies. The associations seek injunctive relief only. The defendants filed a motion to dismiss the amended complaint on April 30, 2001.

On September 26, 2002, the Court granted the plaintiffs' request to file a second amended complaint, adding additional plaintiffs, including the Florida Medical Association, which purports to bring its action against all defendants. On October 21, 2002, the defendants moved to dismiss the second amended complaint. The Court has not yet ruled on that motion.

Also on September 26, 2002, the Court certified a global class consisting of all medical doctors who provided services to any person insured by any defendant from August 4, 1990, to September 26, 2002. The class includes two subclasses. A national subclass consists of medical doctors who provided services to any person insured by a defendant when the doctor has a claim against such defendant and is not required to arbitrate that claim. A California subclass consists of medical doctors who provided services to any person insured in California by any defendant when the doctor was not bound to arbitrate the claim. On October 10, 2002, the defendants asked the Court of Appeals for the Eleventh Circuit to review the class certification decision. On November 20, 2002, the Court of Appeals agreed to review the class issue. The appellate court heard oral argument on September 11, 2003.

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Discovery is ongoing, and the Court has set a trial date of June 30, 2004. In the meantime, Aetna Inc., announced on May 22, 2003, that it has entered into a settlement agreement with the plaintiffs. Another defendant, Cigna Corporation, entered into a settlement agreement September 4, 2003. The agreements have been filed with the Court and are subject to approval by the Court.

We intend to defend this action vigorously.

Other

The Academy of Medicine of Cincinnati, the Butler County Medical Society, the Northern Kentucky Medical Society, and several physicians filed antitrust suits in state courts in Ohio and Kentucky against Aetna Health, Inc., Humana Health Plan of Ohio, Inc., Anthem Blue Cross Blue Shield, and United Healthcare of Ohio, Inc., alleging that the defendants have violated the Ohio and Kentucky antitrust laws by conspiring to fix the reimbursement rates paid to physicians in the Greater Cincinnati and Northern Kentucky region. Each suit seeks class certification, damages and injunctive relief. Plaintiffs cite no evidence that any such conspiracy existed, but base their allegations on assertions that physicians in the Greater Cincinnati region are paid less than physicians in other major cities in Ohio and Kentucky.

The state courts in Ohio and Kentucky each denied motions by the defendants to compel arbitration or alternatively to dismiss. Defendants filed notices of appeal with respect to the orders denying arbitration. The Ohio court agreed to stay proceedings pending resolution of the appeal. The Kentucky court granted a similar request with respect to the physician plaintiffs, who are subject to arbitration agreements, but denied the requested stay with respect to the association plaintiffs and any physician plaintiffs whose contracts do not contain arbitration provisions. Defendants requested a stay from the Kentucky Court of Appeals pending appeal of the arbitration issue. The Court of Appeals denied the stay, and discovery began in the Kentucky action. The plaintiffs filed motions to certify a class in each case. The purported classes allegedly consist of all physicians who have practiced medicine at any time since January 1, 1992, in a four county region in Southwestern Ohio or a three county region in Northern Kentucky.

On October 23, 2003, we entered into a settlement agreement with the plaintiffs that specifies an increase in future reimbursement we pay to a class consisting of physicians in a 12-county area in Southern Ohio and Northern Kentucky over the next three years. We expect to increase the reimbursement, in the aggregate, we will pay physicians for future services over the amounts paid to them in 2003 as follows: \$20 million in 2004, an additional \$15 million in 2005 and an additional \$10 million in 2006. The agreement also provides for a committee to monitor our contracting practices for the period 2007 through 2010, with reporting to us if any anticompetitive behavior is believed to have occurred. The agreement is subject to approval by the courts.

Government Audits and Other Litigation and Proceedings

In July 2000, the Office of the Florida Attorney General initiated an investigation, apparently relating to some of the same matters that are involved in the managed care industry purported class action litigation described above. On September 21, 2001, the Texas Attorney General initiated a similar investigation. No actions have been filed against us by either state. These investigations are ongoing, and we have cooperated with the regulators in both states.

On May 31, 2000, we entered into a five-year Corporate Integrity Agreement, or CIA, with the Office of Inspector General, or OIG, of the Department of Health and Human Services. Under the CIA, we are obligated to, among other things, provide training, conduct periodic audits and make periodic reports to the OIG.

In addition, our business practices are subject to review by various state insurance and health care regulatory authorities and federal regulatory authorities. There has been increased scrutiny by these regulators of the managed health care companies' business practices, including claims payment practices and utilization management practices. We have been and continue to be subject to such reviews. Some of these have resulted in fines and could require changes in some of our practices and could also result in additional fines or other sanctions.

We also are involved in other lawsuits that arise in the ordinary course of our business operations, including claims of medical malpractice, bad faith, nonacceptance or termination of providers, failure to disclose network discounts, and various other provider arrangements, as well as challenges to subrogation practices. We also are subject to claims relating to performance of contractual obligations to providers, members, and others, including failure to properly pay claims and challenges to the use of certain software products in processing claims. Pending state and federal legislative activity may increase our exposure for any of these types of claims.

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In addition, several courts, including several federal appellate courts, recently have issued decisions which have the effect of eroding the scope of ERISA preemption for employer-sponsored health plans, thereby exposing us to greater liability for medical negligence claims. This includes decisions which hold that plans may be liable for medical negligence claims in some situations based solely on medical necessity decisions made in the course of adjudicating claims. In addition, some courts have issued rulings which make it easier to hold plans liable for medical negligence on the part of network providers on the theory that providers are agents of the plans and that the plans are therefore vicariously liable for the injuries to members by providers.

Personal injury claims and claims for extracontractual damages arising from medical benefit denials are covered by insurance from our wholly owned captive insurance subsidiary and excess carriers, except to the extent that claimants seek punitive damages, which may not be covered by insurance in certain states in which insurance coverage for punitive damages is not permitted. In addition, insurance coverage for all or certain forms of liability has become increasingly costly and may become unavailable or prohibitively expensive in the future. On January 1, 2002, and again on January 1, 2003, we reduced the amount of coverage purchased from third party insurance carriers and increased the amount of risk we retain due to substantially higher insurance rates.

We do not believe that any pending or threatened legal actions against us or any pending or threatened audits or investigations by state or federal regulatory agencies will have a material adverse effect on our financial position, results of operations, or cash flows. However, the likelihood or outcome of current or future suits, like the purported class action lawsuits described above, or governmental investigations, cannot be accurately predicted with certainty. In addition, the increased litigation, which has accompanied the negative publicity and public perception of our industry, adds to this uncertainty. Therefore, such legal actions and government audits and investigations could have a material adverse effect on our financial position, results of operations, and cash flows.

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Part II. Other Information, continued

Item 2: Changes in securities

None.

Item 3: Defaults Upon Senior Securities

None.

Item 4: Submission of Matters to a Vote of Security Holders

None.

Item 5: Other Information

In September 2003, the Company appointed Frank A. D'Amelio to its Board of Directors.

Item 6: Exhibits and Reports on Form 8-K

(a) Exhibit Index:

4.1 Indenture dated as of August 2003 covering the Company's 6.30% Senior Notes due 2018.

4.2 First Supplemental Indenture covering the Company's 6.30% Senior Notes due 2018.

10.1 Amended and Restated 364-Day Credit Agreement, dated as of October 2003.

10.2 Amended and Restated RFC Loan Agreement, dated as of October 2003.

10.3 Summary of changes to Humana Inc. Retirement Plans.

12 Computation of ratio of earnings to fixed charges.

31.1 CEO certification pursuant to Section 302 of Sarbanes - Oxley Act of 2002.

31.2 CFO certification pursuant to Section 302 of Sarbanes - Oxley Act of 2002.

32 CEO and CFO certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes - Oxley Act of 2002.

(b) Reports on Form 8-K

(1) On July 28, 2003, we furnished a report regarding our second quarter of 2003 earnings release.

(2) On August 5, 2003, we filed reports regarding the issuance of our \$300 million 6.30% senior notes due 2018 and certain related exhibits.

(3) On August 22, 2003, we filed a report regarding the TRICARE South region bid announcement.

(4) On September 26, 2003, we filed reports regarding the TRICARE retail pharmacy contract bid announcement.

(5) On October 15, 2003, we filed a report concerning our contingency plans related to the Health Insurance Portability and Accountability Act.

(6) On October 23, 2003, we filed a report regarding the settlement of litigation in Cincinnati, Ohio.

(7) On October 27, 2003, we furnished a report regarding our third quarter of 2003 earnings release.

SIGNATURES

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

HUMANA INC.
(Registrant)

Date: November 5, 2003

By: /S/ JAMES H. BLOEM

James H. Bloem
Senior Vice President
And Chief Financial Officer
(Principal Accounting Officer)

Date: November 5, 2003

By: /S/ ARTHUR P. HIPWELL

Arthur P. Hipwell
Senior Vice President and
General Counsel

HUMANA INC.,
 Issuer
 THE BANK OF NEW YORK,
 Trustee

INDENTURE

Dated as of August 5, 2003

Senior Debt Securities

HUMANA INC.

Reconciliation and tie showing the location in the Indenture dated as of August 5, 2003 of the provisions inserted pursuant to Sections 310 to 318(a), inclusive, of the Trust Indenture Act of 1939, as amended.

<u>Trust Indenture Act Section</u>	<u>Indenture Section</u>
Section 310 (a)(1)	609
(a)(2)	609
(a)(3)	Not Applicable
(a)(4)	Not Applicable
(b)	608 and 610(d)
(c)	Not Applicable

Section 311 (a)	613(a) and 613(c)
(b)	613(b) and 613(c)
(c)	Not Applicable
Section 312 (a)	701 and 702(a)
(b)	702(b)
(c)	702(c)
Section 313 (a)	703(a)
(b)	703(b)
(c)	703(a) and 703(b)
(d)	703(d)
Section 314 (a)	704
(b)	Not Applicable
(c)	102
(c)(1)	102
(c)(2)	102
(c)(3)	Not Applicable
(d)	Not Applicable
(e)	102
Section 315 (a)	601(a)
(b)	602 and 703(a)(7)
(c)	601(b)
(d)	601(c)
(d)(1)	601(a)(1)
(d)(2)	601(c)(2)
(d)(3)	601(c)(3)
(e)	514
Section 316 (a)(1)(A)	502 and 512
(a)(1)(B)	513

(a)(2)	Not Applicable
(b)	508
Section 317 (a)(1)	503
(a)(2)	504
(b)	1003
<u>Section 318 (a)</u>	107

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

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EXHIBITS

EXHIBIT A. Form of Certificate To Be Delivered to Euroclear or Clearstream Banking by a Beneficial Owner of Securities in Order to Receive a Definitive Bearer Security in Exchange for an Interest in a Temporary Global Security or to Exchange an Interest in a Temporary Global Security for an Interest in a Permanent Global Security.

EXHIBIT B. Form of Certificate To Be Given to the Appropriate Trustee by Euroclear or Clearstream Banking Regarding the Exchange of a Temporary Global Security for Definitive Securities or for a Portion of a Permanent Global Security.

EXHIBIT C. Form of Certificate To Be Delivered to Euroclear or Clearstream Banking by a Beneficial Owner of Securities in Order to Receive Payment on a Temporary Global Security.

EXHIBIT D. Form of Certificate To Be Given to the Appropriate Trustee by Euroclear or Clearstream Banking Regarding Payment on a Temporary Global Security.

INDENTURE dated as of August 5, 2003, between HUMANA INC., a corporation duly incorporated and existing under the laws of Delaware and having its principal executive office at 500 West Main Street, Louisville, Kentucky 40202 (hereinafter called "the Company"), and THE BANK OF NEW YORK, a New York banking corporation, as Trustee (hereinafter called the "Trustee").

RECITALS OF THE COMPANY

The Company deems it necessary to issue from time to time for its lawful purposes securities (hereinafter called the "Securities") evidencing its senior unsecured indebtedness and has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of the Securities, unlimited as to principal amount, to have such titles, to bear such rates of interest, to mature at such time or times and to have such other provisions as shall be fixed as hereinafter provided.

All things necessary to make this Indenture a valid agreement of the Company, in accordance with its terms, have been done, and the Company proposes to do all things necessary to make the Securities, when executed by the Company and authenticated and delivered by the Trustee hereunder and duly issued by the Company, the valid obligations of the Company as hereinafter provided.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

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

I.

Definitions and Other Provisions of General Application

1. *Definitions.*

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

1. the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;
2. all other terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;

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3. all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in the United States, and the term “generally accepted accounting principles” with respect to any computation required or permitted hereunder shall mean such accounting principles as are generally accepted in the United States at the date or time of such computation; and
 4. the words “*herein*”, “*hereof*” and “*hereunder*” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

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

“*Act*”, when used with respect to any Holder, has the meaning specified in Section 104.

“*Affiliate*” means, with respect to a specified Person, 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 specified 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.

“*Authenticating Agent*” means any Person authorized to authenticate and deliver Securities on behalf of the Trustee for the Securities of any series pursuant to Section 614.

“*Authorized Newspaper*” means a newspaper customarily published at least once a day for at least five days in each calendar week and of general circulation in New York City, in London and, to the extent the Securities are listed on the Luxembourg Stock Exchange and the Luxembourg Stock Exchange shall so require, in Luxembourg or, if it shall be impracticable in the opinion of the Trustee for the Securities of the appropriate series to make such publication, in another capital city in Western Europe. Such publication (which may be in different newspapers) is expected to be made in the Eastern edition of *The Wall Street Journal*, in the London edition of the *Financial Times* and, if applicable, in the *Luxemburger Wort*.

“*Bearer Security*” means any Security established pursuant to Section 201 which is payable to bearer.

“*Board of Directors*” means, when used with reference to the Company, either the board of directors or any duly authorized committee of that board or any director or directors and/or officer or officers to whom that board or committee shall have duly delegated its authority, of the Company.

“*Board Resolution*” means, when used with reference to the Company, (1) a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company, as the case may be, to have been duly adopted by its Board of Directors and to be in full force and effect on the date of such certification, or (2) a certificate signed by the director or directors or officer or officers to whom the Board of Directors of the Company shall have duly delegated its authority, and delivered to the Trustee for the Securities of any series.

“*Business Day*” means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which commercial banks are authorized or required by law, regulation or executive order to close in The City of New York; provided, however, that, with respect to Securities not denominated in Dollars, the day is also not a day on which commercial banks are authorized or required by law, regulation or executive order to close in the Principal Financial Center of the country issuing the Foreign Currency or currency unit or, if the Foreign Currency or currency unit is euro, the day is also a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET) System is open; provided, further, that, with respect to LIBOR Securities, the day is also a London Business Day.

“*Capital Stock*” means, with respect to any Person, shares, interests, rights to purchase, warrants, options, participation or other equivalents of or interests in (however designated) equity of such Person, including any preferred stock, but excluding any debt securities convertible into such equity.

“*Certificate of a Firm of Independent Public Accountants*” means a certificate signed by any firm of independent public accountants of recognized standing selected by the Company. The term “independent” when used with respect to any specified firm of public accountants means such a firm which (1) is in fact independent, (2) does not have any direct financial interest or any material indirect financial interest in the Company or in any other obligor upon the Securities of any series or in any affiliate of the Company or of such other obligor, and (3) is not connected with the Company or such other obligor or any affiliate of the Company or of such other obligor, as an officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions, but such firm may be the regular auditors employed by the Company. Whenever it is herein provided that any Certificate of a Firm of Independent Public Accountants shall be furnished to the Trustee for Securities of any series, such Certificate shall state that the signer has read this definition and that the signer is independent within the meaning hereof.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

“*Clearstream Banking*” means Clearstream Banking S.A. or its successor.

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

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

“*Company Request*” and “*Company Order*” mean a written request or order signed in the name of the Company, as the case may be by (1) the Chairman of the Board, a Vice Chairman of the Board, the President or a Vice President and by the Treasurer, an Assistant Treasurer, the Controller, an Assistant Controller, the Secretary or an Assistant Secretary of the Company, as the case may be, or (2) by any two Persons designated in a Company Order previously delivered to the Trustee for Securities of any series by any two of the foregoing officers and delivered to the Trustee for Securities of any series.

“*Component Currency*” has the meaning specified in Section 311(e).

“*Conversion Event*” means the unavailability of any Foreign Currency or currency unit due to the imposition of exchange controls or other circumstances beyond the Company’s control.

“*Corporate Trust Office*” means the office of the Trustee for Securities of any series at which at any particular time its corporate trust business shall be principally administered, which office of The Bank of New York, at the date of the execution of this Indenture, is located at 101 Barclay Street, New York, New York 10286, Attention: Corporate Trust Department, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

“*corporation*” includes corporations, limited liability companies, associations, companies and business trusts.

“*coupon*” means any interest coupon appertaining to a Bearer Security.

“*Currency Determination Agent*” means, with respect to Securities of any series, unless otherwise specified in the Securities of any series, a New York Clearing House bank designated pursuant to Section 301 or Section 312.

“*Defaulted Interest*” has the meaning specified in Section 307.

“*Depository*” means, with respect to the Securities of any series issuable or issued in the form of a Global Security, the Person designated as Depository by the Company pursuant to Section 301 until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Depository” shall mean or include each Person who is then a Depository hereunder, and if at any time there is more than one such Person, “Depository” as used with respect to the Securities of any such series shall mean the Depository with respect to the Securities of that series.

“*Determination Notice*” has the meaning specified in Section 1108(b).

“*Dollars*” and the sign “\$” mean the currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

“*Election Date*” has the meaning specified in Section 311(e).

“*Euroclear*” means Euroclear Bank S.A./N.V. or its successor.

“*Event of Default*” has the meaning specified in Section 501.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended, as in force at the date as of which this Indenture was executed; *provided, however*, that in the event the Securities Exchange Act of 1934 is amended after such date, “*Exchange Act*” means, to the extent required by any such amendment, the Securities Exchange Act of 1934 as so amended.

“*Exchange Date*” has the meaning specified in Section 304.

“*Foreign Currency*” means a currency issued and actively maintained as a country’s recognized unit of domestic exchange by the government of any country other than the United States or by any recognized confederation or association of such governments, and such term shall include, without limitation, the euro.

“*Global Exchange Agent*” has the meaning specified in Section 304.

“*Global Securities*” means Securities in global form.

“*Government Obligations*” means securities which are (i) direct obligations of the government which issued the currency in which the Securities of a particular series are payable (except as provided in Sections 311(b) and 311(d), in which case with respect to Securities for which an election has occurred pursuant to Section 311(b), or a Conversion Event has occurred as provided in Section 311(d), such obligations shall be issued in the currency or currency unit in which such Securities are payable as a result of such election or Conversion Event) or (ii) obligations of a Person controlled or supervised by or acting as an agency or instrumentality of the government which issued the currency in which the Securities of such series are payable (except as provided in Sections 311(b) and 311(d), in which case with respect to Securities for which an election has occurred pursuant to Section 311(b), or a Conversion Event has occurred as provided in Section 311(d)), such obligations shall be issued in the currency or currency unit in which such Securities are payable as a result of such election or Conversion Event), the payment of which is unconditionally guaranteed by such government, which, in either case, are full faith and credit obligations of such government payable in such currency and are not callable or redeemable at the option of the issuer thereof.

“*Holder*” means, when used with respect to any Security, in the case of a Registered Security, the Person in whose name a Security is registered in the Security Register, and in the case of a Bearer Security, the bearer thereof and, when used with respect to any coupon, means any bearer thereof.

“*Identifying Numbers*” has the meaning specified in Section 204.

“*Incur*” means issue, create, assume, guarantee, incur or otherwise become liable for; and the terms “*Incurred*” and “*Incurrence*” have meanings correlative to the foregoing.

“*Indenture*” means this instrument as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof and shall include the terms of a particular series of Securities established as contemplated by Section 301.

“*Indexed Security*” means any Security as to which the amount of payments of principal (and premium, if any) and/or interest, if any, due thereon is determined with reference to the rate of exchange between the currency or currency unit in which the Security is denominated and any other specified currency or currency unit, to the relationship between two or more currencies or currency units, to the price of one or more specified securities or commodities, to one or more securities or commodities exchange indices or other indices or by other similar methods or formulas, all as specified in accordance with Section 301.

“*interest*” means, when used with respect to an OID Security which by its terms bears interest only after Maturity, interest payable after Maturity.

“*Interest Payment Date*” means, when used with respect to any Security, the Stated Maturity of an installment of interest on such Security.

“*Issue Date*” means the date on which the Securities of a particular series are originally issued under this Indenture.

“*Judgment Date*” has the meaning specified in Section 516.

“*LIBOR*” means, with respect to any series of Securities, the rate specified as LIBOR for such Securities in accordance with Section 301.

“*LIBOR Currency*” means the currency specified pursuant to Section 301 as to which LIBOR will be calculated or, if no currency is specified pursuant to Section 301, Dollars.

“*LIBOR Security*” means any Security which bears interest at a floating rate calculated with reference to LIBOR.

“*London Business Day*” means, with respect to any LIBOR Security, a day on which commercial banks are open for business, including dealings in the LIBOR Currency, in London.

“*Luxembourg Stock Exchange*” means, unless specified with respect to any particular series of Securities, the Luxembourg Stock Exchange.

“*Market Exchange Rate*” means, with respect to any Foreign Currency or currency unit on any date, unless otherwise specified in accordance with Section 301, the noon buying rate in The City of New York for cable transfers in such Foreign Currency or currency unit as certified for customs purposes by the Federal Reserve Bank of New York for such Foreign Currency or currency unit.

“*Maturity*” means, when used with respect to any Security, the date on which the principal (or, if the context so requires, in the case of an OID Security, a lesser amount or, in the case of an Indexed Security, an amount determined in accordance with the specified terms of that Security) of that Security becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption, request for redemption, repayment at the option of the holder, pursuant to any sinking fund or otherwise.

“*Notice of Default*” has the meaning specified in Section 501(3).

“*Officers’ Certificate*” means, when used with reference to the Company, a certificate signed by the Chairman of the Board, a Vice Chairman of the Board, the Chief Executive Officer, the President or a Vice President (any reference herein to a Vice President of the Company, as the case may be, shall be deemed to include any Vice President of the Company, as the case may be, whether or not designated by a number or a word or words added before or after the title “Vice President”), and by the Treasurer, an Assistant Treasurer, the Controller, an Assistant Controller, the Secretary or an Assistant Secretary of the Company, as the case may be, and delivered to the Trustee for the Securities of any series.

“*Opinion of Counsel*” means, for purposes of Section 1108, a written opinion of independent legal counsel of recognized standing and, for all other purposes hereof, means a written opinion of counsel, who may be an employee of or counsel to the Company or may be other counsel satisfactory to the Trustee for the Securities of any series.

“*OID Security*” means a Security which provides for an amount (excluding any amounts attributable to accrued but unpaid interest thereon) less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 502.

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

1. Securities theretofore cancelled by the Trustee for such Securities or delivered to such Trustee for cancellation;

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2. Securities or portions thereof for whose payment or redemption money in the necessary amount and in the required currency or currency unit has been theretofore deposited with the Trustee for such Securities or any Paying Agent (other than the Company or any other obligor upon the Securities) in trust or set aside and segregated in trust by the Company or any other obligor upon the Securities (if the Company or any other obligor upon the Securities shall act as its own Paying Agent) for the Holders of such Securities; *provided, however*, that, if such Securities or portions thereof are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture, or provision therefor satisfactory to such Trustee has been made; and
 3. Securities which have been paid pursuant to Section 306 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented proof satisfactory to the Trustee for such Securities that any such Securities are held by a bona fide holder in due course;

provided, however, that in determining whether the Holders of the requisite principal amount of Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder or are present at a meeting of Holders for quorum purposes, (a) Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee for such Securities shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities which such Trustee actually knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of such Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor, (b) the principal amount of an OID Security that shall be deemed to be Outstanding for such purposes shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration pursuant to Section 502 and (c) the principal amount of a Security denominated in a Foreign Currency or currency unit that shall be deemed to be outstanding for such purposes shall be determined in accordance with Section 115.

"*Paying Agent*" means The Bank of New York or any other Person authorized by the Company to pay the principal of (and premium, if any) or interest, if any, on any Securities of any series on behalf of the Company.

"*Person*" means any individual, firm, corporation, partnership, association, joint venture, tribunal, limited liability company, trust, government or political subdivision or agency or instrumentality thereof, or any other entity or organization.

"*Place of Payment*" means, when used with respect to the Securities of any particular series, the place or places where the principal of (and premium, if any) and interest, if any, on the Securities of that series are payable, as contemplated by Section 301 and 1002.

“Predecessor Security” means, with respect to any particular Security, every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security, and, for the purposes of this definition, any Security authenticated and delivered under Section 306 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security or a Security to which a mutilated, destroyed, lost or stolen coupon appertains shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Security or the Security to which the mutilated, destroyed, lost or stolen coupon appertains, as the case may be.

“Principal Financial Center” means, unless otherwise specified in accordance with Section 301:

1. the capital city of the country issuing the Foreign Currency or currency unit, except that with respect to Dollars, Australian dollars, Canadian dollars, Deutsche marks, Dutch guilders, South African rand and Swiss francs, the “Principal Financial Center” will be The City of New York, Sydney and Melbourne, Toronto, Frankfurt, Amsterdam, Johannesburg and Zurich, respectively; or
2. the capital city of the country to which the LIBOR Currency relates, except that with respect to Dollars, Canadian dollars, Deutsche marks, Dutch guilders, Portuguese escudos, South African rand and Swiss francs, the “Principal Financial Center” will be The City of New York, Toronto, Frankfurt, Amsterdam, London, Johannesburg and Zurich, respectively.

“Property” means any asset, revenue or any other property, including Capital Stock, whether tangible or intangible, real or personal, including, without limitation, any right to receive income.

“Redemption Date” means, when used with respect to any Security to be redeemed in whole or in part, the date fixed for such redemption by or pursuant to this Indenture.

“Redemption Price” means, when used with respect to any Security to be redeemed, the price at which it is to be redeemed pursuant to the terms of this Indenture or in any Security issued hereunder.

“Registered Security” means any Security established pursuant to Section 201 which is registered in the Security Register.

“Regular Record Date” means, with respect to the interest payable on any Interest Payment Date on the Registered Securities of any series, the date, if any, specified for that purpose as contemplated by Section 301 whether or not a Business Day.

“Responsible Officer” means, when used with respect to the Trustee for any series of Securities, (i) any vice president, assistant vice president, treasurer, assistant treasurer or any trust officer of the Trustee or (ii) any other officer of the Corporate Trust Department of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject and who is charged with the administration of this Indenture.

“*Securities*” means securities evidencing unsecured indebtedness of the Company authenticated and delivered under this Indenture.

“*Security Register*” and “*Security Registrar*” have the respective meanings specified in Section 305.

“*series*” of Securities means all Securities denoted as part of the same series authorized by or pursuant to a particular Board Resolution.

“*Special Record Date*” means, with respect to the payment of any Defaulted Interest on the Registered Securities of any series, a date fixed by the Trustee for such series pursuant to Section 307.

“*Stated Maturity*” means, when used with respect to any Security or any installment of principal thereof or interest thereon, the date specified in such Security or a coupon representing such installment of interest as the fixed date on which the principal of such Security or such installment of principal or interest is due and payable.

“*Subsidiary*” means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of capital stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person, (ii) such Person and one or more Subsidiaries of such Person or (iii) one or more Subsidiaries of such Person.

“*Substitute Date*” has the meaning specified in Section 516.

“*Trust Indenture Act*” means the Trust Indenture Act of 1939, as amended by the Trust Indenture Reform Act of 1990, as in force at the date as of which this Indenture was executed; *provided, however*, that in the event the Trust Indenture Act is amended after such date, “*Trust Indenture Act*” means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

“*Trustee*” means the Person named as the “*Trustee*” in the first paragraph of this instrument and, subject to the provisions of Article Six hereof, shall also include its successors and assigns as Trustee hereunder. If there shall be at one time more than one Trustee hereunder, “*Trustee*” shall mean each such Trustee and shall apply to each such Trustee only with respect to those series of Securities with respect to which it is serving as Trustee.

“*United States*” means, unless otherwise specified with respect to Securities of any series, the United States of America (including the states and the District of Columbia), its territories, its possessions (which include, at the date of this Indenture, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands) and other areas subject to its jurisdiction.

“*United States Alien*” has the meaning specified in Section 1009.

“Yield to Maturity” means, when used with respect to any OID Security, the yield to maturity, if any, set forth on the face thereof.

2. *Compliance Certificates and Opinions.*

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

Every certificate (other than certificates provided pursuant to Section 1005) or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

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

3. *Form of Documents Delivered to Trustee.*

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

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

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

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

4. *Acts of Holders.*

- a. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing. If Securities of a series are issuable as Bearer Securities, any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders of such series may, alternatively, be embodied in and evidenced by the record of Holders of Securities of such series voting in favor thereof, either in person or by proxies duly appointed in writing, at any meeting of Holders of Securities of such series duly called and held in accordance with the provisions of Article Thirteen, or a combination of such instruments and any such record. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustee for the appropriate series of Securities and, where it is hereby expressly required, to the Company. Such instrument or instruments and any such record (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments or so voting at any such meeting. Proof of execution of any such instrument or of a writing appointing any such agent, or of the holding by any Person of a Security, shall be sufficient for any purpose of this Indenture and (subject to Section 601) conclusive in favor of the Trustee for the appropriate series of Securities and the Company and any agent of such Trustee or the Company, if made in the manner provided in this Section. The record of any meeting of Holders of Securities shall be proved in the manner provided in Section 1306.

The Company may at its discretion set a record date for purposes of determining the identity of Holders of Registered Securities entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture, but the Company shall have no obligation to do so. If not set by the Company prior to the first solicitation of Holders of Registered Securities of a particular series made by any Person in respect of any such action, or, in the case of any such vote, prior to such vote, the record date for any such action or vote shall be 30 days prior to the first solicitation of such vote or consent. Upon the fixing of such a record date, those persons who were Holders of Registered Securities at such record date (or their duly designated proxies), and only those persons, shall be entitled with respect to such Registered Securities to take such action by vote or consent or to revoke any vote or consent previously given, whether or not such persons continue to be Holders after such record date.

- b. The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or association or a member of a partnership, or an official of a public or governmental body, on behalf of such corporation, association, partnership or public or governmental body or by a fiduciary, such certificate or affidavit shall also constitute sufficient proof of his authority.

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- c. The fact and date of the execution by any Person of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee for the appropriate series of Securities deems reasonably sufficient.
 - d. The principal amount and serial numbers of Registered Securities held by any Person, and the date of holding the same, shall be proved by the Security Register.
 - e. The principal amount and serial numbers of Bearer Securities held by any Person, and the date of holding the same, may be proved by the production of such Bearer Securities or by a certificate executed, as depositary, by any trust company, bank, banker or other depositary, wherever situated, if such certificate shall be deemed by the Trustee for such Securities to be satisfactory, showing that at the date therein mentioned such Person had on deposit with such depositary, or exhibited to it, the Bearer Securities therein described; or such facts may be proved by the certificate or affidavit of the Person holding such Bearer Securities, if such certificate or affidavit is deemed by such Trustee to be satisfactory. The Trustee for such Securities and the Company may assume that such ownership of any Bearer Security continues until (1) another certificate or affidavit bearing a later date issued in respect of the same Bearer Security is produced, (2) such Bearer Security is produced to such Trustee by some other Person, (3) such Bearer Security is surrendered in exchange for a Registered Security, or (4) such Bearer Security is no longer Outstanding. The principal amount and serial numbers of Bearer Securities held by any Person, and the date of holding the same, may also be proved in any other manner which the Company and the Trustee for such Securities deem sufficient.
 - f. Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee for such Securities, the Security Registrar, any Paying Agent or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

5. *Notices, Etc., to Trustee and the Company.*

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other documents provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

1. the Trustee for a series of Securities by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with such Trustee at its Corporate Trust Office, Attention: Corporate Trust Administration Re: Humana Inc., or if sent by facsimile transmission, to a facsimile number provided by the Trustee, with a copy mailed, first class postage prepaid to the Trustee addressed to it as provided above, or
2. the Company by such Trustee or by any Holder shall be sufficient for every purpose hereunder (except as provided in paragraph (3) of Section 501) if furnished in writing and mailed, first class postage prepaid, addressed in the case of the Company to it, to the attention of the Chief Financial Officer, at the address of its principal office specified in the first paragraph of this instrument or at any other address previously furnished in writing to such Trustee by the Company, or if sent by facsimile transmission, to a facsimile number provided to the Trustee by the Company, with a copy mailed, first class postage prepaid, to the Company addressed to it as provided above.

6. *Notice to Holders; Waiver.*

Where this Indenture provides for notice to Holders of any event, (1) such notice shall be sufficiently given (unless otherwise herein expressly provided) to Holders of Registered Securities if in writing and mailed, first class postage prepaid, to each Holder affected by such event, at his or her address as it appears in the Security Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice; and (2) such notice shall be sufficiently given (unless otherwise herein expressly provided) to Holders of Bearer Securities if published in (a) an Authorized Newspaper on a Business Day or (b) an electronic medium easily accessible by the Holders as may be specified by the Company to such Holders, such publication to be not earlier than the earliest date, and not later than the latest date, prescribed herein for the giving of such notice. Any such notice by publication shall be deemed to have been given on the date of such publication or, if published more than once, on the date of the first publication.

In any case where notice to Holders of Registered Securities is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder of a Registered Security shall affect the sufficiency of such notice with respect to other Holders of Registered Securities or the sufficiency of any notice to Holders of Bearer Securities given as provided herein. Any notice mailed in the manner prescribed by this Indenture shall be conclusively deemed to have been given whether or not received by any particular Holder. In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice to Holders of Registered Securities by mail, then such notification as shall be made with the reasonable approval of the Trustee for such Securities shall constitute a sufficient notification for every purpose hereunder.

In case by reason of the suspension of any Authorized Newspaper or Authorized Newspapers or by reason of any other cause it shall be impracticable to publish any notice to Holders of Bearer Securities as provided above, then such notification to Holders of Bearer Securities as shall be made with the reasonable approval of the Trustee for such Securities shall constitute sufficient notice to such Holders for every purpose hereunder. Neither the failure to give notice by publication to Holders of Bearer Securities as provided above, nor any defect in any notice so published, shall affect the sufficiency of any notice to Holders of Registered Securities given as provided herein.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee for such Securities, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

7. *Conflict with Trust Indenture Act.*

If any provision hereof limits, qualifies or conflicts with the duties imposed by any of Sections 310 through 317, inclusive, of the Trust Indenture Act through the operation of Section 318(c) thereof, such imposed duties shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the provision shall be deemed to apply to this Indenture as so modified or excluded, as the case may be.

8. *Effect of Headings and Table of Contents.*

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

9. *Successors and Assigns.*

All covenants and agreements in this Indenture by the Company shall bind its successors and assigns, whether so expressed or not.

10. *Separability Clause.*

In case any provision in this Indenture or in the Securities or coupons 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.

11. *Benefits of Indenture.*

Nothing in this Indenture or in the Securities or in any coupons appertaining thereto, expressed or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Security Registrar, an Authenticating Agent and their successors hereunder and the Holders of Securities or coupons, any benefit or any legal or equitable right, remedy or claim under this Indenture.

12. *Governing Law.*

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

13. *Non-Business Day.*

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

14. *Immunity of Incorporators, Stockholders, Directors and Officers.*

No recourse shall be had for the payment of the principal of (and premium, if any), or the interest, if any, on any Security or coupon of any series, or for any claim based thereon, or

upon any obligation, covenant or agreement of this Indenture, against any incorporator, stockholder, director, officer or employee, as such, past, present or future, of the Company or of any successor corporation, either directly or indirectly through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment of penalty or otherwise; it being expressly agreed and understood that this Indenture and all the Securities and coupons of each series are solely corporate obligations, and that no personal liability whatever shall attach to, or is incurred by, any incorporator, stockholder, director, officer or employee, past, present or future, of the Company or of any successor corporation, either directly or indirectly through the Company or any successor corporation, because of the incurring of the indebtedness hereby authorized or under or by reason of any of the obligations, covenants or agreements contained in this Indenture or in any of the Securities or coupons of any series, or to be implied herefrom or therefrom; and that all such personal liability is hereby expressly released and waived as a condition of, and as part of the consideration for, the execution of this Indenture and the issuance of the Securities and coupons of each series.

15. *Certain Matters Relating to Currencies.*

Subject to Section 311, each reference to any currency or currency unit in any Security, or in the Board Resolution or supplemental indenture relating thereto, shall mean only the referenced currency or currency unit and no other currency or currency unit.

The Trustee shall segregate moneys, funds and accounts held by the Trustee in one currency or currency unit from any moneys, funds or accounts held in any other currencies or currency units, notwithstanding any provision herein which would otherwise permit the Trustee to commingle such amounts.

Whenever any action or Act is to be taken hereunder by the Holders of Securities denominated in a Foreign Currency or currency unit, then for purposes of determining the principal amount of Securities held by such Holders, the aggregate principal amount of the Securities denominated in a Foreign Currency or currency unit shall be deemed to be that amount of Dollars that could be obtained for such principal amount on the basis of a spot rate of exchange specified to the Trustee for such series in an Officers' Certificate for such Foreign Currency or currency unit into Dollars as of the date the taking of such action or Act by the Holders of the requisite percentage in principal amount of the Securities is evidenced to such Trustee.

16. *Language of Notices, Etc.*

Any request, demand, authorization, direction, notice, consent or waiver required or permitted under this Indenture shall be in the English language, and any published notice may also be in an official language of the country of publication.

II.

Security Forms

1. *Forms of Securities.*

The Registered Securities, if any, of each series and the Bearer Securities, if any, of each series and related coupons shall be in such form or forms (including global form) as shall be

established by or pursuant to a Board Resolution of the Company, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture or any indenture supplemental hereto and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as the Company may reasonably deem appropriate and as may be required to comply with any law, with any rule or regulation made pursuant thereto, with any rules of any securities exchange, automated quotation system or clearing agency or to conform to usage, as may, consistently herewith, be determined by the officers executing such Securities or coupons, as evidenced by their execution of such Securities or coupons. If temporary Securities of any series are issued in global form as permitted by Section 304, the form thereof shall be established as provided in the preceding sentence.

Unless otherwise specified as contemplated by Section 301, Bearer Securities shall have interest coupons attached.

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

2. *Form of Trustee's Certificate of Authentication.*

Subject to Section 614, the Certificate of Authentication on all Securities shall be in substantially the following form:

"This is one of the Securities of the series designated therein described in the within-mentioned Indenture.

The Bank Of New York,

as Trustee

By

Authorized Signatory

3. *Securities in Global Form.*

If any Security of a series is issuable in global form, such Security may provide that it shall represent the aggregate amount of Outstanding Securities from time to time endorsed thereon and may also provide that the aggregate amount of Outstanding Securities represented thereby may from time to time be increased or reduced to reflect exchanges. Any endorsement of a Security in global form to reflect the amount, or any increase or decrease in the amount, of Outstanding Securities represented thereby shall be made by the Trustee and in such manner as shall be specified in such Security. Any instructions by the Company with respect to a Security in global form, after its initial issuance, shall be in writing but need not comply with Section 102.

Global Securities may be issued in either registered or bearer form and in either temporary or permanent form.

Any Security issued in global form shall bear the following legend:

THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TRUST COMPANY (THE "DEPOSITARY") TO A NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, , HAS AN INTEREST HEREIN.

4. *CUSIP Numbers.*

The Company in issuing the Securities may use "CUSIP" numbers (if then generally in use) or other identifying numbers ("Identifying Numbers") and, if so, the Trustee shall use such Identifying Numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such Identifying Numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identifying numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any change in the Identifying Numbers.

III.

The Securities

1. *Title; Payment and Terms.*

The aggregate principal amount of Securities which may be authenticated and delivered and Outstanding under this Indenture is unlimited. The Securities may be issued up to the aggregate principal amount of Securities from time to time authorized by or pursuant to Board Resolutions of the Company.

The Securities may be issued in one or more series, each of which shall be issued pursuant to Board Resolutions of the Company. There shall be established in one or more Board Resolutions or pursuant to one or more Board Resolutions of the Company and, subject to

Section 303, set forth in, or determined in the manner provided in, an Officers' Certificate of the Company, or established in one or more supplemental indentures hereto, prior to the issuance of Securities of any series all or any of the following, as applicable (each of which, if so provided, may be determined from time to time by the Company with respect to unissued Securities of that series and set forth in the Securities of that series when issued from time to time):

1. the title of the Securities of that series (which shall distinguish the Securities of that series from all other series of Securities);
2. any limit upon the aggregate principal amount of the Securities of that series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of that series pursuant to Section 304, 305, 306, 906 or 1107) and whether that series may be reopened for additional Securities of that series; in the event that such series of Securities may be reopened from time to time for issuance of additional Securities of such series, the terms thereof shall indicate whether any such additional Securities shall have the same terms as the prior Securities of such series or whether the Company may establish additional or different terms with respect to such additional Securities;
3. whether Securities of that series are to be issuable as Registered Securities, Bearer Securities or both and any restrictions on the exchange of one form of Securities for another and on the offer, sale and delivery of the Securities in either form;
4. the date or dates (or manner of determining the same) on which the principal of the Securities of that series is payable (which, if so provided in such Board Resolutions, may be determined by the Company from time to time and set forth in the Securities of the series issued from time to time);
5. the rate or rates (or the manner of calculation thereof) at which the Securities of that series shall bear interest (if any), the date or dates from which such interest shall accrue, the Interest Payment Dates on which such interest shall be payable (or manner of determining the same) and the Regular Record Date for the interest payable on any Registered Securities on any Interest Payment Date and the extent to which, or the manner in which, any interest payable on a temporary Global Security on an Interest Payment Date will be paid if other than in the manner provided in Section 307;
6. the place or places where, subject to the provisions of Section 1002, the principal of (and premium, if any) and interest, if any, on Securities of that series shall be payable, any Registered Securities of that series may be surrendered for registration of transfer, any Securities of that series may be surrendered for exchange, and notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served;
7. the period or periods within which (or manner of determining the same), the price or prices at which (or manner of determining the same), the currency or currency unit in which, and the terms and conditions upon which Securities of that series may be redeemed, in whole or in part, at the option of the Company, and any remarketing arrangements with respect to the Securities of that series;
8. the obligation, if any, of the Company to redeem, repay or purchase Securities of that series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof, and the period or periods within which (or manner of determining the same), the price or prices at which (or manner of determining the same), the currency or currency unit in which, and the terms and conditions upon which, Securities of that series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

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9. if the currency in which the Securities of that series shall be issuable is Dollars, the denominations in which any Registered Securities of that series shall be issuable, if other than denominations of \$1,000 and any integral multiple thereof, and the denominations in which any Bearer Securities of that series shall be issuable, if other than the denomination of \$5,000;
 10. if other than the principal amount thereof, the portion of the principal amount of Securities of that series which shall be payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 502;
 11. the inapplicability of any Event of Default or covenant set forth in Article 10 hereof to the Securities of that series, or the applicability of any other Events of Defaults or covenants in addition to the Events of Default or covenants set forth herein to Securities of that series;
 12. if a Person other than The Bank of New York is to act as Trustee for the Securities of that series, the name and location of the Corporate Trust Office of such Trustee;
 13. if other than Dollars, the currency or currency unit in which payment of the principal of (and premium, if any) or interest, if any, on the Securities of that series shall be made or in which the Securities of that series shall be denominated and the particular provisions applicable thereto in accordance with, in addition to or in lieu of the provisions of Section 311;
 14. if the principal of (and premium, if any) and interest, if any, on the Securities of that series are to be payable, at the election of the Company or a Holder thereof, in a currency or currency unit other than that in which such Securities are denominated or stated to be payable, in accordance with provisions in addition to or in lieu of, or in accordance with the provisions of, Section 311, the period or periods within which (including the Election Date), and the terms and conditions upon which, such election may be made, and the time and manner of determining the exchange rate between the currency or currency unit in which such Securities are denominated or stated to be payable and the currency or currency unit in which such Securities are to be so payable;
 15. the designation of the original Currency Determination Agent, if any;
 16. if the Securities of such series are issuable as Indexed Securities, the manner in which the amount of payments of principal of (and premium, if any) and interest, if any, on that series shall be determined;
 17. if the Securities of that series do not bear interest, the applicable dates for purposes of Section 701;
 18. if other than as set forth in Article Four, provisions for the satisfaction and discharge of this Indenture with respect to the Securities of that series;
 19. the date as of which any Bearer Securities of that series and any Global Security representing Outstanding Securities of that series shall be dated if other than the date of original issuance of the first Security of that series to be issued;
 20. the application, if any, of Section 1009 to the Securities of that series;
 21. whether the Securities of the series shall be issued in whole or in part in the form of a Global Security or Securities and, in such case, the Depositary and Global Exchange Agent, if any, for such Global Security or Securities, whether such global form shall be permanent or temporary and, if applicable, the Exchange Date;

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22. if Securities of the series are to be issuable initially in the form of a temporary Global Security, the circumstances under which the temporary Global Security can be exchanged for definitive Securities and whether the definitive Securities will be Registered Securities and/or Bearer Securities and will be in global form and whether interest in respect of any portion of such Global Security payable in respect of an Interest Payment Date prior to the Exchange Date shall be paid to any clearing organization with respect to a portion of such Global Security held for its account and, in such event, the terms and conditions (including any certification requirements) upon which any such interest payment received by a clearing organization will be credited to the Persons entitled to interest payable on such Interest Payment Date if other than as provided in this Article Three;
 23. the extent and manner, if any, to which payment on or in respect of Securities of that series will be subordinated to the prior payment of other liabilities and obligations of the Company;
 24. whether payment of any amount due under such Securities will be guaranteed by one or more guarantors, including Subsidiaries of the Company;
 25. the forms of the Securities of that series; and
 26. any other terms of that series (which terms shall not be inconsistent with the requirements of the Trust Indenture Act).

All Securities of any particular series and the coupons appertaining to any Bearer Securities of such series shall be substantially identical except as to denomination, rate of interest, Stated Maturity and the date from which interest, if any, shall accrue, and except as may otherwise be provided in or pursuant to such Board Resolutions and set forth in such Officer's Certificate relating thereto or provided in or pursuant to any supplemental indenture hereto. The terms of such Securities, as set forth above, may be determined by the Company from time to time if so provided in or established pursuant to the authority granted in Board Resolutions. All Securities of any one series need not be issued at the same time, and unless otherwise provided, a series may be reopened for issuance of additional Securities of such series.

Prior to the delivery of a Security of any series in any such form to the Trustee for the Securities of such series for authentication, the Company shall deliver to such Trustee the following:

1. The Board Resolutions of the Company by or pursuant to which such form of Security have been approved and, if applicable, the supplemental indenture by or pursuant to which such form of Security has been approved;
2. An Officers' Certificate of the Company dated the date such Certificate is delivered to such Trustee satisfying the requirements of Sections 102 and 103, and stating that all conditions precedent provided for in this Indenture relating to the authentication and delivery of Securities in such forms have been complied with; and
3. An Opinion of Counsel satisfying the requirements of Sections 102 and 103 substantially to the effect that Securities in such forms, together with any coupons appertaining thereto, when (a) completed by appropriate insertions and executed and delivered by the Company to such Trustee for authentication in accordance with this Indenture, (b) authenticated and delivered by such Trustee in accordance with this Indenture, and (c) issued by the Company in the manner

and subject to the conditions specified in such Opinion of Counsel, will constitute the legal, valid and binding obligations of the Company, subject to the effects of applicable bankruptcy, reorganization, fraudulent conveyance, moratorium, insolvency and other similar laws generally affecting creditors' rights, to general equitable principles, to an implied covenant of good faith and fair dealing and to such other qualifications as such counsel shall conclude do not materially affect the rights of Holders of such Securities.

2. *Denominations and Currencies.*

Unless otherwise provided with respect to any series of Securities as contemplated by Section 301, any Registered Securities of a series other than Registered Securities issued in global form (which may be of any denomination) shall be issuable in denominations of \$1,000 and any integral multiple thereof, and any Bearer Securities of a series other than Bearer Securities issued in global form (which may be of any denomination) shall be issuable in the denomination of \$5,000, or the equivalent amounts thereof in the case of Registered Securities and Bearer Securities denominated in a Foreign Currency or currency unit.

3. *Execution, Authentication, Delivery and Dating.*

The Securities and any related coupons shall be executed on behalf of the Company by its Chairman of the Board, a Vice Chairman of the Board, or its President, Chief Executive Officer or one of its Vice Presidents. The Securities shall be so executed under the corporate seal of the Company reproduced thereon and attested to by its Secretary or any one of its Assistant Secretaries. The signature of any of these officers on the Securities may be manual or facsimile.

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

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series together with any coupons appertaining thereto, executed by the Company to the Trustee for the Securities of such series for authentication, together with a Company Order for the authentication and delivery of such Securities, and such Trustee, in accordance with the Company Order, shall authenticate and deliver such Securities; *provided, however*, that, during the "restricted period" (as defined in Section 1.163-5(c)(2)(i)(D)(7) of the United States Treasury Regulations), no Bearer Security shall be mailed or otherwise delivered to any location in the United States; and *provided, further*, that a Bearer Security may be delivered outside the United States in connection with its original issuance only if the Person entitled to receive such Bearer Security shall have furnished to the Trustee for the Securities of such series a certificate substantially in the form set forth in Exhibit A to this Indenture. If any Security shall be represented by a permanent Global Security, then, for purposes of this Section and Section 304, the notation of a beneficial owner's interest therein upon original issuance of such Security or upon exchange of a portion of a temporary Global Security shall be deemed to be delivery in connection with the original issuance of such beneficial owner's interest in such permanent Global Security. Except as permitted by Section 306 or 307, the Trustee for the Securities of a series shall not authenticate and deliver any Bearer Security unless all appurtenant coupons for interest then matured other than matured coupons in default have

been detached and cancelled. If all the Securities of any one series are not to be issued at one time and if a Board Resolution relating to such Securities shall so permit, such Company Order may set forth procedures acceptable to the Trustee for the issuance of such Securities, including, without limitation, procedures with respect to interest rate, Stated Maturity, date of issuance and date from which interest, if any, shall accrue.

Notwithstanding any contrary provision herein, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Board Resolution, Officers' Certificate and Opinion of Counsel otherwise required pursuant to Sections 102 and 301 at or prior to the time of authentication of each Security of such series if such documents are delivered at or prior to the authentication upon original issuance of the first Security of such series to be issued.

Each Registered Security shall be dated the date of its authentication, and, unless otherwise specified as contemplated by Section 301, each Bearer Security shall be dated as of the date of original issuance of the first Security of such series to be issued.

No Security or coupon appertaining thereto shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein manually executed by the Trustee for such Security or on its behalf pursuant to Section 614, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

In case any Securities shall have been authenticated, but not delivered, by the Trustee or the Authenticating Agent for such series then in office, any successor by merger, conversion or consolidation to such Trustee, or any successor Authenticating Agent, as the case may be, may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee or successor Authenticating Agent had itself authenticated such Securities.

Each Depositary designated pursuant to Section 301 for a Global Security in registered form must, at the time of its designation and at all times while it serves as Depositary, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

The Trustee shall have the right to decline to authenticate and deliver any Securities under this Section if the Trustee, being advised by counsel, determines that such action may not lawfully be taken or if the Trustee in good faith shall determine that such action would expose the Trustee to personal liability to existing Holders.

4. *Temporary Securities and Exchange of Securities.*

Pending the preparation of definitive Securities of any particular series, the Company may execute, and upon Company Order the Trustee for the Securities of such series shall authenticate and deliver, in the manner specified in Section 303, temporary Securities which are printed, lithographed, typewritten, photocopied or otherwise produced, in any denomination, with like terms and conditions as the definitive Securities of like series in lieu of which they are issued in registered form or, if authorized, in bearer form with one or more coupons or without coupons, and with such appropriate insertions, omissions,

substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities. Any such temporary Securities may be in global form, representing such of the Outstanding Securities of such series as shall be specified therein.

Except in the case of temporary Securities in global form (which shall be exchanged only in accordance with the provisions of the following paragraphs or as otherwise provided in or pursuant to a Board Resolution or a Supplemental Indenture), if temporary Securities of any particular series are issued, the Company will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of such definitive Securities, the temporary Securities of such series shall be exchangeable for such definitive Securities of a like Stated Maturity and with like terms and provisions upon surrender of the temporary Securities of such series, together with all unmatured coupons and matured coupons in default, if any, at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any particular series, the Company shall execute and (in accordance with a Company Order delivered at or prior to the authentication of the first definitive Security of such series) the Trustee for the Securities of such series or the Global Exchange Agent shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of authorized denominations of the same series and of a like Stated Maturity and with like terms and provisions; *provided, however*, unless otherwise specified pursuant to Section 301, no definitive Bearer Security shall be delivered in exchange for a temporary Registered Security; and *provided, further*, that a definitive Bearer Security shall be delivered in exchange for a temporary Bearer Security only in compliance with the conditions set forth in Section 303. Until exchanged as hereinabove provided, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of the same series and with like terms and conditions, except as to payment of interest, if any, authenticated and delivered hereunder.

Any temporary Global Security and any permanent Global Security shall, unless otherwise provided therein, be delivered to a Depositary designated pursuant to Section 301.

Without unnecessary delay but in any event not later than the date specified in or determined pursuant to the terms of any such temporary Global Security (the "Exchange Date"), the Securities represented by any temporary Global Security of a series of Securities issuable in bearer form may be exchanged for definitive Securities (subject to the second succeeding paragraph) or Securities to be represented thereafter by one or more permanent Global Securities, without interest coupons. On or after the Exchange Date such temporary Global Security shall be surrendered by the Depositary to the Trustee for such Security, as the Company's agent for such purpose, or the agent appointed by the Company pursuant to Section 301 to effect the exchange of the temporary Global Security for definitive Securities (the "Global Exchange Agent"), and following such surrender, such Trustee or the Global Exchange Agent (as authorized by the Trustee as an Authenticating Agent pursuant to Section 614) shall (1) endorse the temporary Global Security to reflect the reduction of its principal amount by an equal aggregate principal amount of such Security, (2) endorse the applicable permanent Global Security, if any, to reflect the initial amount, or an increase in the amount of Securities represented thereby, (3) manually authenticate such definitive Securities or such permanent Global Security, as the case may be, (4) subject to Section 303, deliver such definitive Securities to the Holder thereof or, as the case may be, deliver such permanent Global Security to the Depositary to be held outside the United States for the accounts of Euroclear and Clearstream Banking, for credit to the respective accounts at

Euroclear and Clearstream Banking, designated by or on behalf of the beneficial owners of such Securities (or to such other accounts as they may direct) and (5) redeliver such temporary Global Security to the Depositary, unless such temporary Global Security shall have been cancelled in accordance with Section 309 hereof; *provided, however*, that, unless otherwise specified in such temporary Global Security, upon such presentation by the Depositary, such temporary Global Security shall be accompanied by a certificate dated the Exchange Date or a subsequent date and signed by Euroclear as to the portion of such temporary Global Security held for its account then to be exchanged for definitive Securities or one or more permanent Global Securities, as the case may be, and a certificate dated the Exchange Date or a subsequent date and signed by Clearstream Banking, as to the portion of such temporary Global Security held for its account then to be exchanged for definitive Securities or one or more permanent Global Securities, as the case may be, each substantially in the form set forth in Exhibit B to this Indenture. Each certificate substantially in the form of Exhibit B hereto of Euroclear or Clearstream Banking, as the case may be, shall be based on certificates of the account holders listed in the records of Euroclear or Clearstream Banking, as the case may be, as being entitled to all or any portion of the applicable temporary Global Security. An account holder of Euroclear or Clearstream Banking, as the case may be, desiring to effect the exchange of interest in a temporary Global Security for an interest in definitive Securities or one or more permanent Global Securities shall instruct Euroclear or Clearstream Banking, as the case may be, to request such exchange on its behalf and shall deliver to Euroclear or Clearstream Banking, as the case may be, a certificate substantially in the form of Exhibit A hereto and dated no earlier than 15 days prior to the Exchange Date. Until so exchanged, temporary Global Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities and permanent Global Securities of the same series authenticated and delivered hereunder, except as provided in the fourth succeeding paragraph.

The delivery to the Trustee for the Securities of the appropriate series or the Global Exchange Agent by Euroclear or Clearstream Banking of any certificate substantially in the form of Exhibit B hereto may be relied upon by the Company and such Trustee or the Global Exchange Agent as conclusive evidence that a corresponding certificate or certificates has or have been delivered to Euroclear or to Clearstream Banking, as the case may be, pursuant to the terms of this Indenture.

On or prior to the Exchange Date, the Company shall deliver to the Trustee for the Securities of the appropriate series or the Global Exchange Agent definitive Securities or one or more permanent Global Securities in aggregate principal amount equal to the principal amount of such temporary Global Security, executed by the Company in the case of the Securities. At any time, on or after the Exchange Date, upon 30 days' notice to the Trustee for the Securities of the appropriate series or the Global Exchange Agent by Euroclear or Clearstream Banking, as the case may be, acting at the request of or on behalf of the beneficial owner, a Security represented by a temporary Global Security or a permanent Global Security, as the case may be, may be exchanged, in whole or from time to time in part, for definitive Securities without charge and such Trustee or the Global Exchange Agent shall authenticate and deliver, in exchange for each portion of such temporary Global Security or such permanent Global Security, an equal aggregate principal amount of definitive Securities of the same series of authorized denominations and with like terms and provisions as the portion of such temporary Global Security or such permanent Global Security to be exchanged, which, unless the Securities of the series are not issuable both as Bearer Securities and as Registered Securities, as contemplated by Section 301, shall be in the form of Bearer Securities or Registered Securities, or any combination

thereof, as shall be specified by the beneficial owner thereof; *provided, however*, that definitive Bearer Securities shall be delivered in exchange for a portion of the temporary Global Security or the permanent Global Security only in compliance with the requirements of the second preceding paragraph. On or prior to the thirtieth day following receipt by the Trustee for the Securities of the appropriate series or the Global Exchange Agent of such notice with respect to a Security, or, if such day is not a Business Day, the next succeeding Business Day, the temporary Global Security or the permanent Global Security, as the case may be, shall be surrendered by the Depository to such Trustee, as the Company's agent for such purpose, or the Global Exchange Agent to be exchanged in whole, or from time to time in part, for definitive Securities without charge following such surrender, upon the request of Euroclear or Clearstream Banking, as the case may be, and such Trustee or the Global Exchange Agent shall (1) endorse the applicable temporary Global Security or the permanent Global Security to reflect the reduction of its principal amount by the aggregate principal amount of such Security, (2) in accordance with procedures acceptable to the Trustee cause the terms of such Security and coupons, if any, to be entered on a definitive Security, (3) manually authenticate such definitive Security and (4) if a Bearer Security is to be delivered, deliver such definitive Security outside the United States to Euroclear or Clearstream Banking, as the case may be, for or on behalf of the beneficial owner thereof, in exchange for a portion of such permanent Global Security.

Unless otherwise specified in such temporary Global Security or permanent Global Security, any such exchange shall be made free of charge to the beneficial owners of such temporary Global Security or permanent Global Security, except that a Person receiving definitive Securities must bear the cost of any taxes, insurance, postage, transportation and the like in the event that such Person does not take delivery of such definitive Securities in person at the offices of Euroclear or Clearstream Banking. Definitive Securities in bearer form to be delivered in exchange for any portion of a temporary Global Security or a permanent Global Security shall be delivered only outside the United States.

Until exchanged in full as hereinabove provided, any temporary Global Security or permanent Global Security shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of the same series and with like terms and conditions, except as to payment of interest, if any, authenticated and delivered hereunder. Unless otherwise specified as contemplated by Section 301, interest payable on such temporary Global Security on an Interest Payment Date for Securities of such series shall be payable to Euroclear and Clearstream Banking on such Interest Payment Date upon delivery by Euroclear and Clearstream Banking to the Trustee for the Securities of the appropriate series or the Global Exchange Agent in the case of payment of interest on a temporary Global Security with respect to an Interest Payment Date occurring prior to the applicable Exchange Date of a certificate or certificates substantially in the form set forth in Exhibit C to this Indenture, for credit without further interest on or after such Interest Payment Date to the respective accounts of the Persons who are the beneficial owners of such Global Security on such Interest Payment Date and who have, in the case of payment of interest on a temporary Global Security with respect to an Interest Payment Date occurring prior to the applicable Exchange Date, each delivered to Euroclear or Clearstream Banking, as the case may be, a certificate substantially in the form set forth in Exhibit D to this Indenture.

Any definitive Bearer Security authenticated and delivered by the Trustee for the Securities of the appropriate series or the Global Exchange Agent in exchange for a portion of a temporary Global Security or a permanent Global Security shall not bear a coupon for any interest which shall theretofore have been duly paid by such Trustee to Euroclear or Clearstream Banking or by the Company to such Trustee in accordance with the provisions of this Section 304.

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

5. *Registration, Registration of Transfer and Exchange.*

The Company shall cause to be kept at the Corporate Trust Office of the Trustee for the Securities of each series a register (the register maintained in such office being herein sometimes referred to as the “Security Register”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Registered Securities and of transfers of Registered Securities. The Trustee for the Securities of each series is hereby initially appointed “Security Registrar” for the purpose of registering Registered Securities and transfers of Registered Securities of such series as herein provided.

Upon surrender for registration of transfer of any Registered Security of any particular series at the office or agency of the Company in a Place of Payment for that series, the Company shall execute, and the Trustee for the Securities of each series shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Registered Securities of any authorized denominations, and of a like Stated Maturity and of a like series and aggregate principal amount and with like terms and conditions.

Except as set forth below, at the option of the Holder, Registered Securities of any particular series may be exchanged for other Registered Securities of any authorized denominations, and of a like Stated Maturity and of a like series and aggregate principal amount and with like terms and conditions upon surrender of the Registered Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee for such Securities shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive. Except as otherwise specified pursuant to Section 301, Registered Securities may not be exchanged for Bearer Securities.

Notwithstanding any other provision of this Section or Section 304, unless and until it is exchanged in whole or in part for Registered Securities in definitive form, a Global Security representing all or a portion of the Registered Securities of a series may not be transferred except as a whole by the Depository for such series to a nominee of such Depository or by a nominee of such Depository to such Depository or another nominee of such Depository or by such Depository or any such nominee to a successor Depository for such series or a nominee of such successor Depository.

If (but not only if) permitted by the applicable Board Resolution and (subject to Section 308) set forth in the applicable Officer’s Certificate, at the option of the Holder, Bearer Securities of any series may be exchanged for Registered Securities of the same series of

any authorized denominations and of a like aggregate principal amount and with like terms and provisions upon surrender of the Bearer Securities to be exchanged at any office or agency of the Company in a Place of Payment for that series, with all unmatured coupons and all matured coupons in default thereto appertaining. If the Holder of a Bearer Security is unable to produce any such unmatured coupon or coupons or matured coupon or coupons in default, such exchange may be effected if the Bearer Securities are accompanied by payment in funds acceptable to the Company (or to the Trustee for the Security in case of matured coupons in default) in an amount equal to the face amount of such missing coupon or coupons, or the surrender of such missing coupon or coupons may be waived by the Company and such Trustee if there is furnished to them such security or indemnity as they may require to save each of them and any Paying Agent harmless. If thereafter the Holder of such Security shall surrender to any Paying Agent any such missing coupon in respect of which such a payment shall have been made, such Holder shall be entitled to receive the amount of such payment; *provided, however*, that, except as otherwise provided in Section 1002, interest represented by coupons shall be payable only upon presentation and surrender of those coupons at an office or agency of the Company in a Place of Payment for that series located outside the United States. Notwithstanding the foregoing, in case a Bearer Security of any series is surrendered at any such office or agency in exchange for a Registered Security of the same series and with like terms and conditions after the close of business at such office or agency on or after (i) any Regular Record Date and before the opening of business at such office or agency on the relevant Interest Payment Date, or (ii) any Special Record Date and before the opening of business at such office or agency on the related proposed date for payment of Defaulted Interest, such Bearer Security shall be surrendered without the coupon relating to such Interest Payment Date or proposed date for payment, as the case may be (or, if such coupon is so surrendered with such Bearer Security, such coupon shall be returned to the person so surrendering the Bearer Security), and interest or Defaulted Interest, as the case may be, will not be payable on such Interest Payment Date or proposed date for payment, as the case may be, in respect of the Registered Security issued in exchange for such Bearer Security, but will be payable only to the Holder of such coupon when due in accordance with the provisions of this Indenture.

Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee for such Securities shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

If at any time the Depository for Securities of a series in registered form notifies the Company that it is unwilling or unable to continue as Depository for the Securities of such series or if at any time the Depository for the Securities of such series shall no longer be eligible under Section 303, the Company shall appoint a successor Depository with respect to the Securities for such series. If (i) a successor Depository for the Securities of such series is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such ineligibility, (ii) the Company delivers to the Trustee for Securities of such series in registered form a Company Order stating that the Securities of such series shall be exchangeable, or (iii) an Event of Default under Section 501 hereof has occurred and is continuing with respect to the Securities of such series, the Company's election pursuant to Section 301 shall no longer be effective with respect to the Securities for such series and the Company will execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form in an aggregate principal amount equal to the principal amount of the Global Security or Securities representing such series in exchange for such Global Security or Securities.

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

If specified by the Company pursuant to Section 301 with respect to a series of Securities in registered form, the Depositary for such series of Securities may surrender a Global Security for such series of Securities in exchange in whole or in part for Securities of such series of like tenor and terms and in definitive form on such terms as are acceptable to the Company and such Depositary. Thereupon the Company shall execute, and, upon receipt of a Company Order, the Trustee shall authenticate and deliver, without service charge, (i) to each Person specified by such Depositary a new Security or Securities of the same series, of like tenor and terms and of any authorized denomination as requested by such Person in aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Global Security; and (ii) to such Depositary a new Global Security of like tenor and terms and in a denomination equal to the difference, if any, between the principal amount of the surrendered Global Security and the aggregate principal amount of Securities delivered to Holders thereof.

Upon the exchange of a Global Security for Securities in definitive form representing the aggregate principal amount of such Global Security, such Global Security shall be cancelled by the Trustee. Registered Securities issued in exchange for a Global Security pursuant to this Section shall be registered in such names and in such authorized denominations as the Depositary for such Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee in writing. The Trustee shall deliver such Registered Securities to the persons in whose names such Securities are so registered.

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

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

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 304, 906 or 1107 not involving any transfer.

The Company shall not be required (i) to issue, register the transfer of or exchange Securities of any series during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Securities of that series selected for

redemption under Section 1104 and ending at the close of business on (A) if Securities of the series are issuable only as Registered Securities, the day of the mailing of the relevant notice of redemption and (B) if Securities of the series are issuable as Bearer Securities, the day of the first publication of the relevant notice of redemption or, if Securities of the series are also issuable as Registered Securities and there is no publication, the mailing of the relevant notice of redemption, or (ii) to register the transfer of or exchange any Registered Security so selected for redemption as a whole or in part, except the unredeemed portion of any Security being redeemed in part, or (iii) to exchange any Bearer Security so selected for redemption except that such a Bearer Security may be exchanged for a Registered Security of that series and like tenor; *provided, however*, that such Registered Security shall be simultaneously surrendered for redemption.

Furthermore, notwithstanding any other provision of this Section 305, the Company will not be required to exchange any Securities if, as a result of the exchange, the Company would suffer adverse consequences under any United States law or regulation.

6. *Mutilated, Destroyed, Lost and Stolen Securities and Coupons.*

If (i) any mutilated Security or a Security with a mutilated coupon appertaining thereto is surrendered to the Trustee for such Security or the Company and the Trustee for a Security receive evidence to their satisfaction of the destruction, loss or theft of any Security or coupon and (ii) there is delivered to the Company and such Trustee such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or such Trustee that such Security or coupon has been acquired by a bona fide or protected purchaser, the Company shall execute and upon its request such Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security or in exchange for such mutilated Security, or in exchange for the Security to which a mutilated, destroyed, lost or stolen coupon appertains (with all appurtenant coupons not mutilated, destroyed, lost or stolen) a new Security of the same series and in a like principal amount and of a like Stated Maturity and with like terms and conditions, and bearing a number not contemporaneously outstanding with coupons corresponding to the coupons, if any, appertaining to such mutilated, destroyed, lost or stolen Security or to the Security to which such mutilated, destroyed, lost or stolen coupon appertains.

In case any such mutilated, destroyed, lost or stolen Security or coupon has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security or coupon (without surrender thereof except in the case of a mutilated Security or coupon) if the applicant for such payment shall furnish to the Company and the Trustee for such Security such security or indemnity as may be required by them to save each of them harmless, and in case of destruction, loss or theft, evidence satisfactory to the Company and such Trustee and any agent of any of them of the destruction, loss or theft of such Security and the ownership thereof; *provided, however*, that the principal of (and premium, if any) and interest, if any, on Bearer Securities shall, except as otherwise provided in Section 1002, be payable only at an office or agency located outside the United States and, unless otherwise specified as contemplated by Section 301, any interest on Bearer Securities shall be payable only upon presentation and surrender of the coupons appertaining thereto.

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

Every new Security of any series, with its coupons, if any, issued pursuant to this Section in lieu of any destroyed, lost or stolen Security or in exchange for any mutilated Security, or in exchange for a Security to which a mutilated, destroyed, lost or stolen coupon appertains shall constitute an original additional contractual obligation of the Company whether or not the destroyed, lost or stolen Security and its coupons, if any, or the destroyed, lost or stolen coupon shall be at any time enforceable by anyone, and each such new Security shall be at any time enforceable by anyone, and each such new Security shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of the same series and their coupons, if any, duly issued hereunder.

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

7. *Payment of Interest; Interest Rights Preserved.*

Interest on any Registered Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall, if so provided in such Security, be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest payment.

Unless otherwise provided with respect to the Securities of any series, payment of interest may be made at the Corporate Trust Office or, at the option of the Company (i) in the case of Registered Securities, may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register, or (ii) in the case of Bearer Securities, upon presentation and surrender of the appropriate coupon appertaining thereto or by transfer to an account maintained by the payee with a bank located outside the United States. Notwithstanding the foregoing, a Holder of \$1,000,000 or more in aggregate principal amount of Securities of any series in definitive form, whether having identical or different terms and provisions, having the same Interest Payment Dates will, at the option of the Company, be entitled to receive interest payments, other than at Maturity, by wire transfer of immediately available funds if appropriate wire transfer instructions have been received in writing by the Trustee for the Securities of such series at least 15 days prior to the applicable Interest Payment Date. Any wire instructions received by the Trustee for the Securities of such series shall remain in effect until revoked by the Holder.

Unless otherwise provided or contemplated by Section 301, every permanent Global Security will provide that interest, if any, payable on any Interest Payment Date will be paid to each of Euroclear and Clearstream Banking with respect to that portion of such permanent Global Security held for its account by the Depository. Each of Euroclear and Clearstream Banking will in such circumstances credit the interest received by it in respect of such permanent Global Security to the accounts of the beneficial owners thereof.

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

1. The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Registered Securities of that series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee for the Registered Securities of such series in writing of the amount of Defaulted Interest proposed to be paid on each Registered Security of that series and the date of the proposed payment, and at the same time the Company shall deposit with such Trustee an amount of money in the currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 301 for the Securities of such series and except as provided in Sections 311(b) and 311(d)), equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to such Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon such Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall not be more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by such Trustee of the notice of the proposed payment. Such Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Registered Securities of that series at his address as it appears in the Security Register not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names the Registered Securities of that series (or their respective Predecessor Securities) are registered on such Special Record Date and shall no longer be payable pursuant to the following clause (2).
2. The Company may make payment of any Defaulted Interest on Registered Securities of any particular series in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Registered Securities may be listed, and upon such notice as may be required by such exchange, if, after notice is given by the Company to the Trustee for the Securities of such series of the proposed manner of payment pursuant to this clause, such manner of payment shall be deemed practicable by such Trustee.

Subject to the foregoing provisions of this Section and Section 305, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

8. *Persons Deemed Owners.*

Prior to due presentment of a Registered Security for registration of transfer, the Company, the Trustee for such Security and any agent of the Company or such Trustee may treat the

Person in whose name any such Security is registered as the owner of such Security for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 307) interest, if any, on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and none of the Company, such Trustee or any agent of the Company or such Trustee shall be affected by notice to the contrary.

Title to any Bearer Security and any coupons appertaining thereto shall pass by delivery. The Company, the Trustee for such Security and any agent of the Company or such Trustee may treat the bearer of any Bearer Security and the bearer of any coupon as the absolute owner of such Bearer Security or coupon for the purpose of receiving payment thereof or on account thereof and for all other purposes whatsoever, whether or not such Security or coupon be overdue, and none of the Company, such Trustee or any agent of the Company or such Trustee shall be affected by notice to the contrary.

None of the Company, the Trustee, any Paying Agent or the Security Registrar will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

9. *Cancellation.*

All Securities and coupons surrendered for payment, redemption, registration of transfer or exchange, or delivered in satisfaction of any sinking fund payment, shall, if surrendered to any Person other than the Trustee for such Securities, be delivered to such Trustee and, in the case of Registered Securities and matured coupons, shall be promptly cancelled by it. All Bearer Securities and unmatured coupons so delivered to the Trustee for such Securities shall be cancelled by such Trustee. The Company may at any time deliver to the Trustee for Securities of a series for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly cancelled by such Trustee. Notwithstanding any other provision of this Indenture to the contrary, in the case of a series, all the Securities of which are not to be originally issued at one time, a Security of such series shall not be deemed to have been Outstanding at any time hereunder if and to the extent that, subsequent to the authentication and delivery thereof, such Security is delivered to the Trustee for such Security for cancellation by the Company or any agent thereof upon the failure of the original purchaser thereof to make payment therefor against delivery thereof, and any Security so delivered to such Trustee shall be promptly cancelled by it. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Securities and coupons held by the Trustee for such Securities shall be disposed of by such Trustee in accordance with its standard procedures and a certificate of disposition evidencing such disposition of Securities and coupons shall be provided to the Company by such Trustee. In the case of any temporary Global Security, which shall be disposed of if the entire aggregate principal amount of the Securities represented thereby has been exchanged, the certificate of disposition shall state that all certificates required pursuant to Section 304 hereof, substantially in the form of Exhibit B hereto (or in the form of any substitute exhibit as provided in the last paragraph of Section 304), to be given by Euroclear or Clearstream Banking, have been duly presented to the Trustee for such Securities by Euroclear or Clearstream Banking, as the case may be. Permanent Global Securities shall not be disposed of until exchanged in full for definitive Securities or until payment thereon is made in full.

10. *Computation of Interest.*

Except as otherwise specified as contemplated by Section 301 for Securities of any particular series, interest on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

11. *Currency and Manner of Payments in Respect of Securities.*

Unless otherwise specified in accordance with Section 301 with respect to any series of Securities, the following provisions shall apply:

- a. Except as provided in paragraphs (b) and (d) below, the principal of (and premium, if any) and interest on Securities of any series denominated in a Foreign Currency or currency unit will be payable by the Company in Dollars based on the equivalent of that Foreign Currency or currency unit converted into Dollars in the manner described in paragraph (c) below.
- b. It may be provided pursuant to Section 301 with respect to Registered Securities of any series denominated in a Foreign Currency or currency unit that Holders shall have the option, subject to paragraph (d) below, to receive payments of principal of (and premium, if any) and interest on such Registered Securities in such Foreign Currency or currency unit by delivering to the Trustee (or to any duly appointed Paying Agent) for the Registered Securities of that series a written election, to be in form and substance satisfactory to such Trustee (or to any such Paying Agent), not later than the close of business on the Election Date immediately preceding the applicable payment date. If a Holder so elects to receive such payments in such Foreign Currency or currency unit, such election will remain in effect for such Holder until changed by such Holder by written notice to the Trustee (or to any such Paying Agent) for the Registered Securities of that series; *provided, however*, that any such change must be made not later than the close of business on the Election Date immediately preceding the next payment date to be effective for the payment to be made on such payment date; and provided, further, that no such change or election may be made with respect to payments to be made on any Registered Security of such series with respect to which an Event of Default has occurred, the Company has exercised any defeasance, satisfaction or discharge options pursuant to Article Four or notice of redemption has been given by the Company pursuant to Article Eleven. If any Holder makes any such election, such election will not be effective as to any transferee of such Holder and such transferee shall be paid in Dollars unless such transferee makes an election as specified above; *provided, however*, that such election, if in effect while funds are on deposit with respect to the Registered Securities of such series as described in Section 404 or Section 405, will be effective as to any transferee of such Holder unless otherwise specified pursuant to Section 301 for such Registered Securities. Any Holder of any such Registered Security who shall not have delivered any such election to the Trustee (or to any duly appointed Paying Agent) for the Registered Securities of such series not later than the close of business on the applicable Election Date will be paid the amount due on the applicable payment date in Dollars.
- c. With respect to any Registered Securities of any series denominated in a Foreign Currency or currency unit and payable in Dollars, the amount of Dollars so payable will be determined by the Currency Determination Agent based on the highest indicative quotation in The City of New York selected by the Currency Determination Agent at approximately 11:00 A.M., New York City time, on the second Business

Day preceding the applicable payment date. Such selection shall be made from among the quotations appearing on the bank composite or multi-contributor pages of the Reuters Monitor Foreign Exchange Service or, if not available, the Telerate Monitor Foreign Exchange Service, for three (or two if three are not available) major banks in New York City. The first three (or two) such banks selected by the Currency Determination Agent which are offering quotes on the Reuters Foreign Exchange Service shall be used. If such quotations are unavailable from either such foreign exchange service, such selection shall be made from the quotations received by the Currency Determination Agent from no more than three nor less than two recognized foreign exchange dealers in The City of New York selected by the Currency Determination Agent and approved by the Company (one of which may be the Currency Determination Agent) for the purchase by the quoting dealer, for settlement on such payment date, of the aggregate amount of the Foreign Currency or currency unit payable on such payment date in respect of all Registered Securities denominated in such Foreign Currency or currency unit and for which the applicable dealer commits to execute a contract. If fewer than two such bid quotations are available at 11:00 a.m., New York City time, on the second Business Day preceding the applicable payment date, such payment will be based on the Market Exchange Rate as of the second Business Day preceding the applicable payment date. If the Market Exchange Rate for such date is not then available, payments shall be made in the Foreign Currency or currency unit. All currency exchange costs associated with any payment in Dollars on any such Registered Securities will be borne by the Holder thereof by deductions from such payment.

- d. If a Conversion Event occurs with respect to a Foreign Currency or currency unit in which Registered Securities of any series are payable, then with respect to each date for the payment of principal of (and premium, if any) and interest on the Registered Securities of that series occurring after the last date on which such Foreign Currency or currency unit was used, the Company may make such payment in Dollars. The Dollar amount to be paid by the Company to the Trustee for the Registered Securities of such series and by such Trustee or any Paying Agent for the Registered Securities of such series to the Holders of such Registered Securities with respect to such payment date shall be determined by the Currency Determination Agent on the basis of the Market Exchange Rate as of the second Business Day preceding the applicable payment date or, if such Market Exchange Rate is not then available, on the basis of the most recently available Market Exchange Rate, or as otherwise established pursuant to Section 301 with respect to such Notes. Any payment in respect of such Registered Security made under such circumstances in Dollars will not constitute an Event of Default hereunder.
- e. For purposes of this Indenture the following terms shall have the following meanings:
 - A “Component Currency” shall mean any currency which is a component currency of any currency unit.
 - “Election Date” shall mean, for the Registered Securities of any series, the date specified pursuant to Section 301(14).
- f. Notwithstanding any other provisions of this Section 311, the following shall apply: (i) if the official unit of any Component Currency is altered by way of combination or subdivision, the number of units of that currency as a component shall be divided or multiplied in the same proportion, (ii) if two or more Component Currencies are consolidated into a single currency, the amounts of those currencies as components

shall be replaced by an amount in such single currency equal to the sum of the amounts of the consolidated Component Currencies expressed in such a single currency, (iii) if any Component Currency is divided into two or more currencies, the amount of that original Component Currency as a component shall be replaced by the amounts of such two or more currencies having an aggregate value on the date of division equal to the amount of the former Component Currency immediately before such division and (iv) in the event of an official redenomination of any currency (including, without limitation, a currency unit), the obligations of the Company to make payments in or with reference to such currency on the Registered Securities of any series shall, in all cases, be deemed immediately following such redenomination to be obligations to make payments in or with reference to that amount of redenominated currency representing the amount of such currency immediately before such redenomination.

- g. All determinations referred to in this Section 311 made by the Currency Determination Agent shall be in its sole discretion and shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Holders of the applicable Securities. The Currency Determination Agent shall promptly give written notice to the Trustee of any such decision or determination. The Currency Determination Agent shall have no liability for any determinations referred to in this Section 311 made by it.
- h. The Trustee for the Securities of a particular series shall be fully justified and protected in relying and acting upon information received by it from the Company and the Currency Determination Agent with respect to any of the matters addressed in or contemplated by this Section 311 and shall not otherwise have any duty or obligation to determine such information independently.

12. *Appointment and Resignation of Currency Determination Agent.*

- a. If and so long as the Securities of any series (i) are denominated in a currency unit or a currency other than Dollars or (ii) may be payable in a currency unit or a currency other than Dollars, or so long as it is required under any other provision of this Indenture, then the Company shall maintain with respect to each such series of Securities, or as so required, a Currency Determination Agent. The Company shall cause the Currency Determination Agent to make the necessary foreign exchange determinations at the time and in the manner specified pursuant to Section 301 for the purpose of determining the applicable rate of exchange and for the purpose of converting the issued currency or currency unit into the applicable payment currency or currency unit for the payment of principal (and premium, if any) and interest, if any, pursuant to Section 311.
- b. No resignation of the Currency Determination Agent and no appointment of a successor Currency Determination Agent pursuant to this Section shall become effective until the acceptance of appointment by the successor Currency Determination Agent as evidenced by a written instrument delivered to the Company and the Trustee of the appropriate series of Securities accepting such appointment executed by the successor Currency Determination Agent.
- c. If the Currency Determination Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the Currency Determination Agent for any cause, with respect to the Securities of one or more series, the Company, by a Board Resolution, shall promptly appoint a successor Currency Determination Agent or Currency Determination Agents with respect to the Securities of that or those series (it being understood that any such successor Currency Determination Agent may be appointed with respect to the Securities of one or more or all of such series and that at any time there shall only be one Currency Determination Agent with respect to the Securities of any particular series).

13. *Ranking.*

The Securities shall constitute the senior indebtedness of the Company and shall rank *pari passu* in right of payment among themselves and with all of the other existing and future senior indebtedness of the Company.

IV.

Satisfaction and Discharge

1. *Option to Effect Legal Defeasance or Covenant Defeasance.*

The Company may, at the option of its Board of Directors evidenced by a Board Resolution set forth in an Officers' Certificate, at any time, with respect to the Securities of any series, elect to have either Section 402 or 403 be applied to all of the Outstanding Securities of that series upon compliance with the conditions set forth below in this Article Four.

2. *Legal Defeasance and Discharge.*

Upon the Company's exercise under Section 401 of the option applicable to this Section 402, the Company shall be deemed to have been discharged from its obligations with respect to all Outstanding Securities of the particular series and any coupons appertaining thereto on the date the conditions set forth below in Section 404 are satisfied (hereinafter, "Legal Defeasance"). For this purpose, such Legal Defeasance means that the Company shall be deemed to have paid and discharged all the obligations relating to the Outstanding Securities of that series and the Securities of that series, including any coupons appertaining thereto, shall thereafter be deemed to be "Outstanding" only for the purposes of Section 406, Section 408 and the other Sections of this Indenture referred to below in this Section 402, and to have satisfied all of its other obligations under such Securities and any coupons appertaining thereto and this Indenture and cured all then existing Events of Default (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of Outstanding Securities of the particular series and coupons, if any, of such series to receive payments in respect of the principal of (and premium, if any) and interest, if any, on such Securities when such payments are due or on the Redemption Date solely out of the trust created pursuant to this Indenture; (b) the Company's obligations with respect to such Securities concerning issuing temporary Securities of that series, or, where relevant, registration of such Securities, mutilated, destroyed, lost or stolen Securities of that series and the maintenance of an office or agency for payment and money for Securities payments held in trust; (c) the rights, powers, trusts, duties and immunities of the Trustee for the Securities of that series, and the Company's obligations in connection therewith; and (d) this Article Four and the obligations set forth in Section 406 hereof.

Subject to compliance with this Article Four, the Company may exercise its option under Section 402 notwithstanding the prior exercise of its option under Section 403 with respect to the Securities of a particular series and any coupons appertaining thereto.

3. *Covenant Defeasance.*

Upon the Company's exercise under Section 401 of the option applicable to this Section 403, the Company shall be released from any obligations under the covenants contained in Sections 704 and 801 hereof (and any other covenant in addition to those set forth herein applicable to Securities of any series pursuant to Section 301 hereof specified to be released as provided under this Section 403) with respect to the Outstanding Securities of the particular series, along with any additional covenants contained in such Security or any Supplemental Indenture in connection therewith, on and after the date the conditions set forth below in Section 404 are satisfied (hereinafter, "Covenant Defeasance"), and the Securities of that series and any coupons appertaining thereto shall thereafter be deemed not "Outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "Outstanding" for all other purposes hereunder (it being understood that such Securities shall not be deemed outstanding for accounting purposes). For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Securities of that series and any coupons appertaining thereto, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a default or Event of Default under subsection 501(3) but, except as specified above, the remainder of this Indenture and the Securities of that series shall be unaffected thereby.

4. *Conditions to Legal or Covenant Defeasance.*

The following shall be the conditions to the application of either Section 402 or Section 403 to the Outstanding Securities of a particular series:

- a. the Company must irrevocably deposit, or cause to be irrevocably deposited, with the Trustee for the Securities of that series, in trust, for the benefit of the Holders of the Securities of that series, cash in the currency or currency unit in which the Securities of that series are payable (except as otherwise specified pursuant to Section 301 for the Securities of that series and except as provided in Sections 311(b) and 311(d), in which case the deposit to be made with respect to Securities for which an election has occurred pursuant to Section 311(b), or a Conversion Event has occurred as provided in Section 311(d), shall be made in the currency or currency unit in which the Securities of that series are payable as a result of such election or Conversion Event), Government Obligations or a combination thereof in such amounts as will be sufficient, in the opinion of an internationally recognized firm of independent public accountants, to pay the principal of (and premium, if any) and interest, if any, due on the outstanding Securities of that series and any related coupons at the Stated Maturity, or on the applicable Redemption Date, as the case may be, with respect to the outstanding Securities of that series and any related coupons;
- b. in the case of Legal Defeasance, the Company shall have delivered to the Trustee for the Securities of that series an Opinion of Counsel in the United States reasonably acceptable to such Trustee confirming that, subject to customary assumptions and exclusions, (1) the Company has received from, or there has been published by, the U.S. Internal Revenue Service a ruling or (2) since the Issue Date, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel in the United States shall confirm that, subject to customary assumptions and exclusions, the Holders of the Outstanding Securities of that series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

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- c. in the case of Covenant Defeasance, the Company shall have delivered to the Trustee for the Securities of that series an Opinion of Counsel in the United States reasonably acceptable to such Trustee confirming that, subject to customary assumptions and exclusions, the Holders of the Outstanding Securities of that series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to such tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
 - d. no Event of Default or event which with the giving of notice or the lapse of time, or both, would become an Event of Default with respect to the Securities of that series shall have occurred and be continuing on the date of such deposit and no Event of Default under Section 501(4) or Section 501(5) shall have occurred and be continuing on the 123rd day after such date;
 - e. such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under any material agreement or instrument to which the Company is a party or by which the Company is bound; and
 - f. the Company shall have delivered to the Trustee for the Securities of that series an Officers' Certificate and an Opinion of Counsel in the United States (which opinion of counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

5. *Satisfaction and Discharge of Indenture.*

This Indenture will be discharged and will cease to be of further effect as to all Securities of any particular series issued hereunder when either (i) all Securities of that series theretofore authenticated and delivered and all coupons, if any, appertaining thereto (except (A) coupons appertaining to Bearer Securities surrendered for exchange for Registered Securities and maturing after such exchange, whose surrender is not required or has been waived as provided in Section 305, (B) lost, stolen or destroyed Securities or coupons of such series which have been replaced or paid as provided in Section 306, (C) coupons appertaining to Securities called for redemption and maturing after the relevant Redemption Date, whose surrender is not required as provided in Section 1106 and (D) Securities and coupons of such series for whose payment money has theretofore been deposited in trust and thereafter repaid to the Company or discharged from such trust, as provided in the last paragraph of Section 1003) have been delivered to the Trustee for the Securities of that series for cancellation or (ii) (A) all Securities of that series and any coupons appertaining thereto not theretofore delivered to Trustee for cancellation are due and payable by their terms within one year or have become due and payable by reason of the making of a notice of redemption and the Company has irrevocably deposited or caused to be deposited with such Trustee as trust funds in trust an amount of cash in any combination of currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 301 for the Securities of such series and except as provided in Sections 311(b) and 311(d), in which case the deposit to be made with respect to Securities for which an election has occurred pursuant to Section 311(b) or a Conversion Event has occurred as provided in Section 311(d), shall be made in the currency or currency unit in which such Securities are payable as a result of such election or Conversion Event) sufficient to pay and discharge the entire indebtedness on such Securities and coupons not theretofore delivered to the Trustee for the Securities of that series for cancellation for

principal (and premium, if any) and accrued and unpaid interest, if any, to the Stated Maturity or Redemption Date, as the case may be; (B) no Event of Default or event which with the giving of notice or the lapse of time, or both, would become an Event of Default shall have occurred and be continuing on the date of such deposit and no Event of Default under Section 501(4) or Section 501(5) shall have occurred and be continuing on the 123rd day after such date; (C) the Company has paid, or caused to be paid, all sums payable by it under this Indenture; and (D) the Company has delivered irrevocable instructions to the Trustee for the Securities of that series under this Indenture to apply the deposited money toward the payment of such Securities and coupons at the Stated Maturity or the Redemption Date, as the case may be. In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee for the Securities of that series stating that all conditions precedent to satisfaction and discharge have been satisfied.

6. *Survival of Certain Obligations.*

Notwithstanding the satisfaction and discharge of this Indenture and of the Securities of a particular series referred to in Sections 401, 402, 404, or 405, the respective obligations of the Company and the Trustee for the Securities of a particular series under Sections 303, 304, 305, 309, 407, 408, 409, 410, and 508, Article Six, and Sections 701, 702, 1002, 1003, 1004 and 1006, shall survive with respect to Securities of that series until the Securities of that series are no longer outstanding, and thereafter the obligations of the Company and the Trustee for the Securities of a particular series with respect to that series under Sections 407, 408, 409, and 410 shall survive. Nothing contained in this Article Four shall abrogate any of the obligations or duties of the Trustee of any series of Securities under this Indenture.

Notwithstanding the satisfaction of the conditions set forth in Sections 404 or 405 with respect to all the Securities of any series not payable in Dollars, upon the happening of any Conversion Event the Company shall be obligated to make the payments in Dollars required by Section 311(d) to the extent that the Trustee is unable to convert any Foreign Currency or currency unit or currency unit in its possession pursuant to Sections 404 or 405 into the Dollar equivalent of such Foreign Currency or currency unit, as the case may be. If, after the deposits referred to in Sections 404 or 405 have been made, (x) the Holder of a Security is entitled to, and does, elect pursuant to Section 311(b) to receive payment in a currency or currency unit other than that in which the deposit pursuant to Sections 404 or 405 was made, or (y) a Conversion Event occurs as contemplated in Section 311(d), then the indebtedness represented by such Security shall be fully discharged to the extent that the deposit made with respect to such Security shall be converted into the currency or currency unit in which such Security is payable. The Trustee shall return to the Company any non-converted funds or securities in its possession after such payments have been made.

7. *Acknowledgment of Discharge by Trustee.*

Subject to Section 410, after (i) the conditions of Section 404 or 405 have been satisfied with respect to the Securities of a particular series, (ii) the Company has paid or caused to be paid all other sums payable hereunder by the Company and (iii) the Company has delivered to the Trustee for the Securities of that series an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent referred to in clause (i) above relating to the satisfaction and discharge of this Indenture have been complied with, the Trustee for the Securities of that series upon written request shall acknowledge in writing the discharge of all of the Company's obligations under this Indenture except for those surviving obligations specified in this Article Four.

8. *Application of Trust Moneys.*

All money and Government Obligations deposited with the Trustee for the Securities of a particular series pursuant to Section 404 or 405 in respect of the Securities of that series shall be held in trust and applied by it, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any Paying Agent as the Trustee may determine, to the Holders of the Securities and all related coupons of all sums due and to become due thereon for principal (and premium, if any) and interest, if any, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee for the Securities of a particular series against any tax, fee or other charge imposed on or assessed against the Government Obligations deposited pursuant to Section 404 or 405 with respect to the Securities of that series or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of outstanding Securities of that series.

9. *Repayment to the Company; Unclaimed Money.*

The Trustee and any Paying Agent for a series of Securities shall promptly pay or return to the Company upon Company Order any cash or Government Obligations held by them at any time that are not required for the payment of the principal of (and premium, if any) and interest, if any, on the Securities and all related coupons for Securities of that series for which cash or Government Obligations have been deposited pursuant to Section 404 or 405.

Any money deposited with the Trustee or any Paying Agent for the Securities of any series, or then held by the Company, in trust for the payment of the principal of (and premium, if any) and interest, if any, on any Security of any particular series and all related coupons appertaining thereto and remaining unclaimed for two years after such principal (and premium, if any) and interest, if any, has become due and payable shall, unless otherwise required by mandatory provisions of applicable escheat, or abandoned or unclaimed property law, be paid to the Company on Company Request or (if then held by the Company) shall be discharged from such trusts; and the Holder of such Security and all related coupons shall, thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of such Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; *provided, however*, that such Trustee or such Paying Agent, before being required to make any such repayment may give written notice to the Holder of such Security in the manner set forth in Section 106, that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will, unless otherwise required by mandatory provisions of applicable escheat, or abandoned or unclaimed property law, be repaid to the Company, as the case may be.

10. *Reinstatement.*

If the Trustee or Paying Agent for a series of Securities is unable to apply any cash or Government Obligations, as applicable, in accordance with Section 402, 403, 404 or 405 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture and the Securities of that series shall be revived and reinstated as though no deposit had occurred pursuant to Section 402, 403, 404 or 405 until such time as the Trustee or Paying Agent for that series is permitted to apply all such cash or Government Obligations in accordance with Section 402, 403, 404 or 405; *provided, however,* that if the Company has made any payment of principal (and premium, if any) and interest, if any, on any Securities and any related coupons because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities and such coupons to receive such payment from the cash or Government Obligations, as applicable, held by such Trustee or Paying Agent.

V.

Remedies

1. *Events of Default.*

"Event of Default" wherever used herein with respect to any particular series of Securities means any one of the following events and such other events as may be established with respect to the Securities of such series as contemplated by Section 301 (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

1. default in the payment of any installment of interest upon any Security of that series and any related coupon when it becomes due and payable, and continuance of such default for a period of 30 days; or
2. default in the payment of the principal of (or premium, if any, on) any Security of that series at its Maturity or default in the deposit of any sinking fund payment when and as due by the terms of any Security of that series; or
3. default in the performance of, or breach of, any covenant or warranty of the Company in respect of any Security of that series contained in this Indenture or in such Securities (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section specifically dealt with) and continuance of such default or breach for a period of 60 days after there has been given, by registered or certified mail, to the Company by the Trustee for the Securities of such series or to the Company and such Trustee by the Holders of at least 25% in principal amount of the Outstanding Securities of that series a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "*Notice of Default*" hereunder; or
4. the Company shall commence any case or proceeding seeking to have an order for relief entered on its behalf as debtor or to adjudicate it as bankrupt or insolvent or seeking reorganization, liquidation, dissolution, winding-up, arrangement, composition or readjustment of its debts or any other relief under any bankruptcy, insolvency, reorganization, liquidation, dissolution, arrangement, composition, readjustment of debt or other similar act or law of any jurisdiction, domestic or foreign, now or hereafter existing; or the Company shall apply for a receiver, custodian or trustee (other than any trustee appointed as a mortgagee or secured party in connection with the issuance of indebtedness for borrowed money of the Company) of it or for all or a substantial part of its property; or the Company shall make a general assignment for the benefit of creditors; or the Company shall take any corporate action in furtherance of any of the foregoing; or

5. an involuntary case or other proceeding shall be commenced against the Company with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect seeking the appointment of a trustee, receiver, liquidator, custodian or similar official of the Company or any substantial part of its property; and such case or other proceeding (A) results in the entry of an order for relief or a similar order against the Company or (B) shall continue unstayed and in effect for a period of 60 consecutive days; or
6. any other Event of Default provided in the Security or the Board Resolution with respect to Securities of that series.

2. *Acceleration of Maturity; Rescission and Annulment.*

If an Event of Default with respect to any particular series of Securities and any related coupons occurs and is continuing (other than an Event of Default described in Section 501(4) or 501(5) with respect to the Company), then and in every such case either the Trustee for the Securities of such series or the Holders of not less than 25% in principal amount of the Outstanding Securities of that series may declare the entire principal amount (or, in the case of (i) OID Securities, such lesser amount as may be provided for in the terms of that series or (ii) Indexed Securities, the amount determined in accordance with the specified terms of those Securities) of all the Securities of that series, to be due and payable immediately, by a notice in writing to the Company (and to such Trustee if given by Holders), and upon any such declaration of acceleration such principal or such lesser amount, as the case may be, together with accrued interest and all other amounts owing hereunder, shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived.

If any Event of Default specified in Section 501(4) or 501(5) occurs with respect to the Company, all of the unpaid principal amount (or, if the Securities of any series then outstanding are (i) OID Securities, such lesser amount as may be provided for in the terms of that series or (ii) Indexed Securities, the amount determined in accordance with the specified terms of those Securities) and accrued interest on all Securities of each series then outstanding shall *ipso facto* become and be immediately due and payable without any declaration or other act by the Trustee or any Holder.

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

1. the Company has paid or deposited with such Trustee a sum sufficient to pay in the currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 301 for the Securities of such series and except as provided in Sections 311(b) and 311(d)):
 - A. all overdue interest on all Securities of that series and any related coupons;
 - B. the principal of (and premium, if any, on) any Securities of that series which have become due otherwise than by such declaration of acceleration and interest thereon from the date such principal became due at a rate per annum equal to the rate borne by the Securities of such series

(or, in the case of (i) OID Securities, the Securities' Yield to Maturity or (ii) Indexed Securities, the rate determined in accordance with the specified terms of those Securities), to the extent that the payment of such interest shall be legally enforceable;

- C. to the extent that payment of such interest is lawful, interest upon overdue interest at a rate per annum equal to the rate borne by the Securities of such series (or, in the case of (i) OID Securities, the Securities' Yield to Maturity or (ii) Indexed Securities, the rate determined in accordance with the specified terms of those Securities); and
- D. all sums paid or advanced by such Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of such Trustee, its agents and counsel and all other amounts due to such Trustee under Section 607;

and

- 2. all Events of Default with respect to the Securities of such series, other than the nonpayment of the principal of Securities of that series which has become due solely by such acceleration, have been cured or waived as provided in Section 513. No such rescission shall affect any subsequent default or impair any right consequent thereon.

3. *Collection of Indebtedness and Suits for Enforcement by Trustee.*

The Company covenants that if:

- 1. default is made in the payment of any interest upon any Security of any series and any related coupons when such interest becomes due and payable and such default continues for a period of 30 days; or
- 2. default is made in the payment of the principal of (or premium, if any, on) any Security of any series at its Maturity;

the Company will, upon demand of the Trustee for the Securities of such series, pay to the Trustee, for the benefit of the Holders of such Securities and coupons, the whole amount then due and payable on such Securities and coupons for principal (and premium if any) and interest, if any, with interest upon the overdue principal (and premium, if any) and, to the extent that payment of such interest shall be legally enforceable, upon any overdue installments of interest at a rate per annum equal to the rate borne by such Securities (or, in the case of (i) OID Securities, the Securities' Yield to Maturity or (ii) Indexed Securities, the rate determined in accordance with the specified terms of those Securities); and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of such Trustee, its agents and counsel and all other amounts due to such Trustee under Section 607.

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

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

4. *Trustee May File Proofs of Claim.*

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relating to the Company or any other obligor upon the Securities of any series or the property of the Company or of such other obligor or their creditors, the Trustee for the Securities of such series (irrespective of whether the principal (or, if the Securities of such series are (i) OID Securities or (ii) Indexed Securities, such amount as may be due and payable with respect to such Securities pursuant to a declaration in accordance with Section 502) of any Security of such series shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether such Trustee shall have made any demand on the Company for the payment of overdue principal or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise

- i. to file and prove a claim for the whole amount of principal (or, if the Securities of such series are (i) OID Securities or (ii) Indexed Securities, such amount as may be due and payable with respect to such Securities pursuant to a declaration in accordance with Section 502) (and premium, if any) and interest, if any, owing and unpaid in respect of the Securities of such series and any related coupons and to file such other papers or documents as may be necessary or advisable in order to have the claims of such Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of such Trustee, its agents and counsel and all other amounts due to such Trustee under Section 607) and of the Holders of the Securities of such series and any related coupons allowed in such judicial proceeding; and
- ii. to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any receiver, assignee, trustee, liquidator, sequestrator (or other similar official) in any such judicial proceeding is hereby authorized by each Holder of Securities and coupons to make such payments to such Trustee, and in the event that such Trustee shall consent to the making of such payments directly to the Holders of Securities and coupons, to pay to such Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of such Trustee, its agents and counsel, and any other amounts due such Trustee under Section 607.

Nothing herein contained shall be deemed to authorize the Trustee for the Securities of any series to authorize or consent to or accept or adopt on behalf of any Holder of a Security or coupon any plan of reorganization, arrangement, adjustment or composition affecting the

Securities of such series or the rights of any Holder thereof, or to authorize the Trustee for the Securities or coupons of any series to vote in respect of the claim of any Holder in any such proceeding for the election of a trustee in bankruptcy or other person performing similar functions.

5. *Trustee May Enforce Claims Without Possession of Securities or Coupons.*

All rights of action and claims under this Indenture or the Securities or coupons of any series may be prosecuted and enforced by the Trustee for the Securities of any series without the possession of any of the Securities or coupons of such series or the production thereof in any proceeding relating thereto, and any such proceeding instituted by such Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of such Trustee, its agents and counsel and all other amounts due to such Trustee under Section 607, be for the ratable benefit of the Holders of the Securities and coupons of such series in respect of which such judgment has been recovered.

6. *Application of Money Collected.*

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

First: To the payment of all amounts due such Trustee under Section 607;

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

Third: The balance, if any, to the Company.

7. *Limitation on Suits.*

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

1. an Event of Default with respect to that series shall have occurred and be continuing and such Holder shall have previously given written notice to the Trustee for the Securities of such series of such default and the continuance thereof;
2. the Holders of not less than 25% in principal amount of the Outstanding Securities of that series shall have made written request to the Trustee for the Securities of such series to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

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3. such Holder or Holders have offered to such Trustee indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request;
 4. such Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
 5. no direction inconsistent with such written request has been given to such Trustee during such 60-day period by the Holders of a majority in principal amount of the Outstanding Securities of that series;

it being understood and intended that no one or more Holders of Securities of that series shall have any right in any manner whatsoever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders of Securities of that series, or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders of Securities of that series.

8. *Unconditional Right of Holders to Receive Principal (and Premium, if any) and Interest, if any.*

Notwithstanding any other provision in this Indenture, the Holder of any Security or coupon shall have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any) and (subject to Section 307) interest, if any, on such Security on the respective Stated Maturities expressed in such Security or coupon (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder.

9. *Restoration of Rights and Remedies.*

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

10. *Rights and Remedies Cumulative.*

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities or coupons in the last paragraph of Section 306, no right or remedy herein conferred upon or reserved to the Trustee for the Securities of any series or to the Holders of Securities or coupons is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

11. *Delay or Omission Not Waiver.*

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

12. *Control by Holders.*

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

1. such direction shall not be in conflict with any rule of law or with this Indenture and could not involve the Trustee in personal liability; and
2. such Trustee may take any other action deemed proper by such Trustee which is not inconsistent with such direction.

13. *Waiver of Past Defaults.*

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

1. a default in the payment of the principal of (or premium, if any) or interest, if any, on any Security of that series; or
2. a default with respect to a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Security of that series affected.

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

14. *Undertaking for Costs.*

All parties to this Indenture agree, and each Holder of any Security or coupon by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for the Securities or coupons of any series for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but

the provisions of this Section shall not apply to any suit instituted by the Trustee for the Securities of any series, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Outstanding Securities of any particular series or to any suit instituted by any Holder of any Security or coupon for the enforcement of the payment of the principal of (or premium, if any) or interest, if any, on any Security of such series or the payment of any coupon on or after the respective Stated Maturities expressed in such Security or coupon (or, in the case of redemption, on or after the Redemption Date).

15. *Waiver of Stay or Extension Laws.*

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee for any series of Securities, but will suffer and permit the execution of every such power as though no such law had been enacted.

16. *Judgment Currency.*

If, for the purpose of obtaining a judgment in any court with respect to any obligation of the Company hereunder or under any Security or any related coupon, it shall become necessary to convert into any other currency or currency unit any amount in the currency or currency unit due hereunder or under such Security or coupon, then such conversion shall be made by the Currency Determination Agent at the Market Exchange Rate as in effect on the date of entry of the judgment (the "Judgment Date"). If pursuant to any such judgment, conversion shall be made on a date (the "Substitute Date") other than the Judgment Date and there shall occur a change between the Market Exchange Rate as in effect on the Judgment Date and the Market Exchange Rate as in effect on the Substitute Date, the Company agrees to pay such additional amounts, if any, as may be necessary to ensure that the amount paid is equal to the amount in such other currency or currency unit which, when converted at the Market Exchange Rate as in effect on the Judgment Date, is the amount due hereunder or under such Security or coupon. Any amount due from the Company under this Section 5.16 shall be due as a separate debt and is not to be affected by or merged into any judgment being obtained for any other sums due hereunder or in respect of any Security or coupon. In no event, however, shall the Company be required to pay more in the currency or currency unit due hereunder or under such Security or coupon at the Market Exchange Rate as in effect on the Judgment Date than the amount of currency or currency unit stated to be due hereunder or under such Security or coupon so that in any event the Company's obligations hereunder or under such Security or coupon will be effectively maintained as obligations in such currency or currency unit, and the Company shall be entitled to withhold (or be reimbursed for, as the case may be) any excess of the amount actually realized upon any such conversion on the Substitute Date over the amount due and payable on the Judgment Date.

VI.

The Trustee

1. *Certain Duties and Responsibilities.*

- a. Except during the continuance of an Event of Default with respect to the Securities of any series for which the Trustee is serving as such,

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1. such Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against such Trustee; and
 2. in the absence of bad faith on its part, such Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to such Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provisions hereof are specifically required to be furnished to such Trustee, such Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.
- b. In case an Event of Default with respect to a series of Securities has occurred and is continuing, the Trustee for the Securities of such series 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 man would exercise or use under the circumstances in the conduct of his own affairs.
 - c. No provision of this Indenture shall be construed to relieve the Trustee for Securities of any series from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:
 1. this Subsection shall not be construed to limit the effect of Subsection (a) of this Section;
 2. such Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;
 3. such Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Securities of any particular series, determined as provided in Section 512, relating to the time, method and place of conducting any proceeding for any remedy available to such Trustee, or exercising any trust or power conferred upon such Trustee, under this Indenture with respect to the Securities of that series; and
 4. no provision of this Indenture shall require the Trustee for any series of Securities to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.
 - d. Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee for any series of Securities shall be subject to the provisions of this Section.
2. *Notice of Defaults.*

Within 90 days after the occurrence of any default hereunder with respect to Securities of any particular series, the Trustee for the Securities of such series shall give to Holders of Securities of that series, in the manner set forth in Section 106, notice of such default known to such Trustee, unless such default shall have been cured or waived; *provided, however,* that, except in the case of a default in the payment of the principal of (or premium, if any) or interest, if any, on any Security of that series, or in the deposit of any sinking fund payment with respect to Securities of that series, such Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of such Trustee in good faith

determines that the withholding of such notice is in the interest of the Holders of Securities of that series and related coupons. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default with respect to Securities of that series.

3. *Certain Rights of Trustee.*

Except as otherwise provided in Section 601:

- a. the Trustee for any series of Securities may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, discretion, consent, order, bond, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;
- b. any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order (other than delivery of any Security, together with any coupons appertaining thereto, to the Trustee for authentication and delivery pursuant to Section 303 which shall be sufficiently evidenced as provided therein) and any resolution of the Board of Directors of the Company may be sufficiently evidenced by a Board Resolution;
- c. whenever in the administration of this Indenture such Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, such Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers’ Certificate;
- d. such Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;
- e. such Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders of Securities of any series pursuant to this Indenture for which it is acting as Trustee, unless such Holders shall have offered to such Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;
- f. such 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, discretion, consent, order, bond, debenture or other paper or document, but such Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters at it may see fit, and, if such Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company;
- g. the Trustee may employ or retain such counsel, accountants, appraisers or other experts or advisers as it may reasonably require for the purpose of determining and discharging its rights and duties hereunder and shall not be responsible for any misconduct on the part of any of them;
- h. the Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;
- i. the Trustee shall not be deemed to have notice of any default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture;

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- j. the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder; and
 - k. the Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;
4. *Not Responsible for Recitals or Issuance of Securities.*
- The recitals contained herein and in the Securities, except the Trustee's certificates of authentication thereof and in any coupons shall be taken as the statements of the Company, as the case may be, and neither the Trustee for any series of Securities, nor any Authenticating Agent assumes any responsibility for their correctness. The Trustee for any series of Securities makes no representations as to the validity or sufficiency of this Indenture or of the Securities of any series or coupons, except that the Trustee represents that it is duly authorized to execute and deliver this Indenture, authenticate the Securities, and perform its obligations hereunder and that the statements made by it in a Statement of Eligibility on Form T-1 supplied to the Company are true and correct, subject to the qualifications set forth therein. Neither the Trustee for any series of Securities nor any Authenticating Agent shall be accountable for the use or application by the Company of Securities or the proceeds thereof.
5. *May Hold Securities.*
- The Trustee for any series of Securities, any Authenticating Agent, Paying Agent, Security Registrar or any other agent of the Company, or such Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 608 and 613, may otherwise deal with the Company with the same rights it would have if it were not such Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.
6. *Money Held in Trust.*
- Money held by the Trustee for any series of Securities in trust hereunder need not be segregated from other funds except as provided in Section 115 and except to the extent required by law. The Trustee for any series of Securities shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company in writing, as the case may be.
7. *Compensation and Reimbursement.*
- The Company agrees:
- 1. to pay to the Trustee for any series of Securities as the Company and the Trustee shall agree in writing from time to time such compensation in Dollars

for all services rendered by it hereunder as shall be agreed upon in writing from time to time (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

2. except as otherwise expressly provided herein, to reimburse the Trustee for any series of Securities in Dollars upon its request for all reasonable expenses, disbursements and advances incurred or made by such Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and
3. to indemnify such Trustee and its agents in Dollars for, and to hold them harmless against, any loss, damage, claims, liability or expense incurred without negligence or bad faith on their part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending themselves against any claim, whether asserted by the Company or any Holder or any other Person, or liability in connection with the exercise or performance of any of their powers or duties hereunder.

As security for the performance of the obligations of the Company under this Section, the Trustee for any series of Securities shall have a lien prior to the Securities upon all property and funds held or collected by such Trustee as such, except funds held in trust for the payment of principal of (and premium, if any) or interest, if any, on particular Securities.

When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 501(4) or Section 501(5), the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services are intended to constitute expenses of administration under any applicable Federal or state bankruptcy, insolvency or other similar law.

8. *Disqualification; Conflicting Interests.*

The Trustee for the Securities shall be subject to the provisions of Section 310(b) of the Trust Indenture Act during the period of time required thereby. Nothing herein shall prevent the Trustee from filing with the Commission the application referred to in the penultimate paragraph of Section 310(b) of the Trust Indenture Act. In determining whether the Trustee has a conflicting interest as defined in Section 310(b) of the Trust Indenture Act with respect to the Securities of any series, there shall be excluded Securities of any particular series of Securities other than that series.

9. *Corporate Trustee Required; Different Trustees for Different Series; Eligibility.*

There shall at all times be a Trustee hereunder which shall be

- i. a corporation or banking company organized and doing business under the laws of the United States of America, any state thereof, or the District of Columbia, authorized under such laws to exercise corporate trust powers, and subject to supervision or examination by Federal or State authority, or
- ii. a corporation or other Person organized and doing business under the laws of a foreign government that is permitted to act as Trustee

pursuant to a rule, regulation, or other order of the Commission, authorized under such laws to exercise corporate trust powers, and subject to supervision or examination by authority of such foreign government or a political subdivision thereof substantially equivalent to supervision or examination applicable to United States institutional trustee, having a combined capital and surplus of at least \$50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. Neither the Company nor any Person directly or indirectly controlling, controlled by, or under the common control of the Company shall serve as Trustee for the Securities. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereunder specified in this Article.

10. *Resignation and Removal; Appointment of Successor.*

- a. No resignation or removal of the Trustee for the Securities of any series and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 611.
- b. The Trustee for the Securities of any series may resign at any time with respect to the Securities of such series by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 611 shall not have been delivered to the Trustee for the Securities of such series within 60 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.
- c. The Trustee for the Securities of any series may be removed at any time with respect to the Securities of such series by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series, delivered to such Trustee and to the Company.
- d. If at any time:
 1. the Trustee for the Securities of any series shall fail to comply with Section 310(b) of the Trust Indenture Act pursuant to Section 608 hereof after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security of such series for at least six months, unless the Trustee's duty to resign is stayed in accordance with the provisions of Section 310(b) of the Trust Indenture Act, or
 2. such Trustee shall cease to be eligible under Section 609 and shall fail to resign after written request therefor by the Company or by any such Holder, or
 3. such Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of such Trustee or of its property shall be appointed or any public officer shall take charge or control of such Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by a Board Resolution may remove such Trustee and appoint a successor Trustee or (ii) subject to Section 514, any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such Trustee and the appointment of a successor Trustee.

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- e. If the Trustee for the Securities of any series shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for the Securities of any series for any cause, the Company, by a Board Resolution, shall promptly appoint a successor Trustee with respect to the Securities of such series and shall comply with the applicable requirements of Section 611. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of such series shall have not been appointed by the Company pursuant to this Section 610, then a successor Trustee may be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee. If no successor Trustee for the Securities of such series shall have been so appointed by the Company or the Holders and shall have accepted appointment in the manner required by Section 611, and if such Trustee to be replaced is still incapable of acting, any Holder who has been a bona fide Holder of a Security of such series for at least six months, on behalf of himself and all others similarly situated, or the retiring Trustee, may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.
 - f. The Company shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series in the manner and to the extent provided in Section 106. Each notice shall include the name of the successor Trustee with respect to the Securities of that series and the address of its Corporate Trust Office.

11. *Acceptance of Appointment by Successor.*

- a. Every such successor Trustee appointed hereunder with respect to the Securities of any series shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.
- b. In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall

continue to be vested in the retiring Trustee and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates.

- c. Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in Subsections (a) or (b) of this Section, as the case may be.
- d. No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee for the Securities of any series shall be qualified and eligible under this Article.

12. *Merger, Conversion, Consolidation or Succession to Business.*

Any corporation into which the Trustee for the Securities of any series may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of such Trustee, shall be the successor of such Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee or the Authenticating Agent for such series then in office, any successor by merger, conversion or consolidation to such authenticating Trustee or Authenticating Agent, as the case may be, may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee or successor Authenticating Agent had itself authenticated such Securities.

13. *Preferential Collection of Claims Against Company.*

The Trustee is subject to Section 311(a) of the Trust Indenture Act, excluding any creditor relationship listed in Section 311(b) of the Trust Indenture Act. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent indicated.

14. *Authenticating Agents.*

At any time when any of the Securities of any series remain Outstanding, the Trustee for the Securities of such series may, subject to its sole discretion, appoint one or more Authenticating Agents with respect to the Securities of such series, which may include the Company or any

Affiliate of the Company, with power to act on the Trustee's behalf and subject to its discretion in the authentication and delivery of Securities of such series in connection with transfers and exchanges under Sections 304, 305 and 1107 as fully to all intents and purposes as though such Authenticating Agent had been expressly authorized by those Sections of this Indenture to authenticate and deliver Securities of such series. For all purposes of this Indenture, the authentication and delivery of Securities of such series by an Authenticating Agent for such Securities pursuant to this Section shall be deemed to be authentication and delivery of such Securities "by the Trustee" for the Securities of such series. Any such Authenticating Agent shall at all times be a corporation organized and doing business under the laws of the United States or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000 and subject to supervision or examination by Federal or State authority. If such Authenticating Agent publishes reports of condition at least annually pursuant to law or the requirements of such supervising or examining authority, then for the purposes of this Section the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent for any series of Securities shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate trust business of any Authenticating Agent, shall be the successor of such Authenticating Agent hereunder, if such successor corporation is otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the parties hereto or the Authenticating Agent or such successor corporation.

Any Authenticating Agent for any series of Securities may resign at any time by giving written notice of resignation to the Trustee for such series and to the Company. The Trustee for any series of Securities may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and to the Company in the manner set forth in Section 105. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent for any series of Securities shall cease to be eligible under this Section, the Trustee for such series may appoint a successor Authenticating Agent, shall give written notice of such appointment to the Company and shall give written notice of such appointment to all Holders of Securities of such series in the manner set forth in Section 106. Any successor Authenticating Agent, upon acceptance of its appointment hereunder, shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

If an appointment with respect to one or more series of Securities is made pursuant to this Section, the Securities of such series may have endorsed thereon, in addition to the Trustee's certification of authentication, an alternate certificate of authentication in the following form:

"This is one of the Securities of the series designated therein described in the within-mentioned Indenture.

The Bank of New York, as Trustee

By

By

As Authenticating Agent Authorized Signatory"

VII.

Holder's Lists and Reports by Trustee and the Company

1. *Company to Furnish Trustee Names and Addresses of Holders.*

With respect to each particular series of Securities, the Company will furnish or cause to be furnished to the Trustee for the Securities of such series,

- a. semi-annually, not more than 15 days after each Regular Record Date relating to Securities of each series at the time Outstanding (or, if there is no Regular Record Date relating to that series, on June 30 and December 31), a list, in such form as such Trustee may reasonably require, containing all the information in the possession or control of the Company or any of its Paying Agents other than such Trustee as to the names and addresses of the Holders of that series as of such dates,
- b. on semi-annual dates on each year to be determined pursuant to Section 301 if the Securities of such series do not bear interest, a list of similar form and content, and
- c. at such other times as such Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished,

excluding from any such list names and addresses received by such Trustee in its capacity as Security Registrar for the Securities of such series, if so acting.

2. *Preservation of Information; Communications to Holders.*

- a. The Trustee for each series of Securities shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders of the Securities of such series contained in the most recent lists furnished to such Trustee as provided in Section 701 and the names and addresses of Holders of the Securities of such series received by such Trustee in its capacity as Security Registrar for such series, if so acting. The Trustee for each series of Securities may destroy any list relating to such series of Securities furnished to it as provided in Section 701 upon receipt of a new list relating to such series so furnished.
- b. If three or more Holders of Securities of any particular series (hereinafter referred to as "applicants") apply in writing to the Trustee for the Securities of any such series, and furnish to such Trustee reasonable proof that each such applicant has owned a Security of that series for a period of at least six months preceding the date of such application, and such application states that the applicants desire to communicate with other Holders of Securities of that series with respect to their rights under this Indenture or under the Securities of that series and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then such Trustee shall, within five Business Days after the receipt of such application, at its election, either
 - i. afford such applicants access to the information preserved at the time by such Trustee in accordance with Section 702(a), or
 - ii. inform such applicants as to the approximate number of Holders of Securities of that series whose names and addresses appear in the information preserved at the time by such Trustee in accordance with Section 702(a), and as to the approximate cost of mailing to such Holders the form of proxy or other communication, if any, specified in such application.

If any such Trustee shall elect not to afford such applicants access to that information, such Trustee shall, upon the written request of such applicants, mail to each Holder of Securities of that series whose name and address appears in the information preserved at the time by such Trustee in accordance with Section 702(a), a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to such Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless within five days after such tender, such Trustee shall mail to such applicants and file with the Commission, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of such Trustee, such mailing would be contrary to the best interests of the Holders of Securities of that series or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If the Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, such Trustee shall mail copies of such material to all such Holders with reasonable promptness after the entry of such order and the renewal of such tender; otherwise such Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

- c. Every Holder of Securities of each series or coupons, by receiving and holding the same, agrees with the Company and the Trustee for the Securities of such series that neither the Company nor such Trustee, nor any agent of either of them shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders of the Securities of such series in accordance with Section 702(b), regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under Section 702(b).

3. *Reports by Trustee.*

- a. Within 60 days after March 15 of each year, the Trustee for the Securities of each series shall mail to each Holder of the Securities of such series entitled to receive reports pursuant to Section 704(3), a brief report dated as of such date that complies with Section 313(a) of the Trust Indenture Act. The Trustee for the Securities of each series shall also comply with Sections 313(b), 313(c) and 313(d) of the Trust Indenture Act.
- b. At the time that the Trustee for the Securities of each series mails such a report to the Holders of Securities of such series, each such Trustee shall file a copy of that report with the Commission and with each stock exchange on which the Securities of that series are listed. The Company shall provide notice to the appropriate Trustee when the Securities of any series are listed on any stock exchange.

4. *Reports by Company.*

The Company will:

1. file with the Trustee for the Securities of such series, within 15 days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies

of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934; or, if the Company is not required to file information, documents or reports pursuant to either of said Sections, then it will file with such Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

2. file with the Trustee for the Securities of such series and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such additional information, documents, and reports with respect to compliance by the Company with the conditions and covenants of this Indenture as may be required from time to time by such rules and regulations; and
3. transmit by mail to all Holders of Securities of each series, as provided in Section 703(a), within 30 days after the filing thereof with the Trustee for the Securities of such series, such summaries of any information, documents and reports required to be filed by the Company pursuant to paragraphs (1) and (2) of this Section as may be required by rules and regulations prescribed from time to time by the Commission.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee, subject to Section 601 hereof, is entitled to rely exclusively on Officers' Certificates).

VIII.

Consolidation, Merger, Conveyance or Transfer

1. *Company May Consolidate, Etc., Only on Certain Terms.*

The Company shall not consolidate with or merge into any other corporation or convey or transfer its properties and assets substantially as an entirety to any Person unless:

1. either the Company shall be the continuing corporation or the corporation (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance or transfer the properties and assets of the Company substantially as an entirety shall be a Person organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee for each series of Securities, in form reasonably satisfactory to each such Trustee, the due and punctual payment of the principal of (and premium, if any) and interest, if any, (including all additional amounts, if any, payable pursuant to Sections 516 or 1009) on all the Securities and any related coupons and the performance of every covenant of this Indenture on the part of the Company to be performed or observed;

2. immediately after giving effect to such transaction, no Event of Default with respect to any series of Securities, and no event which, after notice or lapse of time, or both, would become an Event of Default with respect to any series of Securities, shall have happened and be continuing; and
3. the Company has delivered to the Trustee for each series of Securities an Officers' Certificate and an Opinion of Counsel each stating that such consolidation, merger, conveyance or transfer and such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

2. *Successor Person Substituted.*

Upon any consolidation or merger, or any conveyance or transfer of the properties and assets of the Company substantially as an entirety in accordance with Section 801, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance or 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 Person had been named as the Company herein and thereafter the predecessor Person shall be relieved of all obligations and covenants under this Indenture, the Securities and any related coupons and, in the event of any such consolidation, merger, conveyance or transfer, the Company as the predecessor Person may thereupon or at any time thereafter be dissolved, wound up, or liquidated.

IX.

Supplemental Indentures

1. *Supplemental Indentures Without Consent of Holders.*

Without the consent of any Holders of Securities or coupons, the Company, when authorized by a Board Resolution, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to such Trustee, for any of the following purposes:

1. to evidence the succession of another Person to the Company, and the assumption by any such successor of the covenants of the Company herein and in the Securities; or
2. to add to the covenants of the Company, for the benefit of the Holders of all or any particular series of Securities and any related coupons (and, if such covenants are to be for the benefit of fewer than all series of Securities, stating that such covenants are being included solely for the benefit of such series), or to surrender any right or power herein conferred upon the Company; or
3. to add any additional Events of Default with respect to any or all series of Securities (and, if any such Event of Default applies to fewer than all series of Securities, stating each series to which such Event of Default applies); *provided, however*, that in respect of any such additional Events of Default, such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may limit the remedies available to the Trustee upon such default or may limit the right of Holders of a majority in aggregate principal amount of that or those series of Securities to which such additional Events of Default apply to waive such default; or
4. to pledge property to the Trustee as security for the Securities; or
5. to add guarantees with respect to the Securities; or

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6. to add to or to change any of the provisions of this Indenture to provide that Bearer Securities may be registrable as to principal, to change or eliminate any restrictions on the payment of principal of (or premium, if any) or interest on Bearer Securities, to permit Bearer Securities to be issued in exchange for Registered Securities, to permit Bearer Securities to be issued in exchange for Bearer Securities of other authorized denominations, to provide for the issuance of uncertificated Securities of any series in addition to or in place of any certificated Securities and to make all appropriate changes for such purposes; *provided, however*, that any such action shall not adversely affect the interests of the Holders of Securities of any series or any related coupons in any material respect; or
 7. to change or eliminate any of the provisions of this Indenture, *provided, however*, that any such change or elimination shall become effective only when there is no Security Outstanding of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision; or
 8. to evidence and provide for the acceptance of appointment hereunder of a Trustee other than The Bank of New York as Trustee for a series of Securities and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 609; or
 9. to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 611(b); or
 10. to add to the conditions, limitations and restrictions on the authorized amount, form, terms or purposes of issue, authentication and delivery of Securities, as herein set forth, other conditions, limitations and restrictions thereafter to be observed; or
 11. to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any series of Securities pursuant to Section 401; *provided, however*, that any such action shall not adversely affect the interests of the Holders of Securities of such series and any related coupons or any other series of Securities in any material respect; or
 12. to add to or change or eliminate any provisions of this Indenture as shall be necessary or desirable in accordance with any amendments to the Trust Indenture Act or to maintain the qualification of this Indenture under the Trust Indenture Act; or
 13. to issue and establish the form and terms of any series of Securities; or
 14. to cure any ambiguity or mistake, to correct or supplement any provision herein which may be inconsistent with any other provision herein, to convey, transfer, assign, mortgage or pledge any property to or with the Trustee for the Securities of any series or to surrender any right or power herein conferred upon the Company, or to make any other provisions with respect to matters or questions arising under this Indenture, *provided* such action shall not adversely affect the interests of the Holders of Securities of any particular series in any material respect.

2. *Supplemental Indentures With Consent of Holders.*

The Company, when authorized by a Board Resolution, may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of such Securities and any related coupons under this Indenture, but only with the consent of the Holders of more than 50% in aggregate principal amount of the Outstanding Securities of each series of Securities then Outstanding affected thereby, in each case by Act of said Holders of Securities of each such series delivered to the Company and the Trustee for Securities of each such series; *provided, however*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby:

1. change the Stated Maturity of the principal of, or any installment of principal of or interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon, if any (or, in the case of OID Securities, reduce the rate of accretion of original issue discount), or any premium payable upon the redemption thereof, or change any obligation of the Company to pay additional amounts pursuant to Section 1009 (except as contemplated by Section 801(1) and permitted by Section 901(1)) or reduce the amount of the principal of an OID Security that would be due and payable upon a declaration of acceleration of the Maturity thereof, or provable in bankruptcy, or, in the case of Indexed Securities, reduce the amount payable in accordance with the terms of those Securities upon a declaration of acceleration of Maturity thereof, or provable in bankruptcy, pursuant to Section 502, or change the Place of Payment, or the currency or currency unit in which any Security or the principal or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date); or reduce or alter the method of computation of any amount payable upon redemption, repayment or purchase of any Securities by the Issuer (or the time when such redemption, repayment or purchase may be made); or
2. reduce the percentage in principal amount of the Outstanding Securities of any particular series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture; or
3. modify any of the provisions of this Section or Section 513 or 1009, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Security affected thereby; *provided, however*, that this clause shall not be deemed to require the consent of any Holder of a Security or coupon with respect to changes in the references to "the Trustee" and concomitant changes in this Section and Section 1009, or the deletion of this proviso, in accordance with the requirements of Sections 609, 611(b), 901(8) and 901(9).

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

3. *Execution of Supplemental Indentures.*

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee for any series of Securities shall be entitled to receive, and (subject to Section 601) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee for any series of Securities may, but shall not be obligated to, enter into any such supplemental indenture which affects such Trustee's own rights, liabilities, duties or immunities under this Indenture or otherwise.

4. *Effect of Supplemental Indentures.*

Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder and of any coupons appertaining thereto shall be bound thereby.

5. *Conformity With Trust Indenture Act.*

Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the Trust Indenture Act as then in effect.

6. *Reference in Securities to Supplemental Indentures.*

Securities of any particular series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee for the Securities of such series, bear a notation in form approved by such Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities of any series and any related coupons so modified as to conform, in the opinion the Board of Directors of the Company, to any such supplemental indenture may be prepared and executed by the Company and such Securities may be authenticated and delivered by such Trustee in exchange for Outstanding Securities of such series and any related coupons.

X.

Covenants

1. *Payment of Principal (and Premium, if any) and Interest, if any.*

The Company agrees, for the benefit of each particular series of Securities, that it will duly and punctually pay in the currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 301 for the Securities of such series and except as provided in Sections 311(b) and 311(d)) the principal of (and premium, if any) and interest, if any, on that series of Securities in accordance with the terms of the Securities of such series, any coupons appertaining thereto and this Indenture. Unless otherwise specified as contemplated by Section 301 with respect to any series of Securities,

any interest due on Bearer Securities on or before Maturity shall be payable only upon presentation and surrender of the several coupons for such interest installments as are evidenced thereby as they severally mature. The interest, if any, due in respect of any temporary or permanent Global Security, together with any additional amounts payable in respect thereof, as provided in the terms and conditions of such Security, shall be payable, subject to the conditions set forth in Section 1009, only upon presentation of such Security to the Trustee thereof for notation thereon of the payment of such interest.

2. *Maintenance of Office or Agency.*

If Securities of a series are issuable only as Registered Securities the Company will maintain in each Place of Payment for that series an office or agency where Securities of that series may be presented or surrendered for payment, an office or agency where Securities of that series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company with respect to the Securities of that series and this Indenture may be served. If Securities of a series are issuable as Bearer Securities, the Company will maintain (A) an office or agency (which may be the same office or agency) in a Place of Payment for that series in the United States where any Registered Securities of that series may be presented or surrendered for payment, where any Registered Securities of that series may be surrendered for registration of transfer, where Securities of that series may be surrendered for exchange, where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served and where Bearer Securities of that series and related coupons may be presented or surrendered for payment in the circumstances described in the following paragraph (and not otherwise), (B) subject to any laws or regulations applicable thereto, in a Place of Payment for that series which is located outside the United States, an office or agency where Securities of that series and related coupons may be presented and surrendered for payment; *provided, however*, that if the Securities of that series are listed on the Stock Exchange or any other stock exchange located outside the United States and such stock exchange shall so require, the Company will maintain a Paying Agent for the Securities of that series in Luxembourg or any other required city located outside the United States, as the case may be, so long as the Securities of that series are listed on such exchange, and (C) subject to any laws or regulations applicable thereto, in a Place of Payment for that series located outside the United States an office or agency where any Registered Securities of that series may be surrendered for registration of transfer, where Securities of that series may be surrendered for exchange and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The Company will give prompt written notice to the Trustee for the Securities of that series of the location, and 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 in respect of any series of Securities or shall fail to furnish the Trustee for the Securities of that series with the address thereof, such presentations (to the extent permitted by law), and surrenders of Securities of that series may be made and notices and demands may be made or served at the Corporate Trust Office of such Trustee, except that Bearer Securities of that series and the related coupons may be presented and surrendered for payment at the offices specified in the Security, and the Company hereby appoints the same as its agent to receive such presentations, surrenders, notices and demands.

Unless otherwise specified with respect to any Securities pursuant to Section 301, no payment of principal (and premium, if any) or interest, if any, on Bearer Securities shall be made at any office or agency of the Company in the United States or by check mailed to any

address in the United States or by transfer to an account maintained with a bank located in the United States. Payments will not be made in respect of Bearer Securities or coupons appertaining thereto pursuant to presentation to the Company, or its designated Paying Agents within the United States. Notwithstanding the foregoing, payment of principal of (and premium, if any) and interest, if any, on any Bearer Security denominated and payable in Dollars will be made at the office of the Company's Paying Agent in the United States, if, and only if, payment in Dollars of the full amount of such principal, premium or interest, as the case may be, at all offices or agencies outside the United States maintained for that purpose by the Company in accordance with this Indenture is illegal or effectively precluded by exchange controls or other similar restrictions and the Company has delivered to the Trustee an Opinion of Counsel to that effect.

The Company may also from time to time designate one or more other offices or agencies (in or outside the Place of Payment) where the Securities of one or more series may be presented or surrendered for any or all of the purposes specified above in this Section and may from time to time rescind such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in each Place of Payment for such purpose. The Company will give prompt written notice to the Trustee for the Securities of each series so affected of any such designation or rescission and of any change in the location of any such office or agency. Unless otherwise specified with respect to any Securities pursuant to Section 301 with respect to a series of Securities, the Company hereby designates as a Place of Payment for each series of Securities the office or agency of the Company in the Borough of Manhattan, the City of New York, and initially appoints the Trustee at its Corporate Trust Office as Paying Agent in such city and as its agent to receive all such presentations, surrenders, notices and demands.

Unless otherwise specified with respect to any Securities pursuant to Section 301, if and so long as the Securities of any series (i) are denominated in a currency other than Dollars or (ii) may be payable in a currency other than Dollars, or so long as it is required under any other provision of the Indenture, then the Company will maintain with respect to each such series of Securities, or as so required, a Currency Determination Agent.

3. *Money for Securities Payments To Be Held in Trust.*

If the Company shall at any time act as its own Paying Agent with respect to any particular series of Securities and any related coupons, it will, on or before each due date of the principal of (and premium, if any) or interest, if any, on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum in the currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 301 for the Securities of such series and except as provided in Sections 311(b) and 311(d) sufficient to pay the principal (and premium, if any) and interest, if any, so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided, and will promptly notify the Trustee for the Securities of such series of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for any particular series of Securities and any related coupons, it will, prior to each due date of the principal of (and premium, if any) or interest, if any, on any such Securities, deposit with a Paying Agent for the Securities of such series a sum (in the currency or currency unit described in the preceding paragraph) sufficient to pay the principal (and premium, if any) and interest, if

any, so becoming due, such sum to be held in trust for the benefit of the Persons entitled thereto, and (unless such Paying Agent is the Trustee for the Securities of such series) the Company will promptly notify such Trustee of its action or failure so to act.

The Company will cause each Paying Agent for any particular series of Securities other than the Trustee for the Securities of such series to execute and deliver to such Trustee an instrument in which such Paying Agent shall agree with such Trustee, subject to the provisions of this Section, that such Paying Agent will:

1. hold all sums held by it for the payment of the principal of (and premium, if any) or interest, if any, on Securities of that series in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;
2. give such Trustee notice of any default by the Company (or any other obligor upon the Securities) in the making of any payment of principal (or premium, if any) and interest, if any, on Securities of that series; and
3. at any time during the continuation of any such default, upon the written request of such Trustee, forthwith pay to such Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee for the Securities of any series all sums held in trust by the Company or such Paying Agent, such sums to be held by such Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to such Trustee, such Paying Agent shall be released from all further liability with respect to such money.

4. [Intentionally Omitted]

5. *Statements as to Compliance.*

The Company will deliver to the Trustee for each series of Securities, within 120 days after the end of each fiscal year, a written statement signed by the principal executive officer, principal financial officer or principal accounting officer of the Company stating that:

1. a review of the activities of the Company during such year and of performance under this Indenture has been made under his supervision; and
2. to the best of his knowledge, based on such review, the Company is in compliance with all conditions and covenants under this Indenture.

For purposes of this Section, such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture.

6. *Corporate Existence.*

Subject to Article Eight, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises; *provided, however*, that the Company shall not be required to preserve any right or franchise if the Board of Directors of the Company shall determine that the preservation thereof is no longer necessary or desirable in the conduct of the business of the Company.

7. [Intentionally Omitted]

8. *Waiver of Certain Covenants.*

The Company may omit in any particular instance to comply with any covenant or condition set forth in Sections 1005 and 1006 (and any other covenant or condition in addition to those set forth herein applicable to Securities of any series pursuant to Section 301 hereof), if before or after the time for such compliance the Holders of more than 50% in principal amount of the Outstanding Securities of each series of Securities affected by the omission shall, in each case by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee for the Securities of each series with respect to any such covenant or condition shall remain in full force and effect.

9. *Payment of Additional Amounts.*

If specified pursuant to Section 301, the provisions of this Section 1009 shall be applicable to Securities of any series.

The Company will, subject to the exceptions and limitations set forth below, pay to the Holder of any Security or coupon who is a United States Alien such additional amounts as may be necessary so that every net payment on such Security or coupon, after deduction or withholding by the Company or any of its Paying Agents for or on account of any present or future tax, assessment or other governmental charge imposed upon or as a result of such payment by the United States (or any political subdivision or taxing authority thereof or therein), will not be less than the amount provided in such Security or in such coupon to be then due and payable. However, the Company will not be required to make any payment of additional amounts for or on account of:

- a. any tax, assessment or other governmental charge that would not have been so imposed but for (i) the existence of any present or former connection between such Holder or the beneficial owner of such Security or coupon (or between a fiduciary, settler or beneficiary of, or a person holding a power over, such Holder or such beneficial owner, if such Holder or such beneficial owner is an estate or trust, or a member or shareholder of such Holder or such beneficial owner, if such Holder or such beneficial owner is a partnership or corporation) and the United States, including, without limitation, such Holder or such beneficial owner (or such fiduciary, settler, beneficiary, person holding a power, member or shareholder) being or having been a citizen, resident or treated as a resident thereof or being or having been engaged in trade or business or present therein or having or having had a permanent establishment therein, or (ii) such Holder's or such beneficial owner's present or former status as a personal holding company, foreign personal holding company, controlled foreign corporation or passive foreign investment company with respect to the United States or as a corporation that accumulates earnings to avoid United States federal income tax;
- b. any tax, assessment or other governmental charge which would not have been so imposed but for the presentation by the Holder of such Security or coupon for payment on a date more than 10 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later;

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- c. any estate, inheritance, gift, sales, transfer, personal property tax or any similar tax, assessment or other governmental charge;
 - d. any tax, assessment or other governmental charge required to be withheld by any Paying Agent from any payment in respect of any Security or coupon, if such payment can be made without such withholding by at least one other Paying Agent;
 - e. any tax, assessment or other governmental charge which is payable otherwise than by withholding from payments in respect of such Security or coupon;
 - f. any tax, assessment or other governmental charge imposed on a Holder or beneficial owner of a Security or coupon that (i) actually or constructively owns 10 percent or more of the total combined voting power of all classes of stock of the Company entitled to vote within the meaning of Section 871(h)(3) of the Code or that is a controlled foreign corporation related to the Company through stock ownership or (ii) is a bank described in Section 881(c)(3)(A) of the Code;
 - g. any tax, assessment or other governmental charge imposed as a result of the failure to comply with applicable certification, information, documentation or other reporting requirements concerning the nationality, residence, identity or connection with the United States of the Holder or beneficial owner of a Security or coupon, if such compliance is required by statute or by regulation of the United States, as a precondition to relief or exemption from such tax, assessment or other governmental charge;
 - h. any tax, assessment or other governmental charge imposed with respect to payments on any Registered Security by reason of the failure of the Holder or beneficial owner to fulfill the statement requirement of Sections 871(h) or 881(c) of the Code; or
 - i. any combination of items (a), (b), (c), (d), (e), (f), (g) and (h);

nor will additional amounts be paid with respect to any payment on any such Security or coupon to a Holder who is a fiduciary or partnership or other than the sole beneficial owner of such payment to the extent such payment would be required by the laws of the United States (or any political subdivision thereof) to be included in the income for federal income tax purposes of a beneficiary or settler with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to payment of the additional amounts had beneficiary, settler, member or beneficial owner been the Holder of such Security or coupon.

The term "United States Alien" means any corporation, partnership, individual or fiduciary that is, as to the United States, a foreign corporation, a nonresident alien individual, a nonresident fiduciary of a foreign estate or trust, or a foreign partnership one or more of the members of which is, as to the United States, a foreign corporation, a nonresident alien individual or a nonresident fiduciary of a foreign estate or trust.

Whenever in this Indenture there is mentioned, in any context, the payment of the principal of (and premium, if any) and interest, if any, on any Security or payment with respect to any coupon of any series, such mention shall be deemed to include mention of the payment of additional amounts provided for in the terms of such Securities and this Section to the extent that, in such context, additional amounts are, were or would be payable in respect thereof pursuant to the provisions of this Section and express mention of the payment of additional amounts (if applicable) in any provisions hereof shall not be construed as excluding additional amounts in those provisions hereof where such express mention is not made.

If the Securities of a series provide for the payment of additional amounts as contemplated by Section 301(20), at least 10 days prior to the first Interest Payment Date with respect to that series of Securities (or if the Securities of that series will not bear interest prior to maturity, the first day on which a payment of principal and any premium is made), and at least 10 days prior to each date of payment of principal (and premium, if any) and interest, if any, if there has been any change with respect to the matters set forth in the below mentioned Officers' Certificate, the Company will furnish the Trustee for that series of Securities and the Company's principal Paying Agent or Paying Agents, if other than such Trustee, with an Officers' Certificate instructing such Trustee and such Paying Agent or Paying Agents whether such payment of principal of (and premium, if any) and interest, if any, on the Securities of that series shall be made to Holders of Securities of that series or any related coupons who are United States Aliens without withholding for or on account of any tax, assessment or other governmental charge referred to above or described in the Securities of that series. If any such withholding shall be required, then such Officers' Certificate shall specify by country the amount, if any, required to be withheld on such payments to such Holders of Securities or coupons and the Company will pay to the Trustee for such series of Securities or such Paying Agent such additional amounts as may be required pursuant to the terms applicable to such series. The Company covenants to indemnify the Trustee for such series of Securities and any Paying Agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without gross negligence or bad faith on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any Officers' Certificate furnished pursuant to this Section 1009.

10. *Calculation of Original Issue Discount*

If applicable, the Company shall file with the Trustee promptly at the end of each calendar year (i) a written notice specifying the amount of original issue discount (including daily rates and accrual periods) accrued on Outstanding Securities as of the end of such year and (ii) such other specific information relating to such original issue discount as may then be relevant under the Internal Revenue Code of 1986, as amended from time to time.

11. *Statement by Officers as to Default*

The Company shall deliver to the Trustee, as soon as possible and in any event within five days after the Company becomes aware of the occurrence of any Event of Default or an event which, with notice or the lapse of time or both, would constitute an Event of Default, an Officers' Certificate setting forth the details of such Event of Default or event and the action which the Company proposes to take with respect thereto.

XI.

Redemption of Securities

1. *Applicability of This Article.*

Redemption of Securities of any series (whether by operation of a sinking fund or otherwise) as permitted or required by any form of Security issued pursuant to this Indenture shall be made in accordance with such form of Security and this Article; *provided, however*, that if any provision of any such form of Security shall conflict with any provision of this Article, the provision of such form of Security shall govern.

2. *Election to Redeem; Notice to Trustee.*

The election of the Company to redeem any Securities of any series shall be evidenced by or pursuant to a Board Resolution. In case of any redemption at the election of the Company of less than all of the Securities of any particular series, the Company shall, at least 60 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee for the Securities of such series) notify such Trustee by Company Request of such Redemption Date and of the principal amount of Securities of that series to be redeemed and shall deliver to such Trustee such documentation and records as shall enable such Trustee to select the Securities to be redeemed pursuant to Section 1103. In the case of any redemption of Securities of any series prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish the Trustee for Securities of such series with an Officers' Certificate evidencing compliance with such restriction.

3. *Selection by Trustee of Securities to Be Redeemed.*

If less than all the Securities are to be redeemed, the Company may select the series to be redeemed, and if less than all the Securities of any series are to be redeemed, the particular Securities of that series to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee for the Securities of such series, from the Outstanding Securities of that series not previously called for redemption, by such method as such Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series, or any integral multiple thereof) of the principal amount of Securities of that series of a denomination larger than the minimum authorized denomination for Securities of that series pursuant to Section 302 in the currency or currency unit in which the Securities of such series are denominated.

The Trustee for the Securities of any series to be redeemed shall promptly notify the Company in writing of the Securities of such series selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Securities which has been or is to be redeemed.

4. *Notice of Redemption.*

Notice of redemption shall be given in the manner provided in Section 106 not later than the thirtieth (30th) day and not earlier than the sixtieth (60th) day prior to the Redemption Date, to each Holder of Securities to be redeemed.

All notices of redemption shall state:

1. the Redemption Date,
2. the Redemption Price,
3. if less than all Outstanding Securities of a particular series are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the particular Securities to be redeemed, including the Identifying Number of such Securities,

4. in case any Security is to be redeemed in part only, the notice which relates to such Security shall state that on and after the Redemption Date, upon surrender of such Security, the Holder will receive, without charge, a new Security or Securities of authorized denominations for the principal amount thereof remaining unredeemed,
5. that on the Redemption Date the Redemption Price will become due and payable upon each such Security or portion thereof, and that interest thereon, if any (or in the case of OID Securities, original issue discount), shall cease to accrue on and after said date,
6. the place or places where such Securities, together in the case of Bearer Securities with all coupons appertaining thereto, if any, maturing after the Redemption Date are to be surrendered for payment of the Redemption Price,
7. that the redemption is for a sinking fund, if such is the case,
8. that, unless otherwise specified in such notice, Bearer Securities of any series, if any, surrendered for redemption must be accompanied by all coupons maturing subsequent to the date fixed for redemption or the amount of any such missing coupon or coupons will be deducted from the Redemption Price or security or indemnity satisfactory to the Company, the Trustee for such series and any Paying Agent is furnished, and
9. if Bearer Securities of any series are to be redeemed and any Registered Securities of such series are not to be redeemed, and if such Bearer Securities may be exchanged for Registered Securities not subject to redemption on this Redemption Date pursuant to Section 305 or otherwise, the last date, as determined by the Company, on which such exchanges may be made.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee for such Securities in the name and at the expense of the Company.

5. *Deposit of Redemption Price.*

Prior to the opening of business on any Redemption Date, the Company shall deposit with the Trustee for the Securities to be redeemed or with a Paying Agent for such Securities (or, if the Company is acting as its own Paying Agent for such Securities, segregate and hold in trust as provided in Section 1003) an amount of money in the currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 301 for the Securities of such Series and except as provided in Sections 311(b) and 311(d)) sufficient to pay the principal amount of (and premium, if any, thereon), and (except if the Redemption Date shall be an Interest Payment Date) any accrued interest on, all the Securities which are to be redeemed on that date.

6. *Securities Payable on Redemption Date.*

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified in the currency or currency unit in which the Securities of such series are payable (except as otherwise provided pursuant to Section 301 for the Securities of such series and except as provided in Sections 311(b) and 311(d)) and from and after such date (unless the Company

shall default in the payment of the Redemption Price) such Securities shall cease to bear interest and the coupons for such interest appertaining to any Bearer Securities so to be redeemed, except to the extent provided below, shall be void. Upon surrender of such Security for redemption in accordance with said notice together with all coupons, if any, appertaining thereto maturing after the Redemption Date, such Security or specified portions thereof shall be paid by the Company at the Redemption Price; *provided, however*, that installments of interest on Bearer Securities whose Stated Maturity is on or prior to the Redemption Date shall be payable only at an office or agency located outside the United States (except as otherwise provided in Section 1002) and, unless otherwise specified as contemplated by Section 301, only upon presentation and surrender of coupons for such interest, and *provided, further*, that unless otherwise specified as contemplated by Section 301, installments of interest on Registered Securities whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 307.

If any Bearer Security surrendered for redemption shall not be accompanied by all coupons appertaining thereto maturing after the Redemption Date, such Security may be paid after deducting from the Redemption Price an amount equal to the face amount of all such missing coupons or the surrender of such missing coupon or coupons may be waived by the Company if there is furnished to the Company, the Trustee for such Security and any Paying Agent such security or indemnity as they may require to save the Company, such Trustee and any Paying Agent harmless. If thereafter the Holder of such Security shall surrender to such Trustee or any Paying Agent any such missing coupon in respect of which a deduction shall have been made from the Redemption Price, such Holder shall be entitled to receive the amount so deducted; *provided, however*, that interest represented by coupons shall be payable only at an office or agency located outside the United States (except as otherwise provided in Section 1002) and, unless otherwise specified as contemplated by Section 301, only upon presentation and surrender of those coupons.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal thereof (and premium, if any, thereon) shall, until paid, bear interest from the Redemption Date at a rate per annum equal to the rate borne by the Security (or, in the case of (i) OID Securities, the Security's Yield to Maturity or (ii) Indexed Securities, the rate determined in accordance with the specified terms of those Securities).

7. *Securities Redeemed in Part.*

Any Registered Security which is to be redeemed only in part shall be surrendered at the Place of Payment (with, if the Company or the Trustee for such Security so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company, and the Security Registrar for such Security duly executed by, the Holder thereof or his attorney duly authorized in writing), and the Company shall execute and such Trustee shall authenticate and deliver to the Holder of such Security without service charge, a new Registered Security or Securities, of any authorized denomination as requested by such Holder, of the same series and having the same terms and provisions and in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Registered Security so surrendered.

8. *Tax Redemption; Special Tax Redemption.*

- a. If specified pursuant to Section 301, Securities of any series may be redeemed at the option of the Company in whole, but not in part, on not more than 60 days' and not less than 30 days' notice, on any Redemption Date at the Redemption Price specified pursuant to Section 301, if the Company determines that (A) as a result of any change in or amendment to the laws (or any regulations or rulings promulgated thereunder) of the United States or of any political subdivision or taxing authority thereof or therein affecting taxation, or any change in official position regarding application or interpretation of such laws, regulations or rulings (including a holding by a court of competent jurisdiction in the United States), which change or amendment is announced or becomes effective on or after a date specified in Section 301 with respect to any Security of such series, the Company has or will become obligated to pay additional amounts pursuant to Section 1009 with respect to any Security of such series or (B) on or after a date specified in Section 301 with respect to any Security of such series, any action has been taken by any taxing authority of, or any decision has been rendered by a court of competent jurisdiction in, the United States or any political subdivision or taxing authority thereof or therein, including any of those actions specified in (A) above, whether or not such action was taken or decision was rendered with respect to the Company, or any change, amendment, application or interpretation shall be officially proposed, which, in any such case, in the Opinion of Counsel to the Company will result in a material probability that the Company will become obligated to pay additional amounts pursuant to Section 1009 with respect to any Security of such series, and (C) in any such case specified in (A) or (B) above the Company, in its business judgment, determines that such obligation cannot be avoided by the use of reasonable measures available to the Company.
- b. Unless otherwise specified pursuant to Section 301, if the Company shall determine that any payment made outside the United States by the Company or any of their Paying Agents of principal or interest due in respect of any Bearer Security (an "Affected Security") of such series or any coupon appertaining thereto would, under any present or future laws or regulations of the United States, be subject to any certification, information or other reporting requirement of any kind, the effect of which requirement is the disclosure to the Company, any Paying Agent or any governmental authority of the nationality, residence or identity (as distinguished from, for example, status as a United States Alien) of a beneficial owner of such Affected Security of such series or coupon that is a United States Alien (other than such a requirement that (i) would not be applicable to a payment made by the Company, or any one of their Paying Agents (A) directly to the beneficial owner or (B) to a custodian, nominee or other agent of the beneficial owner, (ii) can be satisfied by such custodian, nominee or other agent certifying to the effect that such beneficial owner is a United States Alien; provided that, in each case referred to in clauses (i)(B) or (ii), payment by such custodian, nominee or other agent to such beneficial owner is not otherwise subject to any such requirement (other than a requirement which is imposed on a custodian, nominee or other agent described in item (iv) of this sentence), (iii) would not be applicable to a payment made by at least one other Paying Agent of the Company or (iv) is applicable to a payment to a custodian, nominee or other agent of the beneficial owner of such Security who is a United States person (as hereinafter defined), a controlled foreign corporation for United States tax purposes, a foreign person 50 percent or more of the gross income of which for the three-year period ending with the close of its taxable year preceding the year of payment is effectively connected with a United States trade or business, or is otherwise related to the United States), the Company shall elect by notice to the Trustee for such series of Securities either (x) to redeem the Affected Securities of

such series, as a whole, at a redemption price equal to the principal amount thereof, together with interest accrued to the date fixed for redemption, or (y) if the conditions of the next succeeding paragraph are satisfied, to pay the additional amounts specified in such paragraph. The Company shall make such determination and election as soon as practicable and give prompt notice thereof (the "Determination Notice") in the manner described in Section 106 stating the effective date of such certification, information or reporting requirement, whether the Company has elected to redeem the Affected Securities of such series or to pay the additional amounts specified in the next succeeding paragraph, and (if applicable) the last date by which the redemption of the Affected Securities of such series must take place, as provided in the next succeeding sentence. If the Company elects to redeem the Affected Securities of such series, such redemption shall take place on such date, not later than one year after the giving of the Determination Notice, as the Company shall specify by notice to such Trustee given not less than 45 nor more than 75 days before the Redemption Date. Notice of such redemption of the Affected Securities of such series shall be given to the Holders thereof not less than 30 days nor more than 60 days prior to the Redemption Date. Notwithstanding the foregoing, the Company shall not so redeem the Affected Securities of such series if the Company shall subsequently determine by notice to the Trustee, not less than 30 days prior to the Redemption Date, that subsequent payments on the Affected Securities of such series would not be subject to any such certification, information or other reporting requirement, in which case the Company shall give prompt notice of such subsequent determination in the manner specified in Section 106 and any earlier redemption notice shall be revoked and be of no further effect. The right of the Holders of Affected Securities called for redemption to exchange such Affected Securities for Registered Securities (which Registered Securities will remain Outstanding following such redemption) will terminate on the fifteenth day prior to the Redemption Date, and no further exchanges of Affected Securities for Registered Securities shall be permitted unless the Company shall have made the subsequent determination and given the notice referred to in the preceding sentence. As used hereinabove, "United States person" means any citizen or resident of the United States, any corporation, partnership or other entity created or organized in or under the laws of the United States and any estate or trust the income of which is subject to United States federal income taxation regardless of its source.

If and so long as the certification, information or other reporting requirement referred to in the preceding paragraph would be fully satisfied by payment of a withholding tax, backup withholding tax or similar charge, the Company may elect by notice to the Trustee to pay such additional amounts as may be necessary so that every net payment made outside the United States following the effective date of such requirement by the Company or any of their Paying Agents of principal (or premium, if any) or interest, if any, due in respect of any Affected Security of such series or any coupon appertaining thereto to a Holder who certifies that the beneficial owner is a United States Alien (but without any requirement that the nationality, residence or identity of such beneficial owner be disclosed to the Company, any Paying Agent or any governmental authority), after deduction or withholding for or on account of such withholding tax, backup withholding tax or similar charge (other than a withholding tax, backup withholding tax or similar charge that (i) is the result of a certification, information or other reporting requirement described in the third parenthetical clause of the first sentence of the preceding paragraph or (ii) is imposed as a result of presentation of any such Affected Security or such coupon for payment more than 10 days after the date on which such payment becomes due and payable or on which payment thereof was duly provided for, whichever occurs later), will not be less than the amount provided in such Affected

Security or such coupon to be then due and payable. In the event the Company elects to pay such additional amounts, (the Company's election to exercise such right to be evidenced by prompt notice to the Trustee for the Securities of the appropriate series), the Company will have the right, at its sole option, at any time, to redeem the Affected Securities of such series as a whole, but not in part, at the Redemption Price, subject to the provisions of the last four sentences of the immediately preceding paragraph. If the Company has made the determination described in the preceding paragraph with respect to certification, information or other reporting requirements applicable only to interest and subsequently makes a determination in the manner and of the nature referred to in such preceding paragraph with respect to such requirements applicable to principal, the Company will redeem the Affected Securities of such series in the manner and on the terms described in the preceding paragraph unless the Company elects to have the provisions of this paragraph apply rather than the provisions of the immediately preceding paragraph. If in such circumstances the Affected Securities of such series are to be redeemed, the Company shall have no obligation to pay additional amounts pursuant to this paragraph with respect to principal (or premium, if any) or interest accrued and unpaid after the date of the notice of such determination indicating such redemption, but will be obligated to pay such additional amounts with respect to interest accrued and unpaid to the date of such determination. If the Company elects to pay additional amounts pursuant to this paragraph and the condition specified in the first sentence of this paragraph should no longer be satisfied, then the Company shall promptly redeem the Affected Securities of such series in whole, but not in part, at the Redemption Price subject to the provisions of the last four sentences of the immediately preceding paragraph. If the Company elects to, or is required to, redeem the Affected Securities of such series pursuant to this paragraph, it shall publish in the manner and to the extent provided in Section 106 prompt notice thereof. If the Affected Securities of such series are to be redeemed pursuant to this paragraph, the redemption shall take place on such date, not later than one year after publication of the notice of redemption, as the Company shall specify by notice to the Trustee for such series of Securities at least 60 days prior to the Redemption Date. Any redemption payments made by the Company pursuant to this paragraph shall be subject to the continuing obligation of the Company to pay additional amounts pursuant to this paragraph.

XII.

Sinking Funds

1. *Applicability of This Article.*

Redemption of Securities through operation of a sinking fund as permitted or required by any form of Security issued pursuant to this Indenture shall be made in accordance with such form of Security and this Article; *provided, however*, that if any provision of any such form of Security shall conflict with any provision of this Article, the provision of such form of Security shall govern.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any particular series is herein referred to as a "mandatory sinking fund payment", and any payment in excess of such minimum amount provided for by the terms of Securities of any particular series is herein referred to as an "optional sinking fund payment". If provided for by the terms of Securities of any particular series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 1202. Each sinking fund payment shall be applied to the redemption of Securities of any particular series as provided for by the terms of Securities of that series.

2. *Satisfaction of Sinking Fund Payments With Securities.*

The Company (1) may deliver Outstanding Securities of a series (other than any previously called for redemption), together in the case of any Bearer Securities of such series with all unmatured coupons appertaining thereto, and (2) may apply as a credit Securities of a series which have been redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of such series required to be made pursuant to the terms of such Securities as provided for by the terms of such series; *provided, however*, that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose by the Trustee for such Securities at the principal amount thereof and the amount of such sinking fund payment shall be reduced accordingly.

3. *Redemption of Securities for Sinking Fund.*

Not less than 60 days prior to each sinking fund payment date for any particular series of Securities, the Company will deliver to the Trustee for the Securities of such series an Officers' Certificate specifying the amount of the next ensuing mandatory sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash in the currency or currency unit in which the Securities of that series are payable (except as otherwise specified pursuant to Section 301 for the Securities of that series and except as provided in Sections 311(b) and 311(d) and the portion thereof, if any, which is to be satisfied by delivering and crediting Securities of that series pursuant to Section 1202 and shall state the basis for such credit and that such Securities have not previously been so credited and will also deliver to such Trustee any Securities to be so delivered. Such Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 1103 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 1104. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 1106 and 1107.

XIII.

Meetings of Holders of Securities

1. *Purposes for Which Meetings May Be Called.*

If Securities of a series are issuable as Bearer Securities, a meeting of Holders of Securities of such series may be called at any time and from time to time pursuant to this Article to make, give or take any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be made, given or taken by Holders of Securities of such series.

2. *Call, Notice and Place of Meetings.*

- a. The Trustee for any series of Securities that includes Bearer Securities, may at any time call a meeting of the Holders of Securities of such series for any purpose specified in Section 1301, to be held at such time and at such place in the Borough of Manhattan, The City of New York, or in London, as such Trustee shall determine. Notice of every meeting of Holders of Securities of such series, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in Section 106, not less than 20 nor more than 180 days prior to the date fixed for the meeting.

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- b. In case at any time the Company, pursuant to a Board Resolution, or the Holders of at least 10% in principal amount of the Outstanding Securities of any such series shall have requested the Trustee for any such series to call a meeting of the Holders of Securities of such series for any purpose specified in Section 1301, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and such Trustee shall not have made the first publication of the notice of such meeting within 30 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Company or the Holders of Securities of such series in the amount above specified, as the case may be, may determine the time and the place in the Borough of Manhattan, The City of New York, or in London, for such meeting and may call such meeting for such purposes by giving notice thereof as provided in subsection (a) of this Section.

3. *Persons Entitled to Vote at Meetings.*

To be entitled to vote at any meeting of Holders of Securities of any series, a Person shall be (1) a Holder of one or more Outstanding Securities of such series, or (2) a Person appointed by an instrument in writing as proxy for a Holder or Holders of one or more Outstanding Securities of such series by such Holder or Holders. The only Persons who shall be entitled to be present or to speak at any meeting of Holders of Securities of any series shall be the Persons entitled to vote at such meeting and their counsel, any representatives of the Trustee for such series and its counsel and any representatives of the Company and its counsel.

4. *Quorum; Action.*

The Persons entitled to vote a majority in principal amount of the Outstanding Securities of a series shall constitute a quorum for a meeting of Holders of Securities of such series. In the absence of a quorum within 30 minutes of the time appointed for any such meeting, the meeting shall, if convened at the request of Holders of Securities of such series, be dissolved. In any other case the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such adjourned meeting. Subject to Section 1305(d), notice of the reconvening of any adjourned meeting shall be given as provided in Section 1302(a), except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened. Notice of the reconvening of an adjourned meeting shall state expressly that Persons entitled to vote a majority in principal amount of the Outstanding Securities of such series shall constitute a quorum.

Except as limited by the proviso to Section 902, any resolution presented to a meeting or adjourned meeting duly reconvened at which a quorum is present as aforesaid may be adopted by the affirmative vote of the Holders of a majority in principal amount of the Outstanding Securities of that series; *provided, however*, that except as limited by the proviso to Section 902, any resolution with respect to any request, demand, authorization, direction, notice, consent, waiver or other action which this Indenture expressly provides may be made, given or taken by the Holders of a specified percentage which is less than a majority in principal amount of the Outstanding Securities of a series may be adopted at a meeting or an adjourned meeting duly reconvened and at which a quorum is present as aforesaid by the affirmative vote of the Holders of such specified percentage in principal amount of the Outstanding Securities of that series.

Any resolution passed or decision taken at any meeting of Holders of Securities of any series duly held in accordance with this Section shall be binding on all the Holders of Securities of such series and the related coupons, whether or not present or represented at the meeting.

5. *Determination of Voting Rights; Conduct and Adjournment of Meetings.*

- a. Notwithstanding any other provision of this Indenture, the Trustee for any series of Securities that includes Bearer Securities may make such reasonable regulations as it may deem advisable for any meeting of Holders of Securities of such series in regard to proof of the holding of Securities of such series and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate. Except as otherwise permitted or required by any such regulations, the holding of Securities shall be proved in the manner specified in Section 104 and the appointment of any proxy shall be proved in the manner specified in Section 104 or by having the signature of the person executing the proxy witnessed or guaranteed by any trust company, bank or banker authorized by Section 104 to certify to the holding of Bearer Securities. Such regulations may provide that written instruments appointing proxies, regular on their face, may be presumed valid and genuine without the proof specified in Section 104 or other proof.
- b. The Trustee for any series of Securities that includes Bearer Securities shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders of Securities as provided in Section 1302(b), in which case the Company or the Holders of Securities of the series calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Persons entitled to vote a majority in principal amount of the Outstanding Securities of such series represented at the meeting.
- c. At any meeting each Holder of a Security of such series or proxy shall be entitled to one vote for each \$1,000 principal amount of Securities of such series held or represented by him as determined in accordance with Section 115; *provided, however,* that no vote shall be cast or counted at any meeting in respect of any Security challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote, except as a Holder of a Security of such series or proxy.
- d. Any meeting of holders of Securities of any series duly called pursuant to Section 1302 at which a quorum is present may be adjourned from time to time by Persons entitled to vote a majority in principal amount of the Outstanding Securities of such series represented at the meeting; and the meeting may be held as so adjourned without further notice.

6. *Counting Votes and Recording Action of Meetings.*

The vote upon any resolution submitted to any meeting of Holders of Securities of any series shall be by written ballots on which shall be subscribed the signatures of the Holders of Securities of such series or of their representatives by proxy and the principal amounts and serial numbers of the Outstanding Securities of such series held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file

with the secretary of the meeting their verified written reports in triplicate of all votes cast at the meeting. A record, at least in duplicate, of the proceedings of each meeting of Holders of Securities of any series shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 1302 and, if applicable, Section 1304. Each copy shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one such copy shall be delivered to the Company, and another to the Trustee for such series of Securities to be preserved by such Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

* * *

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture dated as of August 5, 2003 to be duly executed as of August 5, 2003.

HUMANA INC.,

Issuer

By: /s/ James H. Bloem

Name: James H. Bloem
Title: Senior Vice President and
Chief Financial Officer

THE BANK OF NEW YORK,

Trustee

By: /s/ Robert A. Massimillo

Name: Robert A. Massimillo
Title: Vice President

[FORM OF CERTIFICATE TO BE DELIVERED TO EUROCLEAR OR CLEARSTREAM BANKING BY A BENEFICIAL OWNER OF SECURITIES, IN ORDER TO RECEIVE A DEFINITIVE BEARER SECURITY IN EXCHANGE FOR AN INTEREST IN A TEMPORARY GLOBAL SECURITY OR TO EXCHANGE AN INTEREST IN A TEMPORARY GLOBAL SECURITY FOR AN INTEREST IN A PERMANENT GLOBAL SECURITY]

HUMANA INC.

[Insert title or description of Securities]

Reference is hereby made to the Indenture, dated as of August 5, 2003 (the "Indenture") between Humana Inc. (the "Company") and The Bank of New York, as Trustee. Terms used herein unless otherwise defined shall have the meanings ascribed to them in the Indenture.

This is to certify that as of the date hereof [and except as provided in the fourth paragraph hereof]*, \$_____ principal amount of the above-captioned Securities represented by a temporary Global Security (the "temporary Global Security") held by you for our account is:

- i. beneficially owned by persons that are not United States persons (as defined below);
- ii. owned by United States person(s) that are (a) foreign branches of United States financial institutions (as defined in United States Treasury Regulation Section 1.165-12(c)(1)(v) ("financial institutions")) purchasing for their own account or for resale, or (b) United States person(s) who acquired the beneficial interest in the temporary Global Security through foreign branches of United States financial institutions and who hold the beneficial interest in the temporary Global Security through such United States financial

institutions on the date hereof (and in either case (a) or (b), each such United States financial institution hereby agrees, for the benefit of the Company, that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the United States Internal Revenue Code of 1986, as amended, and the regulations thereunder); or

- iii. owned by financial institution(s) for the purpose of resale during the restricted period (as defined in United States Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)) and, in addition, financial institution(s) described in this clause (iii) (whether or not also described in clause (i) or (ii)), further certify that they have not acquired the beneficial interest in the temporary Global Security for the purpose of resale directly or indirectly to a United States person or to a person within the United States.

“United States person” means a citizen or resident of the United States, a corporation, partnership or other entity created or organized in or under the laws of the United States and an estate or trust the income of which is subject to United States federal income taxation regardless of its source, and “United States” means the United States of America (including the States and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction (including the Commonwealth of Puerto Rico).

[This certificate excepts and does not relate to \$_____ principal amount of the temporary Global Security held by you for our account as to which we are not able to provide a certificate in this form. We understand that exchange of such portion of the temporary Global Security for [definitive Bearer Securities] [interests in a permanent Global Security] cannot be made until we are able to provide a certificate in this form.]* We undertake to advise you promptly by tested telex on or prior to the date on which you intend to submit your certification relating to the above-captioned Securities held by you for our account if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

We understand that this certificate is required in connection with certain tax laws and regulations in the United States. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings.

Dated: _____

[Name of Person Making Certification]

By:

* Delete if inappropriate.

**[FORM OF CERTIFICATE TO BE GIVEN TO THE APPROPRIATE TRUSTEE BY
EUROCLEAR OR CLEARSTREAM BANKING REGARDING THE EXCHANGE OF A
TEMPORARY GLOBAL SECURITY FOR DEFINITIVE SECURITIES OR FOR A PORTION
OF A PERMANENT GLOBAL SECURITY]**

HUMANA INC.

[Insert title or description of Securities]

Reference is hereby made to the Indenture, dated as of August 5, 2003 (the "Indenture") between Humana Inc. (the "Company") and The Bank of New York, as Trustee. Terms used herein unless otherwise defined shall have the meanings ascribed to them in the Indenture.

We refer to that portion of the temporary Global Security in respect of the above-captioned Securities which is herewith submitted to be exchanged for [definitive Bearer Securities] [interests in a permanent Global Security] (the "Submitted Portion") as provided in the Prospectus Supplement dated [insert date of Prospectus Supplement] in respect of such issue. This is to certify that (i) we have received in writing or by tested telex or electronically (in accordance with the requirements of United States Treasury Regulation Section 1.163-5(c)(2)(i)(D)(3)(ii)) a certificate or certificates with respect to the entire Submitted Portion, substantially in the form of Exhibit B to the Indenture, and (ii) the Submitted Portion includes no part of the temporary Global Security excepted in such certificates.

We further certify that as of the date hereof we have not received any notification from any of the persons giving such certificates to the effect that the statements made by them with respect to any part of the Submitted Portion are no longer true and cannot be relied on as of the date thereof.

We understand that this certificate is required in connection with certain tax laws and regulations in the United States of America. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings. Submitted Portion:

U.S. \$

Date:

[Euroclear Bank S.A./N.V.]
[Clearstream Banking S.A.]*

By:

* Delete if inappropriate.

[FORM OF CERTIFICATE TO BE DELIVERED TO EUROCLEAR OR CLEARSTREAM BANKING BY A BENEFICIAL OWNER OF SECURITIES, IN ORDER TO RECEIVE PAYMENT ON A TEMPORARY GLOBAL SECURITY]

HUMANA INC.

[Insert title or description of Securities]

Reference is hereby made to the Indenture, dated as of August 5, 2003 (the "Indenture") between Humana Inc. (the "Company") and The Bank of New York, as Trustee. Terms used herein unless otherwise defined shall have the meanings ascribed to them in the Indenture.

This is to certify that as of the date hereof [and except as provided in the fourth paragraph hereof]*, \$_____ principal amount of the above-captioned Securities represented by a temporary Global Security (the "temporary Global Security") held by you for our account is:

1. beneficially owned by persons that are not United States persons (as defined below);
2. owned by United States person(s) that are (a) foreign branches of United States financial institutions (as defined in United States Treasury Regulation Section 1.165-12(c)(1)(v) ("financial institutions")) purchasing for their own account or for resale, or (b) United States person(s) who acquired the beneficial interest in the temporary Global Security through foreign branches of United States financial institutions and who hold the beneficial interest in the temporary Global Security through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution hereby agrees, for the benefit of the Company, that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the United States Internal Revenue Code of 1986, as amended, and the regulations thereunder); or
3. owned by financial institution(s) for the purpose of resale during the restricted period (as defined in United States Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)) and, in addition, financial institution(s) described in this clause (iii) (whether or not also described in clause (i) or (ii)), further certify that they have not acquired the beneficial interest in the temporary Global Security for the purpose of resale directly or indirectly to a United States person or to a person within the United States.

"United States person" means a citizen or resident of the United States, a corporation, partnership or other entity created or organized in or under the laws of the United States and an estate or trust the income of which is subject to United States federal income taxation regardless of its source, and "United States" means the United States of America (including the States and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction (including the Commonwealth of Puerto Rico).

[This certificate excepts and does not relate to \$_____ principal amount of the temporary Global Security held by you for our account as to which we are not able to provide a certificate in this form. We understand that payments, if any, due with respect to such portion of the temporary Global Security cannot be made until we are able to provide a certificate in this form.]*

We undertake to advise you promptly by tested telex on or prior to the date on which you intend to submit your certification relating to the above-captioned Securities held by you for our account if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

We understand that this certificate is required in connection with certain tax laws and regulations in the United States. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings.

Dated:

[Name of Person Making Certification]

By:

* Delete if inappropriate.

[FORM OF CERTIFICATE TO BE GIVEN TO THE APPROPRIATE TRUSTEE BY EUROCLEAR OR CLEARSTREAM BANKING REGARDING PAYMENT ON A TEMPORARY GLOBAL SECURITY]**HUMANA INC.****[Insert title or description of Securities]**

Reference is hereby made to the Indenture, dated as of August 5, 2003 (the "Indenture") between Humana Inc. (the "Company") and The Bank of New York, as Trustee. Terms used herein unless otherwise defined shall have the meanings ascribed to them in the Indenture.

We refer to that portion of the temporary Global Security in respect of the above-captioned Securities for which we hereby request that you make payment to us of the amounts payable on the relevant payment date (the "Submitted Portion") as provided in the Prospectus Supplement dated [insert date of Prospectus Supplement] in respect of such issue. This is to certify that (i) we have received in writing or by tested telex or electronically (in accordance with the requirements of United States Treasury Regulation Section 1.163-5(c)(2)(i)(D)(3)(ii)) a certificate or certificates with respect to the entire Submitted Portion, substantially in the form of Exhibit D to the Indenture, and (ii) the Submitted Portion includes no part of the temporary Global Security excepted in such certificates.

We further certify that as of the date hereof we have not received any notification from any of the persons giving such certificates to the effect that the statements made by them with respect to any part of the Submitted Portion are no longer true and cannot be relied on as of the date thereof.

We understand that this certificate is required in connection with certain tax laws and regulations in the United States of America. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings.

Submitted Portion:

U.S. \$

Dated:

[Euroclear Bank S.A./N.V.]*

[Clearstream Banking S.A.]*

By:

* Delete if inappropriate.

HUMANA INC.,

Issuer

THE BANK OF NEW YORK,

Trustee

FIRST SUPPLEMENTAL INDENTURE

Dated as of August 5, 2003

6.30% Senior Notes Due 2018

Supplemental to Indenture dated as of August 5, 2003

THIS FIRST SUPPLEMENTAL INDENTURE (the "First Supplemental Indenture") is made the 5th day of August, 2003, between HUMANA INC., a corporation duly incorporated and existing under the laws of Delaware and having its principal executive office at 500 West Main Street, Louisville, Kentucky 40202 (hereinafter called "the Company"), and THE BANK OF NEW YORK, a New York banking corporation, as Trustee (hereinafter called the "Trustee").

RECITALS OF THE COMPANY

WHEREAS, the Company entered into an Indenture, dated as of August 5, 2003 with the Trustee (the "Original Indenture," and together with this First Supplemental Indenture, referred to herein as the "Indenture") (all capitalized terms used in this First Supplemental Indenture and not otherwise defined herein have the meanings assigned to such terms in the Original Indenture), for the purposes of issuing its Securities, evidencing its senior unsecured indebtedness, unlimited as to principal amount, to bear such rates of interest, to mature at such time or times, to be issued in one or more series and to have such other provisions as authorized by or pursuant to the authority granted in one or more resolutions of the Board of Directors of the Company; and

WHEREAS, Section 901 of the Original Indenture provides that without the consent of the Holders of the Securities of any series issued under the Original Indenture, the Company, when authorized by a Board Resolution, and the Trustee may, in certain circumstances, enter into one or more indentures supplemental to the Original Indenture; and

WHEREAS, the Company proposes to issue a series of Securities designated as its 6.30% Senior Notes due 2018, the terms of which shall be set forth in, or determined in the manner provided in, an Officers' Certificate of the Company as provided in Section 301 of the Original Indenture (such senior notes being referred to herein as the "2003 Senior Notes" and all references to Securities in the Original Indenture shall be deemed to refer also to the 2003 Senior Notes unless the context otherwise provides); and

WHEREAS, the entry into this First Supplemental Indenture by the parties hereto is in all respect authorized by the provisions of the Original Indenture; and

WHEREAS, all conditions necessary to authorize the execution and delivery of this First Supplemental Indenture and to make it a valid and binding obligation of the Company have been done or performed; and

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the 2003 Senior Notes by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of the 2003 Senior Notes, as follows:

1. The Original Indenture is hereby amended solely with respect to the 2003 Senior Notes as follows:

A. By amending Section 101 to insert the following definitions in their entirety as follows:

"Common Stock" means, with respect to any Principal Subsidiary, Capital Stock of any class, however designated, except Capital Stock which is non-participating beyond fixed dividend and liquidation preferences and the holders of which have either no voting rights or limited voting rights entitling them, only in the case of certain contingencies, to elect less than a majority of the directors (or persons performing similar functions) of such Principal Subsidiary, and also includes securities of any class, however designated, which are convertible into Common Stock.

"Indebtedness" means, with respect to any Person (without duplication):

(1) any liability of that Person (A) for borrowed money, or under any reimbursement obligation relating to a letter of credit or similar instrument; (B) evidenced by a bond, note, debenture or similar instrument; (C) to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business; or (D) for the payment of money relating to any obligations under any capital lease of real or personal property which has been recorded as a capitalized lease obligation;

(2) any liability of others described in the preceding clause (1) that the Person has guaranteed or that is otherwise its legal liability or which is secured by a lien on that Person's Property; and

(3) any amendment, supplement, modification, deferral, renewal, extension or refunding of any liability of the types referred to in clauses (1) or (2) above.

“Principal Subsidiary” means a consolidated subsidiary of the Company that, as of the relevant time of determination, is a “significant subsidiary” as defined under Rule 405 under the Securities Act of 1933, as amended (as that Rule is in effect on July 29, 2003, without giving effect to any further amendment of that Rule).

- B. By replacing the definition of “Notice of Default” in Section 101 of the Original Indenture in its entirety as follows:

“Notice of Default” has the meaning specified in Sections 501(3) and 501(4).

- C. By replacing Section 105(2) of the Original Indenture in its entirety as follows:

(2) the Company by such Trustee or by any Holder shall be sufficient for every purpose hereunder (except as provided in paragraphs (3) and (4) of Section 501) if furnished in writing and mailed, first class postage prepaid, addressed to it, to the attention of the Chief Financial Officer, at the address of its principal office specified in the first paragraph of this instrument or at any other address previously furnished in writing to such Trustee by the Company, or if sent by facsimile transmission, to a facsimile number provided to the Trustee by the Company, with a copy mailed, first class postage prepaid, to the Company addressed to it as provided above.

- D. By replacing Section 403 of the Original Indenture in its entirety as follows:

Section 403. Covenant Defeasance

Upon the Company’s exercise under Section 401 of the option applicable to this Section 403, the Company shall be released from any obligations under the covenants contained in Sections 704, 801 and 1007 hereof with respect to the Outstanding 2003 Senior Notes, on and after the date the conditions set forth in Section 404 are satisfied (hereinafter, “Covenant Defeasance”), and the 2003 Senior Notes and any coupons appertaining thereto shall thereafter be deemed not “Outstanding” for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed “Outstanding” for all other purposes hereunder (it being understood that such 2003 Senior Notes shall not be deemed outstanding for accounting purposes). For this purpose, such Covenant Defeasance means that, with respect to the Outstanding 2003 Senior Notes and any coupons appertaining thereto, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a default or Event of Default under subsection 501(3) but, except as specified above, the remainder of this Indenture and the 2003 Senior Notes shall be unaffected thereby.

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- E. By replacing Section 404(d) of the Original Indenture in its entirety as follows:
- (d) no Event of Default or event which with the giving of notice or the lapse of time, or both, would become an Event of Default with respect to the 2003 Senior Notes shall have occurred and be continuing on the date of such deposit and no Event of Default under Section 501(5) or Section 501(6) shall have occurred and be continuing on the 123rd day after such date;
- F. By replacing Section 405(ii)(B) of the Original Indenture in its entirety as follows:
- (B) no Event of Default or event which with the giving of notice or the lapse of time, or both, would become an Event of Default shall have occurred and be continuing on the date of such deposit and no Event of Default under Section 501(5) or Section 501(6) shall have occurred and be continuing on the 123rd day after such date;
- G. By replacing Section 501 of the Original Indenture in its entirety as follows:
- “Event of Default” wherever used herein with respect to the 2003 Senior Notes means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):
- (1) default in the payment of any installment of interest upon any 2003 Senior Note and any related coupon when it becomes due and payable, and continuance of such default for a period of 30 days; or
- (2) default in the payment of the principal of (or premium, if any, on) any 2003 Senior Note at its Maturity; or
- (3) default in the performance of, or breach of, any covenant or warranty of the Company in respect of any 2003 Senior Note contained in this Indenture or in such 2003 Senior Notes (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section specifically dealt with) and continuance of such default or breach for a period of 60 days after there has been given, by registered or certified mail, to the Company by the Trustee for the 2003 Senior Notes or to the Company and such Trustee by the Holders of at least 25% in principal amount of the Outstanding 2003 Senior Notes a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “*Notice of Default*” hereunder; or
- (4) (A) the Company or any of its Subsidiaries fails to pay indebtedness for money borrowed by the Company or any of its Subsidiaries in an aggregate principal amount of at least \$40,000,000, at the later of final maturity or the expiration of any related applicable grace period and such payment shall not have been made, waived or extended within 30 days after written notice from the Trustee or the Holders of at least 25% in principal amount of the Outstanding 2003 Senior Notes as provided below or (B) acceleration of maturity of Securities of another series or any other indebtedness for borrowed money of the Company or any of its Subsidiaries, in an aggregate principal amount exceeding \$40,000,000, under the terms of the instrument

or instruments under which such indebtedness arises or is secured, if such indebtedness has not been discharged in full or such acceleration is not rescinded or annulled within 30 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and such Trustee by the Holders of at least 25% in principal amount of the Outstanding 2003 Senior Notes a written notice specifying such default and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(5) the Company or any of its Principal Subsidiaries shall commence any case or proceeding seeking to have an order for relief entered on its behalf as debtor or to adjudicate it as bankrupt or insolvent or seeking reorganization, liquidation, dissolution, winding-up, arrangement, composition or readjustment of its debts or any other relief under any bankruptcy, insolvency, reorganization, liquidation, dissolution, arrangement, composition, readjustment of debt or other similar act or law of any jurisdiction, domestic or foreign, now or hereafter existing; or the Company or any of its Principal Subsidiaries shall apply for a receiver, custodian or trustee (other than any trustee appointed as a mortgagee or secured party in connection with the issuance of indebtedness for borrowed money of the Company) of it or for all or a substantial part of its property; or the Company or any of its Principal Subsidiaries shall make a general assignment for the benefit of creditors; or the Company or any of its Principal Subsidiaries shall take any corporate action in furtherance of any of the foregoing; or

(6) an involuntary case or other proceeding shall be commenced against the Company or any of its Principal Subsidiaries with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect seeking the appointment of a trustee, receiver, liquidator, custodian or similar official of the Company or any of its Principal Subsidiaries or any substantial part of either's property; and such case or other proceeding (A) results in the entry of an order for relief or a similar order against either the Company or any of its Principal Subsidiaries or (B) shall continue unstayed and in effect for a period of 60 consecutive days.

H. By replacing the first and second paragraphs of Section 502 of the Original Indenture in their entirety as follows:

If an Event of Default with respect to the 2003 Senior Notes and any related coupons occurs and is continuing (other than an Event of Default described in Section 501(5) or 501(6) with respect to the Company), then and in every such case either the Trustee for the 2003 Senior Notes or the Holders of not less than 25% in principal amount of the Outstanding 2003 Senior Notes may declare the entire principal amount of all the 2003 Senior Notes, to be due and payable immediately, by a notice in writing to the Company (and to such Trustee if given by Holders), and upon any such declaration of acceleration such principal or such lesser amount, as the case may be, together with accrued interest and all other amounts owing hereunder, shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived.

If any Event of Default specified in Section 501(5) or 501(6) occurs with respect to the Company, all of the unpaid principal amount and accrued interest on all Securities of each series then outstanding shall *ipso facto* become and be immediately due and payable without any declaration or other act by the Trustee or any Holder.

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- I. By replacing the last paragraph of Section 607 of the Original Indenture in its entirety as follows:

When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 501(5) or Section 501(6) the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services are intended to constitute expenses of administration under any applicable Federal or state bankruptcy, insolvency or other similar law.

- J. By replacing Section 1007 of the Original Indenture in its entirety as follows:

Section 1007. *Limitation on Liens*

The Company shall not, and shall not permit any of its Principal Subsidiaries to, issue, assume, incur or guarantee any Indebtedness secured by a mortgage, pledge, lien or other encumbrance, directly or indirectly, on any of the Common Stock of a Principal Subsidiary owned by the Company or any of its Principal Subsidiaries, unless the Company's obligations under the 2003 Senior Notes and, if the Company so elects, any other indebtedness of the Company ranking on a parity with, or prior to, the 2003 Senior Notes, shall be secured equally and ratably with, or prior to, such secured Indebtedness so long as it is outstanding and is so secured.

- K. By replacing Section 1008 of the Original Indenture in its entirety as follows:

Section 1008. *Waiver of Certain Covenants.*

The Company may omit in any particular instance to comply with any covenant or condition set forth in Sections 1005 to 1007, inclusive, if before or after the time for such compliance the Holders of more than 50% in principal amount of the Outstanding Securities of each series of Securities affected by the omission shall, in each case by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee for the Securities of each series with respect to any such covenant or condition shall remain in full force and effect.

2. The recitals and statements in this First Supplemental Indenture are made by the Company only and not by the Trustee, and the Trustee makes no representation as to the validity or sufficiency of this First Supplemental Indenture. All of the provisions contained in the Original Indenture in respect of the rights, privileges, immunities, powers and duties of the Trustee shall be applicable in respect of the 2003 Senior Notes and of this First Supplemental Indenture as fully and with like effect as if set forth herein in full.
3. As supplemented hereby, the Original Indenture is in all respects ratified and confirmed, and the Original Indenture and this First Supplemental Indenture shall be read, taken and construed as one and the same instrument and all references to Securities in the Original Indenture shall be deemed to refer also to the 2003 Senior Notes unless the context otherwise provides.
4. The First Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

5. In the event of a conflict between the terms and conditions of the Original Indenture and the terms and conditions of this First Supplemental Indenture, then the terms and conditions of this First Supplemental Indenture shall prevail; provided that if and to the extent that any provision of this First Supplemental Indenture limits, qualifies or conflicts with another provision which is required to be included herein or in the Original Indenture by the Trust Indenture Act of 1939, as amended, such required provision shall control.
6. All covenants and agreements in this First Supplemental Indenture by the Company shall bind its successors and assigns, whether so expressed or not.
7. In case any provision in this First Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired hereby.
8. Nothing in this First Supplemental Indenture, expressed or implied, shall give to any Person, other than the parties hereto and any Paying Agent, any Security Registrar and any Authenticating Agent for the 2003 Senior Notes and their successors under the Indenture, and the Holders of the 2003 Senior Notes any benefit or any legal or equitable right, remedy or claim under this First Supplemental Indenture.
9. This First Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

(signature page follows)

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture dated as of August 5, 2003 to be duly executed, all as of August 5, 2003.

HUMANA INC.,

Issuer

By: /s/ James H. Bloem

Name: James H. Bloem
Title: Senior Vice President and
Chief Financial Officer

THE BANK OF NEW YORK,

Trustee

By: /s/ Robert A. Massimillo

Name: Robert A. Massimillo
Title: Vice President

SECOND AMENDED AND RESTATED
364-DAY CREDIT AGREEMENT

among

HUMANA INC.,

THE SEVERAL BANKS AND OTHER FINANCIAL INSTITUTIONS
FROM TIME TO TIME PARTIES HERETO,

and

JPMORGAN CHASE BANK,
as Administrative Agent and as CAF Loan Agent,

BANK OF AMERICA, N.A.,

CITIBANK, N.A.

and

WACHOVIA BANK, NATIONAL ASSOCIATION
as

Syndication Agents

and

J.P. MORGAN SECURITIES INC.,
as Sole Lead Arranger and Sole Lead Bookrunner

Dated as of October 1, 2003

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SECOND AMENDED AND RESTATED 364-DAY CREDIT AGREEMENT, dated as of October 1, 2003, among HUMANA INC., a Delaware corporation (the “Company”), the several banks and other financial institutions from time to time parties to this Agreement (the “Banks”), and JPMORGAN CHASE BANK, a New York banking corporation, as administrative agent for the Banks hereunder (in such capacity, the “Agent”) and as CAF Loan agent (in such capacity, the “CAF Loan Agent”).

WITNESSETH:

WHEREAS, the Company has requested the Banks to make available a 364-day revolving credit facility that amends and restates the Amended and Restated 364-Day Credit Agreement, dated as of October 2, 2002, among the Company, certain financial institutions and JPMorgan Chase Bank (as predecessor in interest to the Agent), as administrative agent (as in effect on the date hereof, the “Existing Credit Agreement”); and

WHEREAS, the Banks are willing to make such credit facility available upon and subject to the terms and conditions hereafter set forth;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto hereby agree that, effective as of the Closing Date (as defined below), the Existing Credit Agreement shall be amended and restated in its entirety as follows:

SECTION 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the following terms have the following meanings:

“Admitted Asset”: with respect to any HMO Subsidiary or Insurance Subsidiary, any asset of such HMO subsidiary or Insurance Subsidiary which qualifies as an “admitted asset” (or any like item) under the applicable Insurance Regulations and HMO Regulations.

“Affiliate”: as to any Person, any other Person (other than a Subsidiary) which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the power, directly or indirectly, either to direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

“Aggregate Outstanding Extensions of Credit”: as to any Bank at any time, an amount equal to the aggregate principal amount of all Loans made by such Bank then outstanding.

“Agreement”: this Second Amended and Restated 364-Day Credit Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

“Alternate Base Rate”: for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Base CD Rate in effect on such day plus 1% and (c) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%. For purposes hereof: “Prime Rate” shall mean the rate of interest per annum publicly announced from time to time by the Agent as its prime rate in effect at its principal office in New York City (each change in the Prime Rate to be effective on the date such change is publicly announced); “Base CD Rate” shall mean the sum of (a) the product of (i) the Three-Month Secondary CD Rate and (ii) a fraction, the numerator of which is one and the denominator of which is one minus the C/D Reserve Percentage and (b) the C/D Assessment Rate; “Three-Month Secondary CD Rate” shall mean, for any day, the secondary market rate for three-month certificates of deposit reported as being in effect on such day (or, if such day shall not be a Business Day, the next preceding Business Day) by the Board of Governors of the Federal Reserve System (the “Board”) through the public information telephone line of the Federal Reserve Bank of New York (which rate will, under the current practices of the Board, be published in Federal Reserve Statistical Release H.15(519) during the week following such day), or, if such rate shall not be so reported on such day or such next preceding Business Day, the average of the secondary market quotations for three-month certificates of deposit of major money center banks in New York City received at approximately 10:00 A.M., New York City time, on such day (or, if such day shall not be a Business Day, on the next preceding Business Day) by the Agent from three New York City negotiable certificate of deposit dealers of recognized standing selected by it; “C/D Reserve Percentage” shall mean, for any day, that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board (or any successor), for determining the maximum reserve requirement for a member bank of the Federal Reserve System in New York City with deposits exceeding one billion Dollars in respect of new non-personal three-month certificates of deposit in the secondary market in Dollars in New York City and in an amount of \$100,000 or more; “C/D Assessment Rate” shall mean, for any day, the net annual assessment rate (rounded upward to the nearest 1/100th of 1%) determined by JPMorgan Chase Bank to be payable on such day to the Federal Deposit Insurance Corporation or any successor (“FDIC”) for FDIC’s insuring time deposits made in Dollars at offices of JPMorgan Chase Bank in the United States; and “Federal Funds Effective Rate” shall mean, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for the day of such transactions received by the Agent from three federal funds brokers of recognized standing selected by it. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Three-Month Secondary CD Rate or the Federal Funds Effective Rate shall be effective on the effective day of such change in the Prime Rate, the Three-Month Secondary CD Rate or the Federal Funds Effective Rate, respectively.

“Alternate Base Rate Loans”: Revolving Credit Loans hereunder at such time as they are made and/or being maintained at a rate of interest based upon the Alternate Base Rate.

“Applicable LIBOR Auction Advance Rate”: in respect of any CAF Loan requested pursuant to a LIBOR Auction Advance Request, the London interbank offered rate for deposits in Dollars for the period commencing on the date of such CAF Loan and ending on the maturity date thereof which appears on Telerate Page 3750 as of 11:00 A.M., London time, two Working Days prior to the beginning of such period.

“Applicable Margin”: for each Type of Revolving Credit Loan, the rate per annum applicable to such type determined in accordance with the Pricing Grid.

“Available Commitments”: at a particular time, an amount equal to the difference between (a) the amount of the Commitments at such time and (b) the Aggregate Outstanding Extensions of Credit at such time.

“Bank Obligations”: as defined in subsection 8.1.

“Banks”: the several banks and other financial institutions from time to time parties to this Agreement.

“Benefitted Bank”: as defined in subsection 10.7.

“Borrowing Date”: any Business Day specified in a notice pursuant to subsection 2.1(c) or a CAF Loan Request pursuant to subsection 2.2(b) as a date on which the Company requests the Banks to make Revolving Credit Loans or CAF Loans, as the case may be, hereunder.

“Business Day”: a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close, provided, that with respect to notices and determinations in connection with, and payments of principal and interest on, Eurodollar Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.

“CAF Loan”: each CAF Loan made pursuant to subsection 2.2; the aggregate amount advanced by a CAF Loan Bank pursuant to subsection 2.2 on each CAF Loan Date shall constitute one or more CAF Loans, as specified by such CAF Loan Bank pursuant to subsection 2.2(b)(vi).

“CAF Loan Assignee”: as defined in subsection 10.6(c).

“CAF Loan Assignment”: any assignment by a CAF Loan Bank to a CAF Loan Assignee of a CAF Loan and related Individual CAF Loan Note; any such CAF Loan Assignment to be registered in the Register must set forth, in respect of the CAF Loan Assignee thereunder, the full name of such CAF Loan Assignee, its address for notices, its lending office address (in each case with telephone and facsimile transmission numbers) and payment instructions for all payments to such CAF Loan Assignee, and must contain an agreement by such CAF Loan Assignee to comply with the provisions of subsection 10.6(c), 10.6(h) and 10.12 to the same extent as any Bank.

“CAF Loan Banks”: Banks from time to time designated as CAF Loan Banks by the Company by written notice to the CAF Loan Agent (which notice the CAF Loan Agent shall transmit to each such CAF Loan Bank).

“CAF Loan Confirmation”: each confirmation by the Company of its acceptance of one or more CAF Loan Offers, which CAF Loan Confirmation shall be substantially in the form of Exhibit F and shall be delivered to the CAF Loan Agent in writing or by facsimile transmission.

“CAF Loan Date”: each date on which a CAF Loan is made pursuant to subsection 2.2.

“CAF Loan Note”: a Grid CAF Loan Note or an Individual CAF Loan Note.

“CAF Loan Offer”: each offer by a CAF Loan Bank to make one or more CAF Loans pursuant to a CAF Loan Request, which CAF Loan Offer shall contain the information specified in Exhibit E and shall be delivered to the CAF Loan Agent by telephone, immediately confirmed by facsimile transmission.

“CAF Loan Request”: each request by the Company for CAF Loan Banks to submit bids to make CAF Loans, which shall contain the information in respect of such requested CAF Loans specified in Exhibit D and shall be delivered to the CAF Loan Agent in writing or by facsimile transmission, or by telephone, immediately confirmed by facsimile transmission.

“Capital Stock”: any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants or options to purchase any of the foregoing.

“Change in Control”: of any corporation, shall occur where (a) any Person or “group” (as defined in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended), other than the Company, shall acquire more than 30% of the Voting Stock of such corporation or (b) the Continuing Directors shall not constitute a majority of the board of directors of such corporation.

“Closing Date”: the date on which all of the conditions precedent for the Closing Date set forth in Section 5 shall have been fulfilled.

“Code”: the Internal Revenue Code of 1986, as amended from time to time.

“Commitments”: the collective reference to the Tranche A Commitments and the Tranche B Commitments.

“Commitment Percentage”: as to any Bank, the percentage of the aggregate Commitments constituted by such Bank’s Commitments.

“Commitment Period”: the period from and including the Closing Date to but not including the Termination Date or such earlier date on which the Commitments shall terminate as provided herein.

“Commitment Transfer Supplement”: a Commitment Transfer Supplement, substantially in the form of Exhibit G.

“Commonly Controlled Entity”: an entity, whether or not incorporated, which is under common control with the Company within the meaning of Section 4001 of ERISA or is part of a group which includes the Company and which is treated as a single employer under Section 414 of the Code.

“Conduit Lender”: any special purpose corporation organized and administered by any Bank for the purpose of making Loans otherwise required to be made by such Bank and designated by such Bank in a written instrument; provided, that the designation by any Bank of a Conduit Lender shall not relieve the designating Bank of any of its obligations to fund a Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such Loan, and the designating Bank (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this Agreement with respect to its Conduit Lender, and provided, further, that no Conduit Lender shall (a) be entitled to receive any greater amount pursuant to subsection 2.13, 2.14, 2.15, 2.16 or 10.5 than the designating Bank would have been entitled to receive in respect of the extensions of credit made by such Conduit Lender (and each Bank which designates a Conduit Lender shall indemnify the Company against any increased taxes, costs, expenses, liabilities or losses associated with any payment thereunder to such Conduit Lender) or (b) be deemed to have any Commitment.

“Consolidated Assets”: the consolidated assets of the Company and its Subsidiaries, determined in accordance with GAAP.

“Consolidated EBIT”: for any period for which the amount thereof is to be determined, Consolidated Net Income for such period plus all amounts deducted in computing such Consolidated Net Income in respect of Consolidated Interest Expense and income taxes, all determined in accordance with GAAP; provided, that for purposes of calculating Consolidated EBIT for any period of four full fiscal quarters, (i) the Consolidated EBIT attributable to any Person or business unit acquired by the Company or its Subsidiaries during such period (such Consolidated EBIT to be calculated in the same manner as Consolidated EBIT for the Company and its Subsidiaries is calculated, mutatis mutandis, provided that amounts arising prior to the time such acquired Person or business unit was acquired attributable to (a) any discontinued operations or products of the acquired Person or business unit or (b) operations or products of the acquired Person or business unit which the Company expects to discontinue as disclosed in the Company’s reports filed with the Securities and Exchange Commission within three months after the date of acquisition of such Person or business unit shall be excluded in such calculation) shall be included on a pro forma basis for such period of four full fiscal quarters (assuming the consummation of each such acquisition and the incurrence, assumption or repayment of any Indebtedness in connection therewith occurred on the first day of such

period of four full fiscal quarters) and (ii) the Consolidated EBIT of any Person or business unit disposed of by the Company or its Subsidiaries during such period (such Consolidated EBIT to be calculated in the same manner as Consolidated EBIT for the Company and its Subsidiaries is calculated, mutatis mutandis) shall be deducted on a pro forma basis for such period of four full fiscal quarters (assuming the consummation of each such disposition and the repayment of any Indebtedness in connection therewith occurred on the first day of such period of four full fiscal quarters).

“Consolidated EBITDA”: for any fiscal period for which the amount thereof is to be determined, Consolidated EBIT for such fiscal period plus, to the extent deducted from Consolidated Net Income for such fiscal period, depreciation and amortization for such fiscal period.

“Consolidated Interest Expense”: for any period for which the amount thereof is to be determined, all amounts deducted in computing Consolidated Net Income for such period in respect of interest expense on Indebtedness determined in accordance with GAAP; provided, that for purposes of calculating Consolidated Interest Expense for any period of four full fiscal quarters, (i) the Consolidated Interest Expense of any Person or business unit acquired by the Company or its Subsidiaries during such period (such Consolidated Interest Expense to be calculated in the same manner as Consolidated Interest Expense for the Company and its Subsidiaries is calculated, mutatis mutandis, provided that amounts arising prior to the time such acquired Person or business unit was acquired attributable to (a) any discontinued operations or products of the acquired Person or business unit or (b) operations or products of the acquired Person or business unit which the Company expects to discontinue as disclosed in the Company’s reports filed with the Securities and Exchange Commission within three months after the date of acquisition of such Person or business unit shall be excluded in such calculation) shall be included on a pro forma basis for such period of four full fiscal quarters (assuming the consummation of each such acquisition and the incurrence, assumption or repayment of any Indebtedness in connection therewith occurred on the first day of such period of four full fiscal quarters) and (ii) the Consolidated Interest Expense of any Person or business unit disposed of by the Company or its Subsidiaries during such period (such Consolidated Interest Expense to be calculated in the same manner as Consolidated Interest Expense for the Company and its Subsidiaries is calculated, mutatis mutandis) shall be deducted on a pro forma basis for such period of four full fiscal quarters (assuming the consummation of each such disposition and the repayment of any Indebtedness in connection therewith occurred on the first day of such period of four full fiscal quarters). Consolidated Interest Expense shall in any event include the Synthetic Lease Interest Component of any Synthetic Lease entered into by the Company or any of its Subsidiaries.

“Consolidated Net Income”: for any period, the consolidated net income, if any, after taxes, of the Company and its Subsidiaries for such period determined in accordance with GAAP; provided, that, for all purposes other than subsection 7.1(a), Consolidated Net Income shall not be reduced or increased by the amount of any non-cash extraordinary charges or credits that would otherwise be deducted from or added to revenue in determining such Consolidated Net Income.

“Consolidated Net Tangible Assets”: at any date, the total amount of assets (less applicable reserves and other properly deductible items) after deducting therefrom (i) all current liabilities as disclosed on the consolidated balance sheet of the Company (excluding any thereof which are by their terms extendable or renewable at the option of the obligor thereon to a time more than 12 months after the time as of which the amount thereof is being computed and excluding any deferred income taxes that are included in current liabilities), and (ii) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangible assets, all as set forth on the most recent consolidated balance sheet of the Company and computed in accordance with GAAP.

“Consolidated Net Worth”: at any date, the stockholders’ equity of the Company and its Subsidiaries at such date, determined in accordance with GAAP.

“Consolidated Total Debt”: the aggregate of all Indebtedness (including the current portion thereof) of the Company and its Subsidiaries on a consolidated basis.

“Continuing Director”: any member of the Board of Directors of the Company who is a member of such Board on the date of this Agreement, and any Person who is a member of such Board and whose nomination as a director was approved by a majority of the Continuing Directors then on such Board.

“Contractual Obligation”: as to any Person, any provision of any security issued by such Person or of any agreement, instrument or undertaking to which such Person is a party or by which it or any of its property is bound.

“Control Group Person”: any Person which is a member of the controlled group or is under common control with the Company within the meaning of Section 414(b) or 414(c) of the Code or Section 4001(b)(1) of ERISA.

“Default”: any of the events specified in subsection 8.1, whether or not any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

“Distribution”: (a) the declaration or payment of any dividend on or in respect of any shares of any class of Capital Stock of the Company other than dividends payable solely in shares of common stock of the Company; (b) the purchase, redemption or other acquisition of any shares of any class of Capital Stock of the Company directly or indirectly through a Subsidiary or otherwise; and (c) any other distribution on or in respect of any shares of any class of Capital Stock of the Company.

“Dollars” and “\$”: dollars in lawful currency of the United States of America.

“Domestic Lending Office”: with respect to each Bank the office of such Bank located within the United States which shall be making or maintaining Alternate Base Rate Loans.

“ERISA”: the Employee Retirement Income Security Act of 1974, as amended from time to time.

“Eurocurrency Reserve Requirements”: for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including, without limitation, basic, supplemental, marginal and emergency reserves under any regulations of the Board of Governors of the Federal Reserve System or other Governmental Authority having jurisdiction with respect thereto), dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of such Board) maintained by a member bank of such System.

“Eurodollar Lending Office”: with respect to each Bank, the office of such Bank which shall be making or maintaining Eurodollar Loans.

“Eurodollar Loans”: Revolving Credit Loans hereunder at such time as they are made and/or are being maintained at a rate of interest based upon the Eurodollar Rate.

“Eurodollar Rate”: with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum equal to the average (rounded upwards to the nearest whole multiple of one sixteenth of one percent) of the respective rates notified to the Agent by the Reference Banks as the rate at which each of their Eurodollar Lending Offices is offered Dollar deposits two Working Days prior to the beginning of such Interest Period in the interbank eurodollar market where the eurodollar and foreign currency and exchange operations of such Eurodollar Lending Office are then being conducted at or about 10:00 A.M., New York City time, for delivery on the first day of such Interest Period for the number of days comprised therein and in an amount comparable to the amount of the Eurodollar Loan of such Reference Bank to be outstanding during such Interest Period.

“Eurodollar Tranche”: the collective reference to Eurodollar Loans having the same Interest Period (whether or not originally made on the same day).

“Event of Default”: any of the events specified in subsection 8.1, provided that any requirement for the giving of notice, the lapse of time, or both, or any other condition, event or act has been satisfied.

“Existing Credit Agreement”: as defined in the recitals.

“Financing Lease”: any lease of property, real or personal, if the then present value of the minimum rental commitment thereunder should, in accordance with GAAP, be capitalized on a balance sheet of the lessee.

“Fixed Rate Auction Advance Request”: any CAF Loan Request requesting the CAF Loan Banks to offer to make CAF Loans at a fixed rate (as opposed to a rate composed of the Applicable LIBOR Auction Advance Rate plus or minus a margin).

“Funding Agreement”: that certain Second Amended and Restated RFC Loan Agreement dated as of October 1, 2003 among Humana Inc., the several banks and other financial institutions from time to time parties thereto, Relationship Funding Company, LLC and JPMorgan Chase Bank.

“GAAP”: (a) with respect to determining compliance by the Company with the provisions of subsections 7.1, 7.2 and 7.5, generally accepted accounting principles in the United States of America consistent with those utilized in preparing the audited financial statements referred to in subsection 4.6 and (b) with respect to the financial statements referred to in subsection 4.6 or the furnishing of financial statements pursuant to subsection 6.4 and otherwise, generally accepted accounting principles in the United States of America from time to time in effect.

“Governmental Authority”: 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.

“Green Bay Facility”: offices of the Company located at 1100 Employers Boulevard, De Pere, Wisconsin.

“Grid CAF Loan Note”: as defined in subsection 2.3(e).

“Guarantee Obligation”: as to any Person, any arrangement whereby credit is extended to one party on the basis of any promise of such Person, whether that promise is expressed in terms of an obligation to pay the Indebtedness of another, or to purchase an obligation owed by that other, to purchase assets or to provide funds in the form of lease or other types of payments under circumstances that would enable that other to discharge one or more of its obligations, whether or not such arrangement is listed in the balance sheet of the obligor or referred to in a footnote thereto, but shall not include endorsements of items for collection in the ordinary course of business.

“Headquarters”: the principal executive offices of the Company located at 500 West Main Street, Louisville, Kentucky 40202.

“HMO”: a health maintenance organization doing business as such (or required to qualify or to be licensed as such) under HMO Regulations.

“HMO Regulation”: all laws, regulations, directives and administrative orders applicable under federal or state law specific to health maintenance organizations and any regulations, orders and directives promulgated or issued pursuant thereto.

“HMO Regulator”: any Person charged with the administration, oversight or enforcement of an HMO Regulation.

“HMO Subsidiary”: any Subsidiary of the Company that is now or hereafter an HMO.

“Indebtedness”: of a Person, at a particular date, the sum (without duplication) at such date of (a) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services or which is evidenced by a note, bond, debenture or similar instrument, (b) all obligations of such Person under Financing Leases, (c) all obligations of such Person in respect of letters of credit, acceptances, or similar obligations issued or created for the account of such Person in excess of \$1,000,000, (d) all liabilities secured by any Lien on any property owned by the Company or any Subsidiary even though such Person has not assumed or otherwise become liable for the payment thereof, (e) the amount of any Synthetic Lease Obligations of such Person, (f) all Guarantee Obligations relating to any of the foregoing in excess of \$1,000,000, and (g) for purposes of subsection 8.1(e) only, all obligations of such Person in respect of Interest Rate Protection Agreements.

“Individual CAF Loan Note”: as defined in subsection 2.3(e).

“Insolvency” or “Insolvent”: at any particular time, a Multiemployer Plan which is insolvent within the meaning of Section 4245 of ERISA.

“Insurance Regulation”: any law, regulation, rule, directive or order applicable and specific to an insurance company.

“Insurance Regulator”: any Person charged with the administration, oversight or enforcement of any Insurance Regulation.

“Insurance Subsidiary”: any Subsidiary of the Company that is now or hereafter doing business (or required to qualify or to be licensed) under Insurance Regulations.

“Interest Payment Date”: (a) as to any Alternate Base Rate Loan, the last day of each March, June, September and December, commencing on the first of such days to occur after Alternate Base Rate Loans are made or Eurodollar Loans are converted to Alternate Base Rate Loans and the final maturity date of such Loan, (b) as to any Eurodollar Loan in respect of which the Company has selected an Interest Period of one, two or three months, the last day of such Interest Period, (c) as to any CAF Loan in respect of which the Company has selected an Interest Period not exceeding 90 days or three months, as the case may be, the last day of such Interest Period and (d) as to any Eurodollar Loan in respect of which the Company has selected a longer Interest Period than the periods described in clause (b) and as to any CAF Loan in respect of which the Company has selected a longer Interest Period than the periods described in clause (c), each day that is three months, or a whole multiple thereof, after the first day of such Interest Period, and the last day of such Interest Period.

“Interest Period”: (a) with respect to any Eurodollar Loans:

(i) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loans and ending one, two, three or six months thereafter (or, with the consent of all the Banks, nine or twelve months thereafter), as selected by the Company in its notice of borrowing as provided in

subsection 2.1(b) or its notice of conversion as provided in subsection 2.7(a), as the case may be; and

(ii) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Eurodollar Loans and ending one, two, three or six months thereafter (or, with the consent of all the Banks, nine or twelve months thereafter), as selected by the Company by irrevocable notice to the Agent not less than three Business Days prior to the last day of the then current Interest Period with respect to such Eurodollar Loans;

provided that, all of the foregoing provisions relating to Interest Periods are subject to the following:

(1) if any Interest Period pertaining to a Eurodollar Loan would otherwise end on a day which is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(2) if the Company shall fail to give notice as provided above, the Company shall be deemed to have selected an Alternate Base Rate Loan to replace the affected Eurodollar Loan;

(3) any Interest Period pertaining to a Eurodollar Loan that begins on the last Business Day of a 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 end on the last Business Day of a calendar month;

(4) any interest period pertaining to a Eurodollar Loan that would otherwise end after the Termination Date shall end on the Termination Date; and

(5) the Company shall select Interest Periods so as not to require a payment or prepayment of any Eurodollar Loan during an Interest Period for such Loan; and

(b) with respect to any CAF Loans, the period commencing on the Borrowing Date therefor and ending on the maturity date for such CAF Loans as set forth in subsection 2.2(b)(i).

“Interest Rate Protection Agreement”: any interest rate protection agreement, interest rate futures contract, interest rate option, interest rate cap or other interest rate hedge arrangement to or under which the Company or any of its Subsidiaries is a party or a beneficiary on the date hereof or becomes a party or a beneficiary after the date hereof.

“Jacksonville Facility”: the offices of the Company located at 76 South Laura Street, Jacksonville, Florida.

“Lender Affiliate”: (a) any Affiliate of any Bank, (b) any Person that is administered or managed by any Bank and that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and (c) with respect to any Bank which is a fund that invests in commercial loans and similar extensions of credit, any other fund that invests in commercial loans and similar extensions of credit and is managed or advised by the same investment advisor as such Bank or by an Affiliate of such Bank or investment advisor.

“Leverage Ratio”: at the last day of any full fiscal quarter of the Company, the ratio of (a) all Indebtedness of the Company and its Subsidiaries outstanding on such date to (b) Consolidated EBITDA for the period of four fiscal quarters of the Company ended on such day.

“LIBOR Auction Advance Request”: any CAF Loan Request requesting the CAF Loan Banks to offer to make CAF Loans at an interest rate equal to the Applicable LIBOR Auction Advance Rate plus or minus a margin.

“Lien”: any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), or preference, priority or other security agreement or preferential arrangement that has the same practical effect as any of the foregoing (including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing).

“Liquidity Facility Agreement”: the Liquidity Agreement dated as of October 11, 2001 as amended by Amendment No. 1 thereto, among Relationship Funding Company, LLC, the liquidity institutions from time to time party thereto and JPMorgan Chase Bank, as Administrative Agent, as the same has been and may be further amended, supplemented and modified from time to time.

“Loan”: any loan made by any Bank pursuant to this Agreement.

“Loan Documents”: this Agreement and the Notes.

“Margin Stock”: as defined in Regulation U.

“Margin Stock Collateral”: all Margin Stock (other than Portfolio Margin Stock) of the Company and its Subsidiaries by which the Loans are deemed “indirectly secured” within the meaning of Regulation U.

“Material Adverse Effect”: any material adverse effect on (a) the business, assets, operations or condition (financial or otherwise) of the Company and its Subsidiaries taken as a whole, (b) the ability of the Company to perform its obligations under this Agreement and the Notes or (c) the rights and remedies of the Banks with respect to the Company and its Subsidiaries under any of the Loan Documents.

“Maturity Date”: the first anniversary of the Termination Date (or, if such date is not a Business Day, the next succeeding Business Day).

“Multiemployer Plan”: a Plan which is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Other Collateral”: all assets of the Company and its Subsidiaries (other than Margin Stock) by which the Loans are deemed “indirectly secured” within the meaning of Regulation U.

“Non-U.S. Bank”: as defined in subsection 2.15(b).

“Note”: any Revolving Credit Note or CAF Loan Note.

“Participants”: as defined in subsection 10.6(b).

“Payment Sharing Notice”: a written notice from the Company, or any Bank, informing the Agent that an Event of Default has occurred and is continuing and directing the Agent to allocate payments thereafter received from the Company in accordance with subsection 2.11(c).

“PBGC”: the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA.

“Person”: an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Plan”: at a particular time, any employee benefit plan which is covered by ERISA and in respect of which the Company or a Control Group Person is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Portfolio Margin Stock”: Margin Stock held by Insurance Subsidiaries or HMO Subsidiaries as portfolio investments, as to which the restrictions of Section 7 shall not apply.

“Pricing Grid”: the Pricing Grid set forth in Schedule II.

“Purchasing Banks”: as defined in subsection 10.6(d).

“RFC Loans”: as defined in the Funding Agreement.

“Reference Banks”: JPMorgan Chase Bank, Citibank, N.A. and Bank of America, N.A.

“Register”: as defined in subsection 10.6(e).

“Regulation T”: Regulation T of the Board of Governors of the Federal Reserve System.

“Regulation U”: Regulation U of the Board of Governors of the Federal Reserve System.

“Regulation X”: Regulation X of the Board of Governors of the Federal Reserve System.

“Reorganization”: with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of such term as used in Section 4241 of ERISA.

“Reportable Event”: any of the events set forth in Section 4043(b) of ERISA, other than those events as to which the thirty day notice period is waived under subsections .22, .23, .25, .27 or .28 of PBGC Reg. § 4043.

“Required Banks”: (a) during the Commitment Period, Banks whose Commitment Percentages aggregate at least 51% and (b) after the Commitments have expired or been terminated, Banks whose outstanding Loans represent in the aggregate at least 51% of all outstanding Loans.

“Requirement of Law”: as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Responsible Officer”: the chief executive officer, the chief operating officer, the president, any executive or senior vice president or vice president of the Company, the chief financial officer, treasurer or controller of the Company.

“Revolving Credit Loans”: the collective reference to the Tranche A Revolving Credit Loans and the Tranche B Revolving Credit Loans.

“Revolving Credit Notes”: as defined in subsection 2.3(e).

“Riverview Square”: the office building of the Company located at 201 West Main Street, Louisville, Kentucky 40202.

“Significant Subsidiary”: means, at any particular time, any Subsidiary of the Company that would be a “significant subsidiary” of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the Securities and Exchange Commission.

“Single Employer Plan”: any Plan which is covered by Title IV of ERISA, but which is not a Multiemployer Plan.

“Solvent”: with respect to any Person (or group of Persons) on a particular date, that on such date (i) the fair value of the property of such Person (or group of Persons) is greater than the total amount of liabilities, including, without limitation, contingent

liabilities, of such Person (or group of Persons), (ii) the present fair salable value of the assets of such Person (or group of Persons) is not less than the amount that will be required to pay the probable liability of such Person (or group of Persons) on its debts as they become absolute and matured, (iii) such Person (or group of Persons) is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (iv) such Person (or group of Persons) does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's (or group of Person's) ability to pay as such debts and liabilities mature, (v) such Person (or group of Persons) is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's (or group of Person's) property (after giving effect to any engagement in such business or transaction) would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person (or group of Persons) is engaged and (vi) such Person (or group of Persons) is solvent under all applicable HMO Regulations and Insurance Regulations. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Subsidiary": as to any Person, a corporation of which shares of stock having ordinary voting power (other than stock having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Company.

"Synthetic Lease": each arrangement, however described, under which the obligor accounts for its interest in the property covered thereby under GAAP as lessee of a lease which is not a capital lease under GAAP and accounts for its interest in the property covered thereby for Federal income tax purposes as the owner.

"Synthetic Lease Interest Components": with respect to any Person for any period, the portion of rent paid or payable (without duplication) for such period under Synthetic Leases for such Person that would be treated as interest in accordance with Financial Accounting Standards Board Statement No. 13 if such Synthetic Leases were treated as capital leases under GAAP.

"Synthetic Lease Obligation": as to any Person with respect to any Synthetic Lease at any time of determination, the amount of the liability of such Person in respect of such Synthetic Lease that would (if such lease was required to be classified and accounted for as a capital lease on a balance sheet of such Person in accordance with GAAP) be required to be capitalized on the balance sheet of such Person at such time.

"Taxes": as defined in subsection 2.15.

“Termination Date”: the date which is 364 days after the Closing Date (or, if such date is not a Business Day, the next preceding Business Day).

“Tranche A Commitment”: as to any Bank, its obligation to make Tranche A Revolving Credit Loans to the Company pursuant to subsection 2.1(a) in an aggregate principal amount not to exceed at any one time outstanding the amount set forth opposite such Bank’s name in Schedule I in the column captioned “Tranche A Commitment Amount”, as such amount may be reduced or increased from time to time as provided herein.

“Tranche A Commitment Percentage”: as to any Bank, the percentage of the aggregate Tranche A Commitments constituted by such Bank’s Tranche A Commitment.

“Tranche A Revolving Credit Loans”: as defined in subsection 2.1(a).

“Tranche B Commitment”: as to any Bank, its obligation to make Tranche B Revolving Credit Loans to the Company pursuant to subsection 2.1(b) (and/or to convert RFC Loans to Tranche B Revolving Credit Loans pursuant to subsection 2.1(d)) in an aggregate principal amount not to exceed at any one time outstanding the amount set forth opposite such Bank’s name in Schedule I in the column captioned “Tranche B Commitment Amount”, as such amount may be reduced or increased from time to time as provided herein.

“Tranche B Commitment Percentage”: as to any Bank, the percentage of the aggregate Tranche B Commitments constituted by such Bank’s Tranche B Commitment.

“Tranche B Revolving Credit Loans”: as defined in subsection 2.1(b).

“Transfer Effective Date”: as defined in each Commitment Transfer Supplement.

“Transferee”: as defined in subsection 10.6(g).

“Transition Date”: the date on which (i) the Banks parties to the Funding Agreement shall have purchased all of the outstanding RFC Loans and (ii) pursuant to subsection 2.19 of the Funding Agreement, the Company shall have caused the RFC Loans to be converted to Tranche B Revolving Credit Loans hereunder and shall have caused all commitments of the Banks to extend credit under the Liquidity Facility Agreement and the Funding Agreement to be terminated.

“Type”: as to any Revolving Credit Loan, its nature as an Alternate Base Rate Loan or Eurodollar Loan.

“Uniform Customs”: the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500, as the same may be amended from time to time.

“Voting Stock”: of any corporation, shares of capital stock or other securities of such corporation entitled to vote generally in the election of directors of such corporation.

“Waterside Building”: the real property located at 101 East Main Street, Louisville, Kentucky 40202, including the building housing insurance claim processing operations of the Company.

“Waterside Garage”: the parking garage of the Company located at 201 North Brook Street, Louisville, Kentucky 40202.

“Working Day”: any Business Day on which dealings in foreign currencies and exchange between banks may be carried on in London, England.

1.2 Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the Notes or any certificate or other document made or delivered pursuant hereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, accounting terms relating to the Company and its Subsidiaries not defined in subsection 1.1 and accounting terms partly defined in subsection 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP.

(c) The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, subsection, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

SECTION 2. AMOUNT AND TERMS OF LOANS

2.1 Revolving Credit Loans; Conversion of RFC Loans to Tranche B Revolving Credit Loans. (a) Subject to the terms and conditions hereof, each Bank having a Tranche A Commitment severally agrees to make loans (“Tranche A Revolving Credit Loans”) to the Company from time to time during the Commitment Period in an aggregate principal amount at any one time outstanding which does not exceed the Tranche A Commitment of such Bank, provided that the Aggregate Outstanding Extensions of Credit of all Banks shall not at any time exceed (i) prior to the Transition Date, the aggregate amount of the Tranche A Commitments or (ii) from and after the Transition Date, the aggregate amount of the Commitments. During the Commitment Period the Company may use the Tranche A Commitments by borrowing, prepaying the Tranche A Revolving Credit Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The Tranche A Revolving Credit Loans may be (i) Eurodollar Loans, (ii) Alternate Base Rate Loans or (iii) a combination thereof, as determined by the Company and notified to the Agent in accordance with subsection 2.1(c). Eurodollar Loans shall be made and maintained by each Bank at its Eurodollar Lending Office, and Alternate Base Rate Loans shall be made and maintained by each Bank at its Domestic Lending Office.

(b) Subject to the terms and conditions hereof, each Bank having a Tranche B Commitment severally agrees to make loans (“Tranche B Revolving Credit Loans”) to the Company from time to time during the Commitment Period (but in any event not prior to the Transition Date) in an aggregate principal amount at any one time outstanding which does not exceed the Tranche B Commitment of such Bank, provided that the Aggregate Outstanding Extensions of Credit of all Banks shall not at any time exceed (i) prior to the Transition Date, the aggregate amount of the Tranche A Commitments or (ii) from and after the Transition Date, the aggregate amount of the Commitments. During the Commitment Period the Company may use the Tranche B Commitments by borrowing, prepaying the Tranche B Revolving Credit Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The Tranche B Revolving Credit Loans may be (i) Eurodollar Loans, (ii) Alternate Base Rate Loans or (iii) a combination thereof, as determined by the Company and notified to the Agent in accordance with subsection 2.1(c). Eurodollar Loans shall be made and maintained by each Bank at its Eurodollar Lending Office, and Alternate Base Rate Loans shall be made and maintained by each Bank at its Domestic Lending Office.

(c) The Company may borrow under the Commitments during the Commitment Period on any Working Day if the borrowing is of Eurodollar Loans or on any Business Day if the borrowing is of Alternate Base Rate Loans; provided that the Company shall give the Agent irrevocable notice (which notice must be received by the Agent (i) prior to 11:30 A.M., New York City time three Working Days prior to the requested Borrowing Date, in the case of Eurodollar Loans, and (ii) prior to 12:00 P.M., New York City time, on the requested Borrowing Date, in the case of Alternate Base Rate Loans), specifying (A) the amount to be borrowed, (B) the requested Borrowing Date, (C) whether the borrowing is to be of Tranche A Revolving Credit Loans or Tranche B Revolving Credit Loans, and whether such Loans are to be Eurodollar Loans, Alternate Base Rate Loans, or a combination thereof, and (D) if the borrowing is to be entirely or partly of Eurodollar Loans, the length of the Interest Period therefor. Each borrowing pursuant to the Commitments shall be in an aggregate principal amount equal to the lesser of (i) \$10,000,000 or a whole multiple of \$1,000,000 in excess thereof and (ii) the then Available Commitments. Upon receipt of such notice from the Company, the Agent shall promptly notify each Bank thereof. Each Bank will make the amount of its pro rata share of each borrowing available to the Agent for the account of the Company at the office of the Agent set forth in subsection 10.2 prior to 2:00 P.M., New York City time, on the Borrowing Date requested by the Company in funds immediately available to the Agent. The proceeds of all such Revolving Credit Loans will then be promptly made available to the Company by the Agent at such office of the Agent by crediting the account of the Company on the books of such office with the aggregate of the amounts made available to the Agent by the Banks.

(d) In addition to utilization of the Tranche B Revolving Credit Commitments for borrowings of Tranche B Revolving Credit Loans from and after the Transition Date, the Company may, in the circumstances described in subsection 2.19 of the Funding Agreement, and upon irrevocable written notice to such effect given by the Company to the Agent, cause the outstanding RFC Loans to be converted to Tranche B Revolving Credit Loans, whereupon the outstanding RFC Loans shall become Tranche B Revolving Credit Loans for all purposes of this Agreement to the same extent as if such RFC Loans had been made as Tranche B Revolving Credit Loans on the borrowing date of such RFC Loans.

2.2 CAF Loans. (a) The Company may borrow CAF Loans from time to time on any Business Day (in the case of CAF Loans made pursuant to a Fixed Rate Auction Advance Request) or any Working Day (in the case of CAF Loans made pursuant to a LIBOR Auction Advance Request) during the period from the Closing Date until the date occurring 14 days prior to the Termination Date in the manner set forth in this subsection 2.2 and in amounts such that the Aggregate Outstanding Extensions of Credit of all Banks at any time shall not exceed (i) prior to the Transition Date, the aggregate amount of the Tranche A Commitments or (ii) from and after the Transition Date, the aggregate amount of the Commitments.

(b) (i) The Company shall request CAF Loans by delivering a CAF Loan Request to the CAF Loan Agent, not later than 12:00 Noon (New York City time) four Working Days prior to the proposed Borrowing Date (in the case of a LIBOR Auction Advance Request), and not later than 10:00 A.M. (New York City time) one Business Day prior to the proposed Borrowing Date (in the case of a Fixed Rate Auction Advance Request). Each CAF Loan Request may solicit bids for CAF Loans in an aggregate principal amount of \$10,000,000 or an integral multiple of \$1,000,000 in excess thereof and for not more than three alternative maturity dates for such CAF Loans. The maturity date for each CAF Loan (x) if made pursuant to a Fixed Rate Auction Advance Request, shall be not less than 7 days nor more than 360 days after the Borrowing Date therefor (and in any event not after the Termination Date) and (y) if made pursuant to a LIBOR Auction Advance Request, shall be one, two, three, six, nine or twelve months after the Borrowing Date therefor (and in any event not after the Termination Date). The CAF Loan Agent shall promptly notify each CAF Loan Bank by facsimile transmission of the contents of each CAF Loan Request received by it.

(ii) In the case of a LIBOR Auction Advance Request, upon receipt of notice from the CAF Loan Agent of the contents of such CAF Loan Request, any CAF Loan Bank that elects, in its sole discretion, to do so, shall irrevocably offer to make one or more CAF Loans at the Applicable LIBOR Auction Advance Rate plus or minus a margin for each such CAF Loan determined by such CAF Loan Bank in its sole discretion. Any such irrevocable offer shall be made by delivering a CAF Loan Offer to the CAF Loan Agent, before 9:30 A.M., New York City time, three Working Days before the proposed Borrowing Date, setting forth the maximum amount of CAF Loans for each maturity date, and the aggregate maximum amount for all maturity dates, which such Bank would be willing to make (which amounts may, subject to subsection 2.2(a), exceed such CAF Loan Bank's Commitment) and the margin above or below the Applicable LIBOR Auction Advance Rate at which such CAF Loan Bank is willing to make each such CAF Loan; the CAF Loan Agent shall advise the Company before 10:00 A.M., New York City time, three Working Days before the proposed Borrowing Date of the contents of each such CAF Loan Offer received by it. If the CAF Loan Agent in its capacity as a CAF Loan Bank shall, in its sole discretion, elect to make any such offer, it shall advise the Company of the contents of its CAF Loan Offer before 9:00 A.M., New York City time, three Working Days before the proposed Borrowing Date.

(iii) In the case of a Fixed Rate Auction Advance Request, upon receipt of notice from the Agent of the contents of such CAF Loan Request, any CAF Loan Bank that elects, in its sole discretion, to do so, shall irrevocably offer to make one or more CAF Loans at a rate or rates of interest for each such CAF Loan determined by such CAF Loan Bank in its sole discretion. Any such irrevocable offer shall be made by delivering a CAF Loan Offer to the

CAF Loan Agent, before 9:30 A.M., New York City time, on the proposed Borrowing Date, setting forth the maximum amount of CAF Loans for each maturity date, and the aggregate maximum amount for all maturity dates, which such CAF Loan Bank would be willing to make (which amounts may, subject to subsection 2.2(a), exceed such CAF Loan Bank's Commitment) and the rate or rates of interest at which such CAF Loan Bank is willing to make each such CAF Loan; the CAF Loan Agent shall advise the Company before 10:15 A.M., New York City time, on the proposed Borrowing Date of the contents of each such CAF Loan Offer received by it. If the CAF Loan Agent or any affiliate thereof in its capacity as a CAF Loan Bank shall, in its sole discretion, elect to make any such offer, it shall advise the Company of the contents of its CAF Loan Offer before 9:15 A.M., New York City time, on the proposed Borrowing Date.

(iv) The Company shall before 11:00 A.M., New York City time, three Working Days before the proposed Borrowing Date (in the case of CAF Loans requested by a LIBOR Auction Advance Request) and before 11:00 A.M., New York City time, on the proposed Borrowing Date (in the case of CAF Loans requested by a Fixed Rate Auction Advance Request) either, in its absolute discretion:

(A) cancel such CAF Loan Request by giving the CAF Loan Agent telephone notice to that effect, or

(B) accept one or more of the offers made by any CAF Loan Bank or CAF Loan Banks pursuant to clause (ii) or clause (iii) above, as the case may be, by giving telephone notice to the CAF Loan Agent (immediately confirmed by delivery to the CAF Loan Agent of a CAF Loan Confirmation) of the amount of CAF Loans for each relevant maturity date to be made by each CAF Loan Bank (which amount for each such maturity date shall be equal to or less than the maximum amount for such maturity date specified in the CAF Loan Offer of such CAF Loan Bank, and for all maturity dates included in such CAF Loan Offer shall be equal to or less than the aggregate maximum amount specified in such CAF Loan Offer for all such maturity dates) and reject any remaining offers made by CAF Loan Banks pursuant to clause (ii) or clause (iii) above, as the case may be; provided, however, that (x) the Company may not accept offers for CAF Loans for any maturity date in an aggregate principal amount in excess of the maximum principal amount requested in the related CAF Loan Request, (y) if the Company accepts any of such offers, it must accept offers strictly based upon pricing for such relevant maturity date and no other criteria whatsoever and (z) if two or more CAF Loan Banks submit offers for any maturity date at identical pricing and the Company accepts any of such offers but does not wish to borrow the total amount offered by such CAF Loan Banks with such identical pricing, the Company shall accept offers from all of such CAF Loan Banks in amounts allocated among them pro rata according to the amounts offered by such CAF Loan Banks (or as nearly pro rata as shall be practicable after giving effect to the requirement that CAF Loans made by a CAF Loan Bank on a Borrowing Date for each relevant maturity date shall be in a principal amount of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof provided that if the number of CAF Loan Banks that submit offers for any maturity date at identical pricing is such that, after the Company accepts such offers pro rata in accordance with the foregoing, the CAF Loans to be made by such CAF Loan Banks would be less than \$5,000,000 principal amount, the number of such CAF Loan Banks shall be reduced by the CAF Loan Agent by lot

until the CAF Loans to be made by such remaining CAF Loan Banks would be in a principal amount of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof).

(v) If the Company notifies the CAF Loan Agent that a CAF Loan Request is cancelled pursuant to clause (iv)(A) above, the CAF Loan Agent shall give prompt, but in no event more than one hour later, telephone notice thereof to the CAF Loan Banks, and the CAF Loans requested thereby shall not be made.

(vi) If the Company accepts pursuant to clause (iv)(B) above one or more of the offers made by any CAF Loan Bank or CAF Loan Banks, the CAF Loan Agent shall promptly, but in no event more than one hour later, notify each CAF Loan Bank which has made such an offer of the aggregate amount of such CAF Loans to be made on such Borrowing Date for each maturity date and of the acceptance or rejection of any offers to make such CAF Loans made by such CAF Loan Bank. Each CAF Loan Bank which is to make a CAF Loan shall, before 12:00 Noon, New York City time, on the Borrowing Date specified in the CAF Loan Request applicable thereto, make available to the Agent at its office set forth in subsection 10.2 the amount of CAF Loans to be made by such CAF Loan Bank, in immediately available funds. The Agent will make such funds available to the Company as soon as practicable on such date at the Agent's aforesaid address. As soon as practicable after each Borrowing Date, the Agent shall notify each Bank of the aggregate amount of CAF Loans advanced on such Borrowing Date and the respective maturity dates thereof.

(c) Within the limits and on the conditions set forth in this subsection 2.2, the Company may from time to time borrow under this subsection 2.2, repay pursuant to subsection 2.3, and reborrow under this subsection 2.2.

2.3. Repayment of Loans; Evidence of Debt. (a) The Company hereby unconditionally promises to pay to the Agent for the account of each Bank (i) the then unpaid principal amount of each Revolving Credit Loan of such Bank on the Maturity Date (or such earlier date on which the Loans become due and payable pursuant to Section 8), and (ii) the principal amount of each CAF Loan made by such Bank on the maturity date therefor as set forth in the CAF Loan Request for such CAF Loan (or on such earlier date on which the Loans become due and payable pursuant to Section 8). The Company hereby further agrees to pay interest on the unpaid principal amount of the Loans from time to time outstanding from the date hereof until payment in full thereof at the rates per annum, and on the dates, set forth in subsection 2.8.

(b) Each Bank shall maintain in accordance with its usual practice an account or accounts evidencing indebtedness of the Company to such Bank resulting from each Loan of such Bank from time to time, including the amounts of principal and interest payable and paid to such Bank from time to time under this Agreement.

(c) The Agent shall maintain the Register pursuant to subsection 10.6(e), and a subaccount therein for each Bank, in which shall be recorded (i) (A) the amount of each Revolving Credit Loan made hereunder, the Type thereof and each Interest Period applicable thereto and (B) the amount of each CAF Loan made by such Bank, the maturity date therefor as set forth in the CAF Loan Request for such CAF Loan, the interest rate applicable thereto and

each Interest Payment Date applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Company to each Bank hereunder and (iii) both the amount of any sum received by the Agent hereunder from the Company and each Bank's share thereof.

(d) The entries made in the Register and the accounts of each Bank maintained pursuant to subsection 2.3(b) shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Company therein recorded; provided, however, that the failure of any Bank or the Agent to maintain the Register or any such account, or any error therein, shall not in any manner affect the obligation of the Company to repay (with applicable interest) the Loans made to such Company by such Bank in accordance with the terms of this Agreement.

(e) The Company agrees that, upon the request to the Agent by any Bank, the Company will execute and deliver to such Bank (i) a promissory note of the Company evidencing the Revolving Credit Loans of such Bank, substantially in the form of Exhibit A with appropriate insertions as to payee, date and principal amount (a "Revolving Credit Note"), (ii) a promissory note of the Company evidencing the initial CAF Loan or Loans of such Bank, substantially in the form of Exhibit B with appropriate insertions (a "Grid CAF Loan Note"), and/or (iii) a promissory note of the Company evidencing amounts advanced by such Bank pursuant to subsection 2.2 which have the same maturity date and interest rate as amounts advanced by such Bank evidenced by a Grid CAF Loan Note and which such Bank wishes to constitute more than one CAF Loan (which principal amounts shall not be less than \$5,000,000 for any such CAF Loans), substantially in the form of Exhibit C with appropriate insertions (an "Individual CAF Loan Note"). Upon a Bank's receipt of an Individual CAF Loan Note evidencing a CAF Loan, such Bank shall endorse on the schedule attached to its Grid CAF Loan Note the transfer of such CAF Loan from such Grid CAF Loan Note to such Individual CAF Loan Note.

2.4. Fees. (a) The Company agrees to pay to the Agent, for the account of each Bank, on the last day of each fiscal quarter and on the Termination Date, a facility fee in respect of the average daily amount of the Commitment of such Bank during such fiscal quarter. Such fee shall be computed in respect of the Tranche A Commitments and the Tranche B Commitments at the applicable rates per annum set forth in the Pricing Grid.

(b) The Company agrees to pay to the Agent the other fees in the amounts, and on the dates, agreed to by the Company and the Agent in the fee letter, dated September 5, 2003, between the Agent and the Company. The Agent will distribute to the Banks their respective portions of upfront fees paid by the Company to the Agent, as agreed between the Agent and each Bank.

2.5 Termination, Reduction or Conversion of Commitments. (a) The Company shall have the right, upon not less than five Business Days' notice to the Agent, to terminate the Commitments or, from time to time, to reduce the amount of the Commitments, provided that no such termination or reduction shall be permitted if, after giving effect thereto and to any prepayments of the Loans made on the effective date thereof, (i) the then outstanding principal amount of the Loans would exceed the amount of the Commitments then in effect, (ii)

the then outstanding principal amount of the Tranche A Revolving Credit Loans or the Tranche B Revolving Credit Loans would exceed the amount of the Tranche A Revolving Credit Commitments or the Tranche B Revolving Credit Commitments, respectively, or (iii) the amount of the commitment of any Bank under the Liquidity Facility Agreement would exceed the amount of the Tranche B Commitment of such Bank. Except as provided for in subsection 2.5(c) herein, each reduction of the Tranche A Commitments or the Tranche B Commitments shall be applied ratably to the Tranche A Commitment or Tranche B Commitment, respectively, of each Bank based upon the respective amounts of such Commitments. Each reduction of Commitments after the Transition Date shall be applied ratably to the Commitment of each Bank based upon the respective amounts of such Commitments.

(b) Any such reduction shall be in an amount of \$10,000,000 or a whole multiple of \$1,000,000 in excess thereof, and shall reduce permanently the amount of the Commitments then in effect.

(c) Notwithstanding any provision herein, in the event that pursuant to subsection 2.4 of the Funding Agreement, the Facility Amount (as defined therein) is reduced, the Tranche B Commitments shall be reduced by an amount equal to such reduction and such reduction of the Tranche B Commitments shall be applied ratably to the Tranche B Commitment of each Bank based upon the respective amount of its Tranche B Commitment; provided, that, in the event the Company shall have elected, pursuant to subsection 4.5(d) of the Liquidity Facility Agreement, to make a non pro rata reduction of the Aggregate Commitment (as defined therein) by reducing the commitments of any Downgraded Bank (as defined therein) under the Liquidity Facility Agreement, the portion of the Tranche B Commitment of such Downgraded Bank in an amount equal to such reduction of commitments under the Liquidity Facility Agreement shall be converted into a Tranche A Commitment of such Downgraded Bank hereunder.

2.6 Optional Prepayments. The Company may at any time and from time to time, prepay the Revolving Credit Loans, in whole or in part, without premium or penalty (subject to the provisions of subsection 2.16), upon at least three Business Days' irrevocable notice to the Agent in the case of Eurodollar Loans and one Business Day's irrevocable notice to the Agent in the case of Alternate Base Rate Loans, specifying the date and amount of prepayment and whether the prepayment is of Eurodollar Loans or Alternate Base Rate Loans or a combination thereof, and if of a combination thereof, the amount of prepayment allocable to each. Upon receipt of such notice the Agent shall promptly notify each Bank thereof. If such notice is given, the payment amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to such date on the amount prepaid. Partial prepayments shall be in an aggregate principal amount of \$5,000,000, or a whole multiple thereof, and may only be made if, after giving effect thereto, subsection 2.7(c) shall not have been contravened.

2.7 Conversion Options: Minimum Amount of Loans.

(a) The Company may elect from time to time to convert Eurodollar Loans to Alternate Base Rate Loans by giving the Agent at least two Business Days' prior irrevocable notice of such election (given before 10:00 A.M., New York City time, on the date on which such notice is required), provided that any such conversion of Eurodollar Loans shall, subject to

the fourth following sentence, only be made on the last day of an Interest Period with respect thereto. The Company may elect from time to time to convert Alternate Base Rate Loans to Eurodollar Loans by giving the Agent at least three Working Days' prior irrevocable notice of such election (given before 11:30 A.M., New York City time, on the date on which such notice is required). Upon receipt of such notice, the Agent shall promptly notify each Bank thereof. Promptly following the date on which such conversion is being made each Bank shall take such action as is necessary to transfer its portion of such Revolving Credit Loans to its Domestic Lending Office or its Eurodollar Lending Office, as the case may be. All or any part of outstanding Eurodollar Loans and Alternate Base Rate Loans may be converted as provided herein, provided that, unless the Required Banks otherwise agree, (i) no Revolving Credit Loan may be converted into a Eurodollar Loan when any Event of Default has occurred and is continuing, (ii) partial conversions shall be in an aggregate principal amount of \$5,000,000 or a whole multiple thereof, and (iii) any such conversion may only be made if, after giving effect thereto, subsection 2.7(c) shall not have been contravened.

(b) Any Eurodollar Loans may be continued as such upon the expiration of an Interest Period with respect thereto by compliance by the Company with the notice provisions contained in subsection 2.7(a); provided that, unless the Required Banks otherwise agree, no Eurodollar Loan may be continued as such when any Event of Default has occurred and is continuing, but shall be automatically converted to an Alternate Base Rate Loan on the last day of the then current Interest Period with respect thereto. The Agent shall notify the Banks promptly that such automatic conversion contemplated by this subsection 2.7(b) will occur.

(c) All borrowings, conversions, payments, prepayments and selection of Interest Periods hereunder shall be in such amounts and be made pursuant to such elections so that, after giving effect thereto, the aggregate principal amount of the Loans comprising any Eurodollar Tranche shall not be less than \$10,000,000. At no time shall there be more than 10 Eurodollar Tranches.

2.8 Interest Rate and Payment Dates for Loans. (a) The Eurodollar Loans comprising each Eurodollar Tranche shall bear interest for each day during each Interest Period with respect thereto on the unpaid principal amount thereof at a rate per annum equal to the Eurodollar Rate plus the Applicable Margin.

(b) Alternate Base Rate Loans shall bear interest for each day from and including the date thereof on the unpaid principal amount thereof at a rate per annum equal to the Alternate Base Rate plus the Applicable Margin.

(c) CAF Loans shall bear interest from the Borrowing Date to the maturity date therefor as set forth in the CAF Loan Request for such CAF Loan on the unpaid principal amount thereof at the rate of interest determined pursuant to subsection 2.2(b).

(d) If all or a portion of the (i) principal amount of any Loans, (ii) any interest payable thereon or (iii) any fee or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum which is 2% above the

Alternate Base Rate, and any overdue interest or other amount payable hereunder shall bear interest at a rate per annum which is 2% above the Alternate Base Rate, in each case from the date of such non-payment until paid in full (after as well as before judgment). If all or a portion of the principal amount of any Loans shall not be paid when due (whether at stated maturity, by acceleration or otherwise), each Eurodollar Loan shall, unless the Required Banks otherwise agree, be converted to an Alternate Base Rate Loan at the end of the last Interest Period with respect thereto.

(e) Interest shall be payable in arrears on each Interest Payment Date.

2.9 Computation of Interest and Fees. (a) Interest in respect of Alternate Base Rate Loans shall be calculated on the basis of a (i) 365-day (or 366-day, as the case may be) year for the actual days elapsed when such Alternate Base Rate Loans are based on the Prime Rate, and (ii) a 360-day year for the actual days elapsed when based on the Base CD Rate or the Federal Funds Effective Rate. Interest in respect of Eurodollar Loans and CAF Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. The Agent shall as soon as practicable notify the Company and the Banks of each determination of a Eurodollar Rate. Any change in the interest rate on a Revolving Credit Loan resulting from a change in the Alternate Base Rate or the Applicable Margin or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change in the Alternate Base Rate is announced, such Applicable Margin changes as provided herein or such change in the Eurocurrency Reserve Requirements shall become effective, as the case may be. The Agent shall as soon as practicable notify the Company and the Banks of the effective date and the amount of each such change.

(b) Each determination of an interest rate by the Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Company and the Banks in the absence of manifest error. The Agent shall, at the request of the Company, deliver to the Company a statement showing the quotations used by the Agent in determining any interest rate pursuant to subsection 2.8(a) or (d).

(c) If any Reference Bank's Commitment shall terminate (otherwise than on termination of all the Commitments), or its Revolving Credit Loans shall be assigned for any reason whatsoever, such Reference Bank shall thereupon cease to be a Reference Bank, and if, as a result of the foregoing, there shall only be one Reference Bank remaining, then the Agent (after consultation with the Company and the Banks) shall, by notice to the Company and the Banks, designate another Bank as a Reference Bank so that there shall at all times be at least two Reference Banks.

(d) Each Reference Bank shall use its best efforts to furnish quotations of rates to the Agent as contemplated hereby. If any of the Reference Banks shall be unable or otherwise fails to supply such rates to the Agent upon its request, the rate of interest shall be determined on the basis of the quotations of the remaining Reference Banks or Reference Bank.

(e) Facility fees shall be computed on the basis of a 365-day year for the actual days elapsed.

2.10 Inability to Determine Interest Rate. In the event that:

(i) the Agent shall have determined in its reasonable judgment (which determination shall be conclusive and binding upon the Company) that, by reason of circumstances affecting the interbank eurodollar market generally, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for any requested Interest Period;

(ii) only one of the Reference Banks is able to obtain bids for its Dollar deposits for such Interest Period in the manner contemplated by the term “Eurodollar Rate”; or

(iii) the Agent shall have received notice prior to the first day of such Interest Period from Banks constituting the Required Banks that the interest rate determined pursuant to subsection 2.8(a) for such Interest Period does not accurately reflect the cost to such Banks (as conclusively certified by such Banks) of making or maintaining their affected Loans during such Interest Period;

with respect to (A) proposed Revolving Credit Loans that the Company has requested be made as Eurodollar Loans, (B) Eurodollar Loans that will result from the requested conversion of Alternate Base Rate Loans into Eurodollar Loans or (C) the continuation of Eurodollar Loans beyond the expiration of the then current Interest Period with respect thereto, the Agent shall forthwith give facsimile or telephonic notice of such determination to the Company and the Banks at least one day prior to, as the case may be, the requested Borrowing Date for such Eurodollar Loans, the conversion date of such Loans or the last day of such Interest Period. If such notice is given (x) any requested Eurodollar Loans shall be made as Alternate Base Rate Loans, (y) any Alternate Base Rate Loans that were to have been converted to Eurodollar Loans shall be continued as Alternate Base Rate Loans and (z) any outstanding Eurodollar Loans shall be converted, on the last day of the then current Interest Period with respect thereto, to Alternate Base Rate Loans. Until such notice has been withdrawn by the Agent, no further Eurodollar Loans shall be made, nor shall the Company have the right to convert Alternate Base Rate Loans to Eurodollar Loans. The Agent shall withdraw such notice upon its determination that the event or events which gave rise to such notice no longer exist.

2.11 Pro Rata Borrowings and Payments. (a) Each borrowing by the Company of Revolving Credit Loans under the Tranche A Commitments or the Tranche B Commitments shall be made ratably from the Banks in accordance with their Tranche A Commitment Percentages or Tranche B Commitment Percentages, as the case may be.

(b) Whenever any payment received by the Agent under this Agreement or any Note is insufficient to pay in full all amounts then due and payable to the Agent and the Banks under this Agreement and the Notes, and the Agent has not received a Payment Sharing Notice (or if the Agent has received a Payment Sharing Notice but the Event of Default specified in such Payment Sharing Notice has been cured or waived), such payment shall be distributed and applied by the Agent and the Banks in the following order: first, to the payment of fees and expenses due and payable to the Agent under and in connection with this Agreement; second, to the payment of all expenses due and payable under subsection 10.5(a), ratably among the Banks in accordance with the aggregate amount of such payments owed to each such Bank; third, to the payment of fees due and payable under subsection 2.4, ratably among the Banks in accordance

with their Commitment Percentages; fourth, to the payment of interest then due and payable on the Loans, ratably among the Banks in accordance with the aggregate amount of interest owed to each such Bank; and fifth, to the payment of the principal amount of the Loans which is then due and payable, ratably among the Banks in accordance with the aggregate principal amount owed to each such Bank.

(c) After the Agent has received a Payment Sharing Notice which remains in effect, all payments received by the Agent under this Agreement or any Note shall be distributed and applied by the Agent and the Banks in the following order: first, to the payment of all amounts described in clauses first through third of the foregoing paragraph (b), in the order set forth therein; and second, to the payment of the interest accrued on and the principal amount of all of the Loans, regardless of whether any such amount is then due and payable, ratably among the Banks in accordance with the aggregate accrued interest plus the aggregate principal amount owed to such Bank.

(d) All payments (including prepayments) to be made by the Company on account of principal, interest and fees shall be made without set-off or counterclaim and shall be made to the Agent, for the account of the Banks, at the Agent's office set forth in subsection 10.2, in lawful money of the United States of America and in immediately available funds. The Agent shall distribute such payments to the Banks promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the CAF Loans made pursuant to a LIBOR Auction Advance Request) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day, and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension. If any payment on a CAF Loan made pursuant to a LIBOR Auction Advance Request becomes due and payable on a day other than a Working Day, the maturity thereof shall be extended to the next succeeding Working Day unless the result of such extension would be to extend such payment into another calendar month in which event such payment shall be made on the immediately preceding Working Day.

(e) Unless the Agent shall have been notified in writing by any Bank prior to a Borrowing Date that such Bank will not make the amount which would constitute its Tranche A Commitment Percentage or Tranche B Commitment Percentage, as the case may be, of the borrowing of Revolving Credit Loans on such date available to the Agent, the Agent may assume that such Bank has made such amount available to the Agent on such Borrowing Date, and the Agent may, in reliance upon such assumption, make available to the Company a corresponding amount. If such amount is made available to the Agent on a date after such Borrowing Date, such Bank shall pay to the Agent on demand an amount equal to the product of (i) the daily average Federal Funds Effective Rate during such period as quoted by the Agent, times (ii) the amount of such Bank's Tranche A Commitment Percentage or Tranche B Commitment Percentage, as the case may be, of such borrowing, times (iii) a fraction the numerator of which is the number of days that elapse from and including such Borrowing Date to the date on which such Bank's Tranche A Commitment Percentage or Tranche B Commitment Percentage, as the case may be, of such borrowing shall have become immediately available to the Agent and the denominator of which is 360. A certificate of the Agent submitted to any Bank with respect to any amounts owing under this subsection 2.11(e) shall be conclusive, absent manifest error. If such Bank's Tranche A Commitment Percentage or Tranche B Commitment Percentage, as the

case may be, of such borrowing is not in fact made available to the Agent by such Bank within three Business Days of such Borrowing Date, the Agent shall be entitled to recover such amount with interest thereon at the rate per annum applicable to Alternate Base Rate Loans hereunder, on demand, from the Company.

2.12 Illegality. Notwithstanding any other provisions herein, if after the date hereof the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Bank to make or maintain Eurodollar Loans as contemplated by this Agreement, (a) the Bank shall, within 30 Working Days after it becomes aware of such fact, notify the Company, through the Agent, of such fact, (b) the commitment of such Bank hereunder to make Eurodollar Loans or convert Alternate Base Rate Loans to Eurodollar Loans shall forthwith be cancelled and (c) such Bank's Revolving Credit Loans then outstanding as Eurodollar Loans, if any, shall be converted automatically to Alternate Base Rate Loans on the respective last days of the then current Interest Periods for such Revolving Credit Loans or within such earlier period as required by law. Each Bank shall take such action as may be reasonably available to it without material legal or financial disadvantage (including changing its Eurodollar Lending Office) to prevent the adoption of or any change in any such Requirement of Law from becoming applicable to it.

2.13 Requirements of Law. (a) If after the date hereof the adoption of or any change in any Requirement of Law or in the interpretation or application thereof or compliance by any Bank with any request or directive (whether or not having the force of law) after the date hereof from any central bank or other Governmental Authority:

(i) shall subject any Bank to any tax of any kind whatsoever (other than a withholding tax) with respect to this Agreement, any Revolving Credit Note, or any Eurodollar Loans made by it, or change the basis of taxation of payments to such Bank of principal, facility fee, interest or any other amount payable hereunder in respect of Revolving Credit Loans (except for changes in the rate of tax on the overall net income of such Bank);

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, or deposits or other liabilities in or for the account of, advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Bank which are not otherwise included in the determination of the Eurodollar Rate hereunder; or

(iii) shall impose on such Bank any other condition;

and the result of any of the foregoing is to increase the cost to such Bank, by any amount which such Bank reasonably deems to be material, of making, renewing or maintaining advances or extensions of credit or to reduce any amount receivable hereunder, in each case, in respect thereof, then, in any such case, the Company shall promptly pay such Bank, upon its demand, any additional amounts necessary to compensate such Bank for such additional cost or reduced amount receivable; provided, however, that notwithstanding anything contained in this subsection 2.13(a) to the contrary, such Bank shall not be entitled to receive any amounts pursuant to this subsection 2.13(a) that it is also entitled to pursuant to subsection 2.15(a). If a

Bank becomes entitled to claim any additional amounts pursuant to this subsection 2.13(a), it shall, within 30 Business Days after it becomes aware of such fact, notify the Company, through the Agent, of the event by reason of which it has become so entitled. A certificate as to any additional amounts payable pursuant to the foregoing sentence submitted by such Bank, through the Agent, to the Company shall be conclusive in the absence of manifest error. Each Bank shall take such action as may be reasonably available to it without legal or financial disadvantage (including changing its Eurodollar Lending Office) to prevent any such Requirement of Law or change from becoming applicable to it. This covenant shall survive the termination of this Agreement and payment of the outstanding Revolving Credit Notes and all other amounts payable hereunder.

(b) In the event that after the date hereof a Bank is required to maintain reserves of the type contemplated by the definition of “Eurocurrency Reserve Requirements”, such Bank may require the Company to pay, promptly after receiving notice of the amount due, additional interest on the related Eurodollar Loan of such Bank at a rate per annum determined by such Bank up to but not exceeding the excess of (i) (A) the applicable Eurodollar Rate divided by (B) one minus the Eurocurrency Reserve Requirements over (ii) the applicable Eurodollar Rate. Any Bank wishing to require payment of any such additional interest on account of any of its Eurodollar Loans shall notify the Company no more than 30 Working Days after each date on which interest is payable on such Eurodollar Loan of the amount then due it under this subsection 2.13(b), in which case such additional interest on such Eurodollar Loan shall be payable to such Bank at the place indicated in such notice. Each such notification shall be accompanied by such information as the Company may reasonably request.

2.14 Capital Adequacy. If any Bank shall have determined that after the date hereof the adoption of or any change in any Requirement of Law regarding capital adequacy or in the interpretation or application thereof or compliance by such Bank or any corporation controlling such Bank with any request or directive after the date hereof regarding capital adequacy (whether or not having the force of law) from any central bank or Governmental Authority, does or shall have the effect of reducing the rate of return on such Bank’s or such corporation’s capital as a consequence of its obligations hereunder to a level below that which such Bank or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Bank’s or such corporation’s policies with respect to capital adequacy) by an amount which is reasonably deemed by such Bank to be material, then from time to time, promptly after submission by such Bank, through the Agent, to the Company of a written request therefor (such request shall include details reasonably sufficient to establish the basis for such additional amounts payable and shall be submitted to the Company within 30 Working Days after it becomes aware of such fact), the Company shall promptly pay to such Bank such additional amount or amounts as will compensate such Bank for such reduction. The agreements in this subsection 2.14 shall survive the termination of this Agreement and payment of the Loans and the Notes and all other amounts payable hereunder.

2.15 Taxes. (a) All payments made by the Company under this Agreement shall be made free and clear of, and without reduction or withholding 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 Governmental Authority excluding, in the case of the Agent and each Bank, net income and

franchise taxes imposed on the Agent or such Bank by the jurisdiction under the laws of which the Agent or such Bank is organized or any political subdivision or taxing authority thereof or therein, or by any jurisdiction in which such Bank's Domestic Lending Office or Eurodollar Lending Office, as the case may be, is located or any political subdivision or taxing authority thereof or therein (all such non-excluded taxes, levies, imposts, deductions, charges or withholdings being hereinafter called "Taxes"). If any Taxes are required to be withheld from any amounts payable to the Agent or any Bank hereunder or under the Notes, the amounts so payable to the Agent or such Bank shall be increased to the extent necessary to yield to the Agent or such Bank (after payment of all Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement and the Notes. Whenever any Taxes are payable by the Company, as promptly as possible thereafter, the Company shall send to the Agent for its own account or for the account of such Bank, as the case may be, a certified copy of any original official receipt that is received by the Company showing payment thereof (or, if no official receipt is received by the Company, a statement of the Company indicating payment thereof). If the Company fails to pay any Taxes when due to the appropriate taxing authority or fails to remit to the Agent the required receipts or other required documentary evidence, the Company shall indemnify the Agent and the Banks for any incremental taxes, interest or penalties that may become payable by the Agent or any Bank as a result of any such failure, except to the extent such failure is attributable to a failure by a Non-U.S. Bank to comply with the form delivery and notice requirements of paragraph (b) below.

(b) Each Bank (or Transferee) that is not a citizen or resident of the United States of America, a corporation, partnership or other entity created or organized in or under the laws of the United States of America (or any jurisdiction thereof), or any estate or trust that is subject to federal income taxation regardless of the source of its income (a "Non-U.S. Bank") shall deliver to the Company and the Agent (or, in the case of a Participant, to the Bank from which the related participation shall have been purchased) two copies of either U.S. Internal Revenue Service Form W-8BEN or Form W-8ECI, or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Bank claiming complete exemption from U.S. federal withholding tax on all payments by the Company under this Agreement and the other Loan Documents. Such forms shall be delivered by each Non-U.S. Bank on or before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation). In addition, each Non-U.S. Bank shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Non-U.S. Bank. Each Non-U.S. Bank shall promptly notify the Company at any time it determines that it is no longer in a position to provide any previously delivered certificate to the Company (or any other form of certification adopted by the U.S. taxing authorities for such purpose). Notwithstanding any other provision of this paragraph, a Non-U.S. Bank shall not be required to deliver any form pursuant to this paragraph that such Non-U.S. Bank is not legally able to deliver, provided, however, that in the event that the failure to be able to deliver such form is not attributable to a change in law, the Company shall be relieved of the obligation to make additional payments under subsection 2.15(a) above.

(c) The agreements in subsection 2.15 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.16 Indemnity. The Company agrees to indemnify each Bank and to hold each Bank harmless from any loss or expense (other than any loss of anticipated margin or profit) which such Bank may sustain or incur as a consequence of (a) default by the Company in payment when due of the principal amount of or interest on any Eurodollar Loans of such Bank, (b) default by the Company in making a borrowing or conversion after the Company has given a notice of borrowing in accordance with subsection 2.1(c) or a notice of continuation or conversion pursuant to subsection 2.7, (c) default by the Company in making any prepayment after the Company has given a notice in accordance with subsection 2.6 or (d) the making of a prepayment of a Eurodollar Loan on a day which is not the last day of an Interest Period with respect thereto, including, without limitation, in each case, any such loss or expense arising from the reemployment of funds obtained by it to maintain its Eurodollar Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained. Any Bank claiming any amount under this subsection 2.16 shall provide calculations, in reasonable detail, of the amount of its loss or expense. This covenant shall survive termination of this Agreement and payment of the outstanding Loans and all other amounts payable hereunder.

2.17 Application of Proceeds of Loans. Subject to the provisions of the following sentence, the Company may use the proceeds of the Loans for any lawful general corporate purpose, including acquisitions. The Company will not, directly or indirectly, apply any part of the proceeds of any such Loan for the purpose of “purchasing” or “carrying” any Margin Stock within the respective meanings of each of the quoted terms under Regulation U, or to refund any indebtedness incurred for such purpose, provided that the Company may use the proceeds of Loans for such purposes, if such usage does not violate Regulation U as now and from time to time hereafter in effect.

2.18 Notice of Certain Circumstances; Assignment of Commitments Under Certain Circumstances. (a) Any Bank claiming any additional amounts payable pursuant to subsections 2.13, 2.14 or 2.15 or exercising its rights under subsection 2.12, shall, in accordance with the respective provisions thereof, provide notice to the Company and the Agent. Such notice to the Company and the Agent shall include details reasonably sufficient to establish the basis for such additional amounts payable or the rights to be exercised by the Bank.

(b) Any Bank claiming any additional amounts payable pursuant to subsections 2.13, 2.14 or 2.15 or exercising its rights under subsection 2.12, shall use reasonable efforts (consistent with legal and regulatory restrictions) to file any certificate or document requested by the Company or to change the jurisdiction of its applicable lending office if the making of such filing or change would avoid the need for or reduce the amount of any such additional amounts which may thereafter accrue or avoid the circumstances giving rise to such exercise and would not, in the reasonable determination of such Bank, be otherwise disadvantageous in any material respect to such Bank.

(c) In the event that the Company shall be required to make any additional payments to any Bank pursuant to subsections 2.13, 2.14 or 2.15 or any Bank shall exercise its rights under subsection 2.12, the Company shall have the right at its own expense, upon notice to such Bank and the Agent, to require such Bank to transfer and to assign without recourse (in accordance with and subject to the terms of subsection 10.6) all its interest, rights and obligations under this Agreement to another financial institution (including any Bank) acceptable to the

Agent (which approval shall not be unreasonably withheld) which shall assume such obligations; provided that (i) no such assignment shall conflict with any Requirement of Law and (ii) such assuming financial institution shall pay to such Bank in immediately available funds on the date of such assignment the outstanding principal amount of such Bank's Loans together with accrued interest thereon and all other amounts accrued for its account or owed to it hereunder, including, but not limited to additional amounts payable under subsections 2.4, 2.12, 2.13, 2.14, 2.15 and 2.16.

2.19 Regulation U. (a) If at any time the Company shall use the proceeds of any Loans for the purpose of "purchasing" or "carrying" any Margin Stock within the respective meanings of each of the quoted terms under Regulation U, or to refund any indebtedness incurred for such purpose, and, after giving effect to such purchase or refund, more than 25% of the value (determined in accordance with Regulation U) of the assets subject to the restrictions of Section 7 would be represented by Margin Stock, the Company shall give notice thereof to the Agent and the Banks, and thereafter the Loans made by each Bank shall at all times be treated for purposes of Regulation U as two separate extensions of credit (the "A Credit" and the "B Credit" of such Bank and, collectively, the "A Credits" and the "B Credits"), as follows:

(i) the aggregate amount of the A Credit of such Bank shall be an amount equal to such Bank's pro rata share (based on the amount of its Commitment Percentage) of the maximum loan value (as determined in accordance with Regulation U), of all Margin Stock Collateral; and

(ii) the aggregate amount of the B Credit of such Bank shall be an amount equal to such Bank's pro rata share (based on the amount of its Commitment Percentage) of all Loans outstanding hereunder minus such Bank's A Credit.

In the event that any Margin Stock Collateral is acquired or sold, the amount of the A Credit of such Bank shall be adjusted (if necessary), to the extent necessary by prepayment, to an amount equal to such Bank's pro rata share (based on the amount of its Commitment Percentage) of the maximum loan value (determined in accordance with Regulation U) as of the date of such acquisition or sale) of the Margin Stock Collateral immediately after giving effect to such acquisition or sale. Nothing contained in this subsection 2.19 shall be deemed to permit any sale of Margin Stock Collateral in violation of any other provisions of this Agreement.

(b) Each Bank will maintain its records to identify the A Credit of such Bank and the B Credit of such Bank, and, solely for the purposes of complying with Regulation U, the A and B Credits shall be treated as separate extensions of credit. Each Bank hereby represents and warrants that the loan value of the Other Collateral is sufficient for such Bank to lend its pro rata share of the B Credit.

(c) The benefits of the indirect security in Margin Stock Collateral created by any provisions of this Agreement shall be allocated first to the benefit and security of the payment of the principal of and interest on the A Credits of the Banks and of all other amounts payable by the Company under this Agreement in connection with the A Credits (collectively, the "A Credit Amounts") and second, only after the payment in full of the A Credit Amounts, to the benefit and security of the payment of the principal of and interest on the B Credits of the

Banks and of all other amounts payable by the Company under this Agreement in connection with the B Credits (collectively, the “B Credit Amounts”). The benefits of the indirect security in Other Collateral created by any provisions of this Agreement, shall be allocated first to the benefit and security of the payment of the B Credit Amounts and second, only after the payment in full of the B Credit Amounts, to the benefit and security of the payment of the A Credit Amounts.

(d) The Company shall furnish to each Bank at the time of each acquisition and sale of Margin Stock Collateral such information and documents as the Agent or such Bank may require to determine the A and B Credits, and at any time and from time to time, such other information and documents as the Agent or such Bank may reasonably require to determine compliance with Regulation U.

(e) Each Bank shall be responsible for its own compliance with and administration of the provisions of this subsection 2.19 and Regulation U, and the Agent shall have no responsibility for any determinations or allocations made or to be made by any Bank as required by such provisions.

2.20 Borrowings and Repayments after Transition Date.

As promptly as practicable after the Transition Date, the Company will make borrowings and repayments in respect of Revolving Credit Loans in amounts such that, after giving effect to such borrowings and repayments, the outstanding Revolving Credit Loans will be held by the Banks ratably based upon their respective Commitments; and all borrowings and repayment of Revolving Credit Loans thereafter shall be made ratably based upon the respective Commitments of the Banks.

SECTION 3. [RESERVED]

SECTION 4. REPRESENTATIONS AND WARRANTIES

The Company hereby represents and warrants that:

4.1 Corporate Existence; Compliance with Law. Each of the Company and its Subsidiaries (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the corporate power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification and (d) is in compliance with all Requirements of Law, including, without limitation, HMO Regulations and Insurance Regulations, except to the extent that the failure to be so qualified or to comply therewith would not have a Material Adverse Effect.

4.2 No Legal Obstacle to Agreement; Enforceability. Neither the execution and delivery of any Loan Document, nor the making by the Company of any borrowings hereunder, nor the consummation of any transaction herein or therein referred to or contemplated hereby or thereby nor the fulfillment of the terms hereof or thereof or of any agreement or instrument referred to in this Agreement, has constituted or resulted in or will constitute or result in a breach of any Requirement of Law, including without limitation, HMO Regulations and Insurance Regulations, or any Contractual Obligation of the Company or any of its Subsidiaries, or result in the creation under any agreement or instrument of any security interest, lien, charge or encumbrance upon any of the assets of the Company or any of its Subsidiaries. No approval, authorization or other action by any Governmental Authority, including, without limitation, HMO Regulators and Insurance Regulators, or any other Person is required to be obtained by the Company or any of its Subsidiaries in connection with the execution, delivery and performance of this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, or the making of any borrowing by the Company hereunder. This Agreement has been, and each other Loan Document will be, duly executed and delivered on behalf of the Company. This Agreement constitutes, and each other Loan Document when executed and delivered will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

4.3 Litigation. Except as disclosed in the Company's Annual Report on Form 10-K for its fiscal year ended December 31, 2002 and the Company's Quarterly Reports on Form 10-Q for its fiscal quarters ended March 31, 2003 and June 30, 2003 filed with the Securities and Exchange Commission and previously distributed to the Banks, as of the date hereof, there is no litigation, at law or in equity, or any proceeding before any federal, state, provincial or municipal board or other governmental or administrative agency, including without limitation, HMO Regulators and Insurance Regulators, pending or to the knowledge of the Company threatened which, after giving effect to any applicable insurance, could reasonably be expected to have a Material Adverse Effect or which seeks to enjoin the consummation of any of the transactions contemplated by this Agreement or any other Loan Document, and no judgment, decree, or order of any federal, state, provincial or municipal court, board or other governmental or administrative agency, including without limitation, HMO Regulators and Insurance Regulators, has been issued against the Company or any Subsidiary which has, or may involve, a material risk of a Material Adverse Effect. The Company does not believe that the final resolution of the matters disclosed in its Annual Report on Form 10-K for its fiscal year ended December 31, 2002 and the Company's Quarterly Reports on Form 10-Q for its fiscal quarters ended March 31, 2003 and June 30, 2003 filed with the Securities and Exchange Commission and previously distributed to the Banks, will have a Material Adverse Effect.

4.4 Disclosure. Neither this Agreement nor any agreement, document, certificate or statement furnished to the Banks by the Company in connection herewith (including, without limitation, the information relating to the Company and its Subsidiaries included in the Confidential Information Memorandum dated September 2003 delivered in connection with the syndication of the credit facilities hereunder) contains any untrue statement of material fact or, taken as a whole together with all other information furnished to the Banks by

the Company, omits to state a material fact necessary in order to make the statements contained herein or therein not misleading. All pro forma financial statements made available to the Banks have been prepared in good faith based upon reasonable assumptions. There is no fact known to the Company which materially adversely affects or in the future could reasonably be expected to materially adversely affect the business, operations, affairs or condition of the Company and its Subsidiaries on a consolidated basis, except to the extent that they may be affected by future general economic conditions.

4.5 Defaults. Neither the Company nor any of its Subsidiaries is in default under or with respect to any Requirement of Law or Contractual Obligation in any respect which has had, or may have, a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

4.6 Financial Condition. The Company has furnished to the Agent and each Bank copies of the following:

(a) The Annual Report of the Company on Form 10-K for the fiscal year ended December 31, 2002; and

(b) the Quarterly Reports of the Company on Form 10-Q for the fiscal quarters ended March 31, 2003 and June 30, 2003.

The financial statements included therein, including the related schedules and notes thereto, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as disclosed therein). As of the date of such financial statements, neither the Company nor any of its Subsidiaries had any known contingent liabilities of any significant amount which in accordance with GAAP are required to be referred to in said financial statements or in the notes thereto which could reasonably be expected to have a Material Adverse Effect. During the period from December 31, 2002 to and including the date hereof, there has been no sale, transfer or other disposition by the Company or any of its consolidated Subsidiaries of any asset reflected on the balance sheet referred to above that would have been a material part of its business or property and no purchase or other acquisition of any business or property (including any capital stock of any other Person) material in relation to the consolidated financial condition of the Company and its consolidated Subsidiaries at December 31, 2002 other than as disclosed in Schedule VI.

4.7 Changes in Condition. Since December 31, 2002, there has been no development or event nor any prospective development or event, which has had, or could reasonably be expected to have, a Material Adverse Effect.

4.8 Assets. The Company and each Subsidiary have good and marketable title to all material assets carried on their books and reflected in the financial statements referred to in subsection 4.6 or furnished pursuant to subsection 6.4, except for assets held on Financing Leases or purchased subject to security devices providing for retention of title in the vendor, and except for assets disposed of as permitted by this Agreement.

4.9 Tax Returns. The Company and each of its Subsidiaries have filed all tax returns which are required to be filed and have paid, or made adequate provision for the payment of, all taxes which have or may become due pursuant to said returns or to assessments received. All federal tax returns of the Company and its Subsidiaries through their fiscal years ended in 1999 have been audited by the Internal Revenue Service or are not subject to such audit by virtue of the expiration of the applicable period of limitations, and the results of such audits are fully reflected in the balance sheets referred to in subsection 4.6. The Company knows of no material additional assessments since said date for which adequate reserves have not been established.

4.10 Contracts, etc. Attached hereto as Schedule III is a statement of outstanding Indebtedness of the Company and its Subsidiaries for borrowed money in excess of \$2,000,000 as of the date set forth therein, and a complete and correct list of all agreements, contracts, indentures, instruments, documents and amendments thereto to which the Company or any Subsidiary is a party or by which it is bound pursuant to which any such Indebtedness of the Company and its Subsidiaries is outstanding on the date hereof. Said Schedule III also includes a complete and correct list of all such Indebtedness of the Company and its Subsidiaries outstanding on the date indicated in respect of Guarantee Obligations in excess of \$2,000,000 and letters of credit in excess of \$2,000,000, and there have been no increases in such Indebtedness since said date other than as permitted by this Agreement.

4.11 Subsidiaries. As of the date hereof, the Company has only the Subsidiaries set forth in Schedule IV, all of the outstanding capital stock of each of which is duly authorized, validly issued, fully paid and nonassessable and owned as set forth in said Schedule IV. Schedule IV indicates all Subsidiaries of the Company which are not Wholly-Owned Subsidiaries and the percentage ownership of the Company and its Subsidiaries in each such Subsidiary. The capital stock and securities owned by the Company and its Subsidiaries in each of the Company's Subsidiaries are owned free and clear of any mortgage, pledge, lien, encumbrance, charge or restriction on the transfer thereof other than restrictions on transfer imposed by applicable securities laws and restrictions, liens and encumbrances outstanding on the date hereof and listed in said Schedule IV.

4.12 Burdensome Obligations. Neither the Company nor any Subsidiary is a party to or bound by any agreement, deed, lease or other instrument, or subject to any charter, by-law or other corporate restriction which, in the reasonable opinion of the management thereof, is so unusual or burdensome as to in the foreseeable future have a Material Adverse Effect. The Company does not presently anticipate that future expenditures of the Company and its Subsidiaries needed to meet the provisions of any federal or state statutes, orders, rules or regulations will be so burdensome as to have a Material Adverse Effect.

4.13 Pension Plans. Each Plan maintained by the Company, any Subsidiary or any Control Group Person or to which any of them makes or will make contributions is in material compliance with the applicable provisions of ERISA and the Code. Neither the Company nor any Subsidiary nor any Control Group Person maintains, contributes to or participates in any Plan that is a "defined benefit plan" as defined in ERISA. Neither the Company, any Subsidiary, nor any Control Group Person has since August 31, 1987 maintained, contributed to or participated in any Multiemployer Plan, with respect to which a complete withdrawal would result in any withdrawal liability. The Company and its Subsidiaries have met

all of the funding standards applicable to all Plans that are not Multiemployer Plans, and there exists no event or condition which would permit the institution of proceedings to terminate any Plan that is not a Multiemployer Plan. The current value of the benefits guaranteed under Title IV of ERISA of each Plan that is not a Multiemployer Plan does not exceed the current value of such Plan's assets allocable to such benefits.

4.14 Environmental and Public and Employee Health and Safety Matters. The Company and each Subsidiary has complied with all applicable Federal, state, and other laws, rules and regulations relating to environmental pollution or to environmental regulation or control or to public or employee health or safety, except to the extent that the failure to so comply would not be reasonably likely to result in a Material Adverse Effect. The Company's and the Subsidiaries' facilities do not contain, and have not previously contained, any hazardous wastes, hazardous substances, hazardous materials, toxic substances or toxic pollutants regulated under the Resource Conservation and Recovery Act, the Comprehensive Environmental Response Compensation and Liability Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Clean Air Act, the Clean Water Act or any other applicable law relating to environmental pollution or public or employee health and safety, in violation of any such law, or any rules or regulations promulgated pursuant thereto, except for violations that would not be reasonably likely to result in a Material Adverse Effect. The Company is aware of no events, conditions or circumstances involving environmental pollution or contamination or public or employee health or safety, in each case applicable to it or its Subsidiaries, that would be reasonably likely to result in a Material Adverse Effect.

4.15 Federal Regulations. No part of the proceeds of any Loans will be used in any transaction or for any purpose which violates the provisions of Regulations T, U or X as now and from time to time hereafter in effect. If requested by any Bank or the Agent, the Company will furnish to the Agent and each Bank a statement to the foregoing effect in conformity with the requirements of Form FR U-1 or Form FR G-3 referred to in Regulation U.

4.16 Investment Company Act: Other Regulations. 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. Except as set forth in Schedule VII, the Company is not subject to regulation under any Federal or State statute or regulation (other than Regulation X) which limits its ability to incur Indebtedness.

4.17 Solvency. Each of the Company, and the Company and its Subsidiaries taken as a whole, is Solvent.

4.18 Casualties. Neither the businesses nor the properties of the Company or any of its Subsidiaries are affected by any fire, explosion, accident, strike, lockout or other material labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty (whether or not covered by insurance) that could reasonably be expected to have a Material Adverse Effect.

4.19 Business Activity. Except as set forth in Schedule VIII, neither the Company nor any of its Subsidiaries is engaged in any line of business that is not related to the healthcare industry other than the sale of life insurance in connection with the sale of medical

insurance or other healthcare services, sale of long term care insurance, or any business or activity which is immaterial to the Company and its Subsidiaries on a consolidated basis.

4.20 Purpose of Loans. The proceeds of the Loans shall be used to repay any amounts outstanding under the Existing Credit Agreement and to finance any other lawful general corporate purpose, including acquisitions, provided that no part of the proceeds of any Loans will be used in any transaction or for any purpose which violates the provisions of Regulation U as now and from time to time hereafter in effect.

SECTION 5. CONDITIONS

5.1 Conditions to the Closing Date. The obligations of each Bank to make the Loans contemplated by subsections 2.1 and 2.2 shall be subject to the compliance by the Company with its agreements herein contained and to the satisfaction, on or before October 1, 2003, of the following conditions:

(a) Loan Documents. The Agent shall have received this Agreement, executed and delivered by a duly authorized officer of the Company, with a counterpart for each Bank.

(b) Legal Opinions. The Agent shall have received, with a copy for each Bank, opinions rendered by (i) the assistant general counsel of the Company, substantially in the form of Exhibit I-1, and (ii) Fried, Frank, Harris, Shriver & Jacobson, counsel to the Company, substantially in the form of Exhibit I-2.

(c) Closing Certificate. The Agent shall have received, with a copy for each Bank, a Closing Certificate, substantially in the form of Exhibit H and dated the Closing Date, executed by a Responsible Officer of the Company.

(d) Legality, etc. The consummation of the transactions contemplated hereby shall not contravene, violate or conflict with, any Requirement of Law including, without limitation, HMO Regulations and Insurance Regulations, and all necessary consents, approvals and authorizations of any Governmental Authority or any Person to or of such consummation shall have been obtained and shall be in full force and effect.

(e) Fees. The Agent shall have received the fees to be received on the Closing Date referred to in subsection 2.4(b).

(f) Corporate Proceedings. The Agent shall have received, with a copy for each Bank, a copy of the resolutions, in form and substance reasonably satisfactory to the Agent, of the Board of Directors of the Company authorizing (i) the execution, delivery and performance of this Agreement, the Notes and the other Loan Documents, and (ii) the borrowings contemplated hereunder, certified by the Secretary or an Assistant Secretary of the Company as of the Closing Date, which certificate shall state that the resolutions thereby certified have not been amended, modified, revoked or rescinded and shall be in form and substance reasonably satisfactory to the Agent.

(g) Corporate Documents. The Agent shall have received, with a copy for each Bank, true and complete copies of the certificate of incorporation and by-laws of the Company, certified as of the Closing Date as complete and correct copies thereof by the Secretary or an Assistant Secretary of the Company.

(h) No Material Litigation. Except as previously disclosed to the Agent and the Banks pursuant to subsection 4.3, no litigation, inquiry, investigation, injunction or restraining order (including any proposed statute, rule or regulation) shall be pending, entered or threatened which, in the reasonable judgment of the Required Banks, could reasonably be expected to have a Material Adverse Effect.

(i) Incumbency Certificate. The Agent shall have received, with a copy for each Bank, a certificate of the Secretary or an Assistant Secretary of the Company, dated the Closing Date, as to the incumbency and signature of the officers of the Company executing each Loan Document and any certificate or other document to be delivered by it pursuant hereto and thereto, together with evidence of the incumbency of such Secretary or Assistant Secretary.

(j) Good Standing Certificates. The Agent shall have received, with a copy for each Bank, copies of certificates dated as of a recent date from the Secretary of State or other appropriate authority of such jurisdiction, evidencing the good standing of the Company in its jurisdiction of incorporation and in Kentucky.

(k) No Change. There shall not have occurred any change, or event, and a Bank shall not have become aware of any previously undisclosed information regarding the Company and its Subsidiaries, which in each case in the reasonable judgment of the Required Banks, could reasonably be expected to have a Material Adverse Effect.

(l) Repayment of Outstanding Loans. On the Closing Date, all Loans and other amounts outstanding under the Existing Credit Agreement, if any, shall be repaid contemporaneously with the making of Loans hereunder and all commitments to extend credit thereunder shall be terminated.

5.2 Conditions to Each Loan. The agreement of each Bank to make any Loan requested to be made by it on any date is subject to the satisfaction of the following conditions precedent:

(a) Representations and Warranties. In the case of each Loan (other than any Tranche B Revolving Credit Loans resulting from the conversion of RFC Loans to Tranche B Revolving Credit Loans pursuant to subsection 2.1(d)), each of the representations and warranties made by the Company and its Subsidiaries in or pursuant to the Loan Documents shall be true and correct in all material respects on and as of such date as if made on and as of such date.

(b) No Default. In the case of each Loan (other than any Tranche B Revolving Credit Loans resulting from the conversion of RFC Loans to Tranche B Revolving Credit Loans pursuant to subsection 2.1(d)), no Default or Event of Default shall have occurred

and be continuing on such date or after giving effect to the Loans requested to be made on such date.

(c) Additional Matters. All corporate and other proceedings, and all documents, instruments and other legal matters in connection with the transactions contemplated by this Agreement and the other Loan Documents shall be reasonably satisfactory in form and substance to the Agent, and the Agent shall have received such other documents, instruments, legal opinions or other items of information reasonably requested by it, including, without limitation, copies of any debt instruments, security agreements or other material contracts to which the Company may be a party in respect of any aspect or consequence of the transactions contemplated hereby or thereby as it shall reasonably request.

(d) Regulations. In the case of any Loan the proceeds of which will be used, in whole or in part, to finance an acquisition, such acquisition shall be in full compliance with all applicable requirements of law, including, without limitation, Regulations T, U and X of the Board of Governors of the Federal Reserve System.

(e) Governmental, Third Party Approvals. In the case of any Loan the proceeds of which will be used, in whole or in part, to finance an acquisition, all necessary governmental and regulatory approvals, and all third party approvals the failure to obtain which would result in the acceleration of indebtedness unless such indebtedness is paid when due, in connection with such acquisition or in connection with this Agreement shall have been obtained and remain in effect, and all applicable waiting periods with respect to antitrust matters shall have expired without any action being taken by any competent authority which restrains such acquisition.

(f) No Restraints. In the case of any Loan the proceeds of which will be used, in whole or in part, to finance an acquisition, there shall exist no judgment, order, injunction or other restraint which would prevent the consummation of such acquisition.

(g) Form FR U-1; Form FR G-3. In the case of any Loan the proceeds of which will be used, in whole or in part, to purchase or carry Margin Stock, the Company shall have executed and delivered to the Agent and each Bank a statement on Form FR U-1 referred to in Regulation U or, if applicable, Form FR G-3 referred to in Regulation U, showing compliance with Regulation U after giving effect to such Loan.

(h) Legal Opinion. In the case of any Loan the proceeds of which will be used, in whole or in part, to purchase or carry Margin Stock, the Agent shall have received, with a copy for each Bank, a written legal opinion of Fried, Frank, Harris, Shriver & Jacobson, counsel to the Company, or such other counsel reasonably acceptable to the Banks, to the effect that such Loan and the Company's use of the proceeds thereof does not violate Regulation U or Regulation X.

Each borrowing by the Company hereunder shall constitute a representation and warranty by the Company as of the date of such extension of credit that the conditions contained in this subsection 5.2 have been satisfied.

SECTION 6. AFFIRMATIVE COVENANTS

The Company hereby agrees that, from and after the Closing Date and so long as the Commitments remain in effect, any Note remains outstanding and unpaid or any other amount is owing to any Bank or the Agent hereunder, the Company shall and (except in the case of delivery of financial information, reports and notices) shall cause each of its Subsidiaries to:

6.1 Taxes, Indebtedness, etc. Duly pay, discharge or otherwise satisfy, or cause to be paid, discharged or otherwise satisfied, before the same shall become in arrears, all taxes, assessments, levies and other governmental charges imposed upon such corporation and its properties, sales and activities, or any part thereof, or upon the income or profits therefrom; provided, however, that any such tax, assessment, charge or levy need not be paid if the validity or amount thereof shall currently be contested in good faith by appropriate proceedings and if the Company or the Subsidiary in question shall have set aside on its books appropriate reserves in conformity with GAAP with respect thereto. Each of the Company and its Subsidiaries will promptly pay when due, or in conformance with customary trade terms, all other Indebtedness, liabilities and other obligations of whatever nature incident to its operations; provided, however, that any such Indebtedness, liability or obligation need not be paid if the validity or amount thereof shall currently be contested in good faith and if the Company or the Subsidiary in question shall have set aside on its books appropriate reserves in conformity with GAAP with respect thereto.

6.2 Maintenance of Properties; Maintenance of Existence. Keep its material properties in good repair, working order and condition and will comply at all times with the provisions of all material leases and other material agreements to which it is a party so as to prevent any material loss or forfeiture thereof or thereunder unless compliance therewith is being contested in good faith by appropriate proceedings and if the Company or the Subsidiary in question shall have set aside on its books appropriate reserves in conformity with GAAP with respect thereto; and in the case of the Company or any Subsidiary of the Company while such Person remains a Subsidiary, will do all things necessary to preserve, renew and keep in full force and effect and in good standing its corporate existence and all rights, privileges and franchises necessary to continue such businesses.

6.3 Insurance. Maintain or cause to be maintained, with financially sound and reputable insurers including any Subsidiary which is engaged in the business of providing insurance protection, insurance (including, without limitation, public liability insurance, business interruption insurance, reinsurance for medical claims and professional liability insurance against claims for malpractice) with respect to its material properties and business and the properties and business of its Subsidiaries in at least such amounts and against at least such risks as are customarily carried under similar circumstances by other corporations engaged in the same or a similar business; and furnish to each Bank, upon written request, full information as to the insurance carried. Such insurance may be subject to co-insurance, deductibility or similar clauses which, in effect, result in self-insurance of certain losses, and the Company may self-insure against such loss or damage, provided that adequate insurance reserves are maintained in connection with such self-insurance.

6.4 Financial Statements. The Company will and will cause each of its Subsidiaries to maintain a standard modern system of accounting in which full, true and correct entries will be made of all dealings or transactions in relation to its business and affairs in accordance with GAAP consistently applied, and will furnish (or make available via the IntraLinks website) the following to the Agent and each Bank (if not provided via IntraLinks, in duplicate if so requested):

(a) Annual Statements. As soon as available, and in any event within 100 days after the end of each fiscal year, the consolidated balance sheet as at the end of each fiscal year and consolidated statements of profit and loss and of retained earnings for such fiscal year of the Company and its Subsidiaries, together with comparative consolidated figures for the next preceding fiscal year, accompanied by reports or certificates of PricewaterhouseCoopers, or, if they cease to be the auditors of the Company, of other independent public accountants of national standing and reputation, to the effect that such balance sheet and statements were prepared in accordance with GAAP consistently applied and fairly present the financial position of the Company and its Subsidiaries as at the end of such fiscal year and the results of their operations and changes in financial position for the year then ended and the statement of such accountants and of the treasurer of the Company that such said accountants and treasurer have caused the provisions of this Agreement to be reviewed and that nothing has come to their attention to lead them to believe that any Default exists hereunder or, if such is not the case, specifying such Default or possible Default and the nature thereof. In addition, such financial statements shall be accompanied by a certificate of the treasurer of the Company containing computations showing compliance with subsections 7.1, 7.2, 7.3 and 7.5.

(b) Quarterly Statements. As soon as available, and in any event within 55 days after the close of each of the first three fiscal quarters of the Company and its Subsidiaries in each year, consolidated balance sheets as at the end of such fiscal quarter and consolidated profit and loss and retained earnings statements for the portion of the fiscal year then ended, of the Company and its Subsidiaries, together with computations showing compliance with subsections 7.1, 7.2, 7.3 and 7.5, accompanied by a certificate of the treasurer of the Company that such statements and computations have been properly prepared in accordance with GAAP, consistently applied, and fairly present the financial position of the Company and its Subsidiaries as at the end of such fiscal quarter and the results of their operations and changes in financial position for such quarter and for the portion of the fiscal year then ended, subject to normal audit and year-end adjustments, and to the further effect that he has caused the provisions of this Agreement and all other agreements to which the Company or any of its Subsidiaries is a party and which relate to Indebtedness to be reviewed, and has no knowledge that any Default has occurred under this Agreement or under any such other agreement, or, if said treasurer has such knowledge, specifying such Default and the nature thereof.

(c) ERISA Reports. The Company will furnish the Agent with copies of any request for waiver of the funding standards or extension of the amortization periods required by Sections 303 and 304 of ERISA or Section 412 of the Code promptly after any such request is submitted by the Company to the Department of Labor or the Internal Revenue Service, as the case may be. Promptly after a Reportable Event occurs, or the Company or any of its Subsidiaries receives notice that the PBGC or any Control Group Person has instituted or intends to institute proceedings to terminate any pension or other Plan, or prior to the Plan

administrator's terminating such Plan pursuant to Section 4041 of ERISA, the Company will notify the Agent and will furnish to the Agent a copy of any notice of such Reportable Event which is required to be filed with the PBGC, or any notice delivered by the PBGC evidencing its institution of such proceedings or its intent to institute such proceedings, or any notice to the PBGC that a Plan is to be terminated, as the case may be. The Company will promptly notify each Bank upon learning of the occurrence of any of the following events with respect to any Plan which is a Multiemployer Plan: a partial or complete withdrawal from any Plan which may result in the incurrence by the Company or any of its Subsidiaries of withdrawal liability in excess of \$1,000,000 under Subtitle E of Title IV of ERISA, or of the termination, insolvency or reorganization status of any Plan under such Subtitle E which may result in liability to the Company or any of its Subsidiaries in excess of \$1,000,000. In the event of such a withdrawal, upon the request of the Agent or any Bank, the Company will promptly provide information with respect to the scope and extent of such liability, to the best of the Company's knowledge.

6.5 Certificates; Other Information. Furnish (or make available via the IntraLinks website) to the Agent and each Bank:

(a) within five Business Days after the same are sent, copies of all financial statements and reports which the Company sends to its stockholders, and within five Business Days after the same are filed, copies of all financial statements and reports which the Company may make to, or file with, the Securities and Exchange Commission;

(b) not later than thirty days prior to the end of each fiscal year of the Company, a schedule of the Company's insurance coverage and such supplemental schedules with respect thereto as the Agent and the Banks may from time to time reasonably request;

(c) within five Business Days after the consummation of a transaction described in subsection 7.4(c) or (d) or subsection 7.5(f) which, in each case, involves a Significant Subsidiary or assets which, if they constituted a separate Subsidiary, would constitute a Significant Subsidiary, a certificate of the treasurer or chief financial officer of the Company demonstrating pro forma compliance with the financial covenants in this Agreement after giving effect to such transaction; and

(d) promptly, such additional financial and other information as any Bank may from time to time reasonably request.

6.6 Compliance with ERISA. Each of the Company and its Subsidiaries will meet, and will cause all Control Group Persons to meet, all minimum funding requirements applicable to any Plan imposed by ERISA or the Code (without giving effect to any waivers of such requirements or extensions of the related amortization periods which may be granted), and will at all times comply, and will cause all Control Group Persons to comply, in all material respects with the provisions of ERISA and the Code which are applicable to the Plans. At no time shall the aggregate actual and contingent liabilities of the Company under Sections 4062, 4063, 4064 and other provisions of ERISA (calculated as if the 30% of collective net worth amount referred to in Section 4062(b)(1)(A)(i)(II) of ERISA exceeded the actual total amount of unfunded guaranteed benefits referred to in Section 4062(B)(1)(A)(i)(I) of ERISA) with respect

to all Plans (and all other pension plans to which the Company, any Subsidiary, or any Control Group Person made contributions prior to such time) exceed \$5,000,000. Neither the Company nor its Subsidiaries will permit any event or condition to exist which could permit any Plan which is not a Multiemployer Plan to be terminated under circumstances which would cause the lien provided for in Section 4068 of ERISA to attach to the assets of the Company or any of its Subsidiaries.

6.7 Compliance with Laws. Comply with all Contractual Obligations and Requirements of Law (including, without limitation, the HMO Regulations, Insurance Regulations, Regulation X and laws relating to the protection of the environment), except where the failure to comply therewith could not, in the aggregate, have a Material Adverse Effect.

6.8 Inspection of Property; Books and Records; Discussions. Keep proper books of records and account in which full, true and correct entries in conformity with GAAP, all Requirements of Law, including but not limited to, HMO Regulations and Insurance Regulations, and the terms hereof shall be made of all dealings and transactions in relation to its business and activities; and, upon reasonable notice, permit representatives of any Bank to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Company and its Subsidiaries with officers and employees of the Company and its Subsidiaries and with its independent certified public accountants.

6.9 Notices. Promptly give notice to the Agent and each Bank of:

(a) the occurrence of any Default or Event of Default;

(b) any (i) default or event of default under any Contractual Obligation of the Company or any of its Subsidiaries or (ii) litigation, investigation or proceeding which exists at any time between the Company or any of its Subsidiaries and any Governmental Authority (including, without limitation, HMO Regulators and Insurance Regulators), which in either case, if not cured or if adversely determined, as the case may be, could reasonably be expected to have a Material Adverse Effect;

(c) the commencement of any litigation or proceeding or a material development or material change in any ongoing litigation or proceeding affecting the Company or any of its Subsidiaries as a result of which commencement, development or change the Company or one of its Subsidiaries could reasonably be expected to incur a liability (as a result of an adverse judgment or ruling, settlement, incurrence of legal fees and expenses or otherwise) of \$10,000,000 or more and not covered by insurance or in which material injunctive or similar relief is sought;

(d) the following events, as soon as possible and in any event within 30 days after the Company knows thereof: (i) the occurrence or expected occurrence of any Reportable Event with respect to any Plan, or any withdrawal from, or the termination, Reorganization or Insolvency of any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the PBGC or the Company or any

Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the terminating, Reorganization or Insolvency of, any Plan;

(e) a development or event which could reasonably be expected to have a Material Adverse Effect;

(f) the material non-compliance with any Contractual Obligation or Requirement of Law, including, without limitation, HMO Regulations and Insurance Regulations, that is not currently being contested in good faith by appropriate proceedings;

(g) the revocation of any material license, permit, authorization, certificate or, qualification of the Company or any Subsidiary by any Governmental Authority, including, without limitation, the HMO Regulators and Insurance Regulators; and

(h) any significant change in or material additional restriction placed on the ability of a Significant Subsidiary to continue business as usual, including, without limitation, any such restriction prohibiting the payment to the Company of dividends by any Significant Subsidiary, by any Governmental Authority, including, without limitation, the HMO Regulators and Insurance Regulators.

Each notice pursuant to this subsection shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Company proposes to take with respect thereto.

6.10 Maintenance of Licenses, Etc. Preserve and maintain, and cause each of its Subsidiaries to preserve and maintain, all licenses, permits, authorizations, certifications and qualifications (including, without limitation, those qualifications with respect to solvency and capitalization) required under the HMO Regulations or the Insurance Regulations in connection with the ownership or operation of HMO's or insurance companies except were the failure to do so would not result in a Material Adverse Effect.

6.11 Further Assurances. Execute any and all further documents, and take all further action which the Required Banks or the Agent may reasonably request in order to effectuate the transactions contemplated by the Loan Documents.

SECTION 7. NEGATIVE COVENANTS

The Company hereby agrees that, from and after the Closing Date and so long as the Commitments remain in effect, any Note remains outstanding and unpaid or any other amount is owing to any Bank or the Agent hereunder, the Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

7.1 Financial Condition Covenants.

(a) Maintenance of Net Worth. Permit Consolidated Net Worth at any time to be less than 75% of its Consolidated Net Worth of the Company and its consolidated

subsidiaries as at March 31, 2001 plus 50% of Consolidated Net Income for each full fiscal quarter after March 31, 2001 (without any deduction for any such fiscal quarter in which such Consolidated Net Income is a negative number).

(b) Interest Coverage. Permit the ratio of (i) Consolidated EBIT for any period of four consecutive fiscal quarters of the Company ending with any fiscal quarter to (ii) Consolidated Interest Expense during such period, to be less than 4.00 to 1.00.

(c) Maximum Leverage Ratio. Permit the Leverage Ratio on the last day of any full fiscal quarter of the Company to be more than 2.50 to 1.00.

7.2 Limitation on Subsidiary Indebtedness. The Company shall not permit any of the Subsidiaries of the Company to create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Subsidiary to the Company or any other Subsidiary;

(b) Indebtedness of a corporation which becomes a Subsidiary after the date hereof, provided that (i) such indebtedness existed at the time such corporation became a Subsidiary and was not created in anticipation thereof and (ii) immediately before and after giving effect to the acquisition of such corporation by the Company no Default or Event of Default shall have occurred and be continuing; or

(c) additional Indebtedness of Subsidiaries of the Company not exceeding \$125,000,000 in aggregate principal amount at any one time outstanding.

7.3 Limitation on Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, except for:

(a) Liens, if any, securing the obligations of the Company under this Agreement and the Notes;

(b) Liens for taxes not yet due or which are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Company or its Subsidiaries, as the case may be, in conformity with GAAP;

(c) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 60 days or which are being contested in good faith by appropriate proceedings;

(d) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation;

(e) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(f) easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Company or such Subsidiary;

(g) Liens in existence on the Closing Date listed on Schedule V, securing Indebtedness in existence on the Closing Date, provided that no such Lien is spread to cover any additional property after the Closing Date and that the amount of Indebtedness secured thereby is not increased;

(h) Liens securing Indebtedness of the Company and its Subsidiaries not prohibited hereunder incurred to finance the acquisition of fixed or capital assets, provided that (i) such Liens shall be created substantially simultaneously with the acquisition of such fixed or capital assets, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (iii) the principal amount of Indebtedness secured by any such Lien shall at no time exceed 80% of the original purchase price of such property;

(i) Liens on the property or assets of a corporation which becomes a Subsidiary after the date hereof, provided that (i) such Liens existed at the time such corporation became a Subsidiary and were not created in anticipation thereof, (ii) any such Lien is not spread to cover any other property or assets after the time such corporation becomes a Subsidiary and (iii) the amount of Indebtedness secured thereby, if any, is not increased;

(j) Liens on the Headquarters, Riverview Square, the Waterside Garage, the Jacksonville Facility, the Green Bay Facility and the Waterside Building; or

(k) Liens not otherwise permitted under this subsection 7.3 securing obligations in an aggregate amount not exceeding at any time 10% of Consolidated Net Tangible Assets as at the end of the immediately preceding fiscal quarter of the Company.

7.4 Limitations on Fundamental Changes. Enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or make any material change in its method of conducting business, or purchase or otherwise acquire all or substantially all of the Capital Stock, or the property, business or assets, of any other Person (other than any Subsidiary) or any business division thereof except:

(a) any Subsidiary of the Company may be merged or consolidated with or into the Company (provided that the Company shall be the continuing or surviving corporation) and any Subsidiary of the Company may be merged or consolidated with or

into any one or more wholly owned Subsidiaries of the Company (provided that the surviving corporation shall be a wholly owned Subsidiary);

(b) the Company may merge into another corporation owned by the Company for the purpose of causing the Company to be incorporated in a different jurisdiction;

(c) the Company or a wholly owned Subsidiary of the Company may merge with another corporation, provided that (i) the Company or such wholly owned Subsidiary (subject to clause (ii)), as the case may be, shall be the continuing or surviving corporation of such merger, (ii) in the case of a wholly owned Subsidiary of the Company which is merged into another corporation which is the continuing or surviving corporation of such merger, the Company shall cause such continuing or surviving corporation to be a wholly owned Subsidiary of the Company and (iii) immediately before and after giving effect to such merger no Default or Event of Default shall have occurred and be continuing; or

(d) the Company and its Subsidiaries may purchase or otherwise acquire all or substantially all of the Capital Stock, or the property, business or assets, of any other Person, or any business division thereof, so long as no Default or Event of Default shall have occurred and be continuing.

7.5 Limitation on Sale of Assets. Convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets (including, without limitation, receivables and leasehold interests), whether now owned or hereafter acquired, except:

(a) obsolete or worn out property disposed of in the ordinary course of business;

(b) the sale or discount without recourse of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof;

(c) the sale or other disposition of the Headquarters, Riverview Square, the Waterside Garage, the Green Bay Facility, the Jacksonville Facility and the Waterside Building;

(d) the sale or other disposition of securities held for investment purposes in the ordinary course of business;

(e) any wholly owned Subsidiary may sell, lease, transfer or otherwise dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Company or any other wholly owned Subsidiary of the Company (except to a Subsidiary referred to in subsection 7.2(b)); or

(f) the sale or other disposition of any other property so long as no Default or Event of Default shall have occurred and be continuing; provided that the aggregate book value of all assets so sold or disposed of in any period of twelve consecutive calendar months shall not exceed in the aggregate 12% of the Consolidated Assets of the Company and its Subsidiaries as on the first day of such period.

7.6 Limitation on Distributions. The Company shall not make any Distribution except that, so long as no Default exists or would exist after giving effect thereto, the Company may make a Distribution.

7.7. Transactions with Affiliates. Enter into any transaction (unless such transaction or a series of such transactions is immaterial), including, without limitation, any purchase, sale, lease or exchange of property or the rendering of any service, with any Affiliate (other than the Company and its Subsidiaries) unless such transaction is otherwise permitted under this Agreement, is in the ordinary course of the Company's or such Subsidiary's business and is upon fair and reasonable terms no less favorable to the Company or such Subsidiary, as the case may be, than it would obtain in an arm's length transaction.

7.8. Sale and Leaseback. Enter into any arrangement with any Person providing for the leasing by the Company or any Subsidiary of real or personal property which has been or is to be sold or transferred by the Company or such Subsidiary to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of the Company or such Subsidiary, unless such arrangement is upon fair and reasonable terms no less favorable to the Company or such Subsidiary than would be obtained in a comparable arm's length transaction between an informed and willing seller or lessor under no compulsion to sell or lease and an informed and willing buyer or lessee under no compulsion to buy or lease.

SECTION 8. DEFAULTS

8.1 Events of Default. Upon the occurrence of any of the following events:

(a) any default shall be made by the Company in any payment in respect of: (i) interest on any of the Loans or any fee payable hereunder as the same shall become due and such default shall continue for a period of five days; or (ii) any principal of the Loans as the same shall become due, whether at maturity, by prepayment, by acceleration or otherwise; or

(b) any default shall be made by either the Company or any Subsidiary of the Company in the performance or observance of any of the provisions of subsections 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7 and 7.8; or

(c) any default shall be made in the due performance or observance of any other covenant, agreement or provision to be performed or observed by the Company under this Agreement, and such default shall not be rectified or cured within a period of 30 days; or

(d) any representation or warranty made or deemed made by the Company herein or in any other Loan Document or which is contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement shall have been untrue in any material respect on or as of the date made and the facts or circumstances to which such representation or warranty relates shall not have

been subsequently corrected to make such representation or warranty no longer incorrect in any material respect; or

(e) any default shall be made in the payment of any item of Indebtedness of the Company or any Subsidiary, or under the terms of any agreement relating to any Indebtedness of the Company or any Subsidiary, and such default shall continue without having been duly cured, waived or consented to, beyond the period of grace, if any, therein specified; provided, however, that such default shall not constitute an Event of Default unless the aggregate outstanding principal amount of such item of Indebtedness and all other items of Indebtedness of the Company and its Subsidiaries as to which such defaults exist and have continued without being duly cured, waived or consented to beyond the respective periods of grace, if any, therein specified exceeds \$25,000,000; or

(f) either the Company or any Subsidiary shall be involved in financial difficulties as evidenced:

(i) by its commencement of a voluntary case under Title 11 of the United States Code as from time to time in effect, or by its authorizing, by appropriate proceedings of its board of directors or other governing body, the commencement of such a voluntary case;

(ii) by the filing against it of a petition commencing an involuntary case under said Title 11 which shall not have been dismissed within 60 days after the date on which said petition is filed or by its filing an answer or other pleading within said 60-day period admitting or failing to deny the material allegations of such a petition or seeking, consenting or acquiescing in the relief therein provided;

(iii) by the entry of an order for relief in any involuntary case commenced under said Title 11;

(iv) by its seeking relief as a debtor under any applicable law, other than said Title 11, of any jurisdiction relating to the liquidation or reorganization of debtors or to the modification or alteration of the rights of creditors, or by its consenting to or acquiescing in such relief;

(v) by the entry of an order by a court of competent jurisdiction (i) finding it to be bankrupt or insolvent, (ii) ordering or approving its liquidation, reorganization or any modification or alteration of the rights of its creditors, or (iii) assuming custody of, or appointing a receiver or other custodian for, all or a substantial part of its property; or

(vi) by its making an assignment for the benefit of, or entering into a composition with, its creditors, or appointing or consenting to the appointment of a receiver or other custodian for all or a substantial part of its property; or

(vii) the Company or any of its Subsidiaries shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) a Change in Control of the Company shall occur;

(h) (i) any Person shall engage in any “prohibited transaction” (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any “accumulated funding deficiency” (as defined in Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Required Banks, likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) the Company or any Commonly Controlled Entity shall, or in the reasonable opinion of the Required Banks is likely to, incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan or (vi) any other event or condition shall occur or exist, with respect to a Plan; and in each case in clauses (i) through (vi) above, such event or condition, together with all other such events or conditions, if any, could subject the Company or any of its Subsidiaries to any tax, penalty or other liabilities which in the aggregate could have a Material Adverse Effect; or

(i) one or more judgments or decrees shall be entered against the Company or any of its Subsidiaries and such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 45 days from the entry thereof that (i) involves in the aggregate a liability (not paid or fully covered by insurance) of \$25,000,000 or more, or (ii) could reasonably be expected to have a Material Adverse Effect; or

(j) (i) any material non-compliance by the Company or any Significant Subsidiary with any term or provision of the HMO Regulations or Insurance Regulations pertaining to fiscal soundness, solvency or financial condition; or (ii) the assertion in writing by an HMO Regulator or Insurance Regulator that it is taking administrative action against the Company or any Significant Subsidiary to revoke or suspend any contract of insurance, license, permit, certification, authorization, accreditation or charter or to enforce the fiscal soundness, solvency or financial provisions or requirements of the HMO Regulations or Insurance Regulations against any of such entities and the Company or such Significant Subsidiary shall have been unable to cause such HMO Regulator or Insurance Regulator to withdraw such written notice within five Business Days following receipt of such written notice by the Company or such Significant Subsidiary, in each of clauses (i) and (ii), to the extent such event will or is reasonably expected to have a Material Adverse Effect; or

(k) on or after the Closing Date, (i) for any reason any Loan Document ceases to be or is not in full force and effect or (ii) the Company shall assert that any Loan Document has ceased to be or is not in full force and effect;

then, and in any such event, (A) if such event is an Event of Default specified in paragraph (f) above with respect to the Company, automatically the Commitments shall immediately terminate and the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: (i) with the consent of the Required Banks, the Agent may, or upon the request of the Required Banks, the Agent shall, by notice to the Company, declare the Commitments to be terminated forthwith, whereupon the Commitments shall immediately terminate; and (ii) with the consent of the Required Banks, the Agent may, or upon the request of the Required Banks, the Agent shall, by notice of default to the Company, declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement (the "Bank Obligations") to be due and payable forthwith, whereupon the same shall immediately become due and payable.

Except as expressly provided above in this Section, presentment, demand, protest and all other notices of any kind are hereby expressly waived.

8.2 Annulment of Defaults. An Event of Default shall not be deemed to be in existence for any purpose of this Agreement if the Agent, with the consent of or at the direction of the Required Banks, subject to subsection 10.1, shall have waived such event in writing or stated in writing that the same has been cured to its reasonable satisfaction, but no such waiver shall extend to or affect any subsequent Event of Default or impair any rights of the Agent or the Banks upon the occurrence thereof.

8.3 Waivers. The Company hereby waives to the extent permitted by applicable law (a) all presentments, demands for performance, notices of nonperformance (except to the extent required by the provisions hereof), protests, notices of protest and notices of dishonor in connection with any of the Loans, (b) any requirement of diligence or promptness on the part of any Bank in the enforcement of its rights under the provisions of this Agreement or any Note, and (c) any and all notices of every kind and description which may be required to be given by any statute or rule of law.

8.4 Course of Dealing. No course of dealing between the Company and any Bank shall operate as a waiver of any of the Banks' rights under this Agreement or any Note. No delay or omission on the part of any Bank in exercising any right under this Agreement or any Note or with respect to any of the Bank Obligations shall operate as a waiver of such right or any other right hereunder. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion. No waiver or consent shall be binding upon any Bank unless it is in writing and signed by the Agent or such of the Banks as may be required by the provisions of this Agreement. The making of a Loan during the existence of a Default shall not constitute a waiver thereof.

SECTION 9. THE AGENT

9.1. Appointment. Each Bank hereby irrevocably designates and appoints JPMorgan Chase Bank as the Agent and CAF Loan Agent of such Bank under this Agreement, and each such Bank irrevocably authorizes JPMorgan Chase Bank, as the Agent and CAF Loan Agent for such Bank, to take such action on its behalf under the provisions of this Agreement and to exercise such powers and perform such duties as are expressly delegated to the Agent or CAF Loan Agent, as the case may be, by the terms of this Agreement, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, neither the Agent nor the CAF Loan Agent shall have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Bank, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or otherwise exist against the Agent or the CAF Loan Agent.

9.2. Delegation of Duties. The Agent or the CAF Loan Agent may execute any of its duties under this Agreement by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Neither the Agent nor the CAF Loan Agent shall be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

9.3. Exculpatory Provisions. Neither the Agent nor the CAF Loan Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement (except for its or such Person's own gross negligence or willful misconduct), or (b) responsible in any manner to any of the Banks for any recitals, statements, representations or warranties made by the Company or any officer thereof contained in this Agreement or in any certificate, report, statement or other document referred to or provided for in, or received by the Agent or the CAF Loan Agent under or in connection with, this Agreement or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or the Notes or for any failure of the Company to perform its obligations hereunder. Neither the Agent nor the CAF Loan Agent shall be under any obligation to any Bank to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement, or to inspect the properties, books or records of the Company.

9.4. Reliance by Agent. The Agent and the CAF Loan Agent shall be entitled to rely, and shall be fully protected in relying, upon any Note, writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including, without limitation, counsel to the Company), independent accountants and other experts selected by the Agent or the CAF Loan Agent. The Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Agent. The Agent and the CAF Loan Agent shall be fully justified in failing or refusing to take any action under this Agreement unless it shall first receive such advice or concurrence of the Required Banks as it deems appropriate or it shall first be indemnified to its satisfaction by the Banks against any

and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agent and the CAF Loan Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the Notes in accordance with a request of the Required Banks, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Banks and all future holders of the Notes.

9.5. Notice of Default. The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Agent has received notice from a Bank or the Company referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default”. In the event that the Agent receives such a notice, the Agent shall promptly give notice thereof to the Banks. The Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Banks; provided that, unless and until the Agent shall have received such directions, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Banks.

9.6 Non-Reliance on Agent and Other Banks. Each Bank expressly acknowledges that neither the Agent nor the CAF Loan Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Agent or the CAF Loan Agent hereinafter taken, including any review of the affairs of the Company, shall be deemed to constitute any representation or warranty by the Agent to any Bank. Each Bank represents to the Agent and the CAF Loan Agent that it has, independently and without reliance upon the Agent or the CAF Loan Agent or any other Bank, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Company and made its own decision to make its Loans hereunder and enter into this Agreement. Each Bank also represents that it will, independently and without reliance upon the Agent or the CAF Loan Agent or any other Bank, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Company. Except for notices, reports and other documents expressly required to be furnished to the Banks by the Agent or the CAF Loan Agent hereunder, neither the Agent nor the CAF Loan Agent shall have any duty or responsibility to provide any Bank with any credit or other information concerning the business, operations, property, financial and other condition or creditworthiness of the Company which may come into the possession of the Agent or the CAF Loan Agent or any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates.

9.7 Indemnification. The Banks agree to indemnify the Agent and the CAF Loan Agent in its capacity as such (to the extent not reimbursed by the Company and without limiting the obligation of the Company to do so), ratably according to the respective amounts of their then existing Commitments, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including without limitation at any time following the payment of the Loans) be imposed on, incurred by or asserted against the Agent or the CAF

Loan Agent in any way relating to or arising out of this Agreement, or any documents contemplated by or referred to herein or the transactions contemplated hereby or any action taken or omitted by the Agent or the CAF Loan Agent under or in connection with any of the foregoing; provided that no Bank shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's or the CAF Loan Agent's gross negligence or willful misconduct. The agreements in this subsection shall survive the payment of the Loans and all other amounts payable hereunder.

9.8 Agent and CAF Loan Agent in Its Individual Capacity. The Agent and the CAF Loan Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with the Company as though the Agent or the CAF Loan Agent were not the Agent or the CAF Loan Agent hereunder. With respect to its Loans made or renewed by it and any Note issued to it, the Agent and the CAF Loan Agent shall have the same rights and powers under this Agreement as any Bank and may exercise the same as though it were not the Agent, and the terms "Bank" and "Banks" shall include the Agent or the CAF Loan Agent in its individual capacity.

9.9 Successor Agent and CAF Loan Agent. The Agent or the CAF Loan Agent may resign as Agent or CAF Loan Agent, as the case may be, upon 10 days' notice to the Banks. If the Agent or the CAF Loan Agent shall resign as Agent or CAF Loan Agent, as the case may be, under this Agreement, then the Required Banks shall appoint from among the Banks a successor agent for the Banks which successor agent shall be approved by the Company, whereupon such successor agent shall succeed to the rights, powers and duties of the Agent or CAF Loan Agent, as the case may be, and the term "Agent" or "CAF Loan Agent", as the case may be, shall mean such successor agent effective upon its appointment, and the former Agent's or CAF Loan Agent's rights, powers and duties as Agent or CAF Loan Agent shall be terminated, without any other or further act or deed on the part of such former Agent or CAF Loan Agent or any of the parties to this Agreement or any holders of the Notes. After any retiring Agent's or CAF Loan Agent's resignation hereunder as Agent or CAF Loan Agent, the provisions of this subsection 9.9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent or CAF Loan Agent under this Agreement.

SECTION 10. MISCELLANEOUS

10.1. Amendments and Waivers. Neither this Agreement, any Note, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this subsection. With the written consent of the Required Banks, the Agent and the Company may, from time to time, enter into written amendments, supplements or modifications hereto for the purpose of adding any provisions to this Agreement or the Notes or changing in any manner the rights of the Banks or of the Company hereunder or thereunder or waiving, on such terms and conditions as the Agent may specify in such instrument, any of the requirements of this Agreement or the Notes or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall (a) extend the maturity (whether as stated, by acceleration or otherwise) of any Note (subject to the extension provisions of subsection 2.5 hereof), or reduce the rate or

extend the time of payment of interest thereon, or reduce or extend the payment of any fee payable to the Banks hereunder, or reduce the principal amount thereof, or change the amount of any Bank's Commitment, or amend, modify, waive any provision of subsection 2.11, in each case without the consent of each Bank directly affected thereby, or (b) amend, modify or waive any provision of this subsection 10.1 or reduce the percentage specified in the definition of Required Banks or consent to the assignment or transfer by the Company of any of its rights and obligations under this Agreement, in each case without the written consent of all the Banks, or (c) amend, modify or waive any provision of Section 9 without the written consent of the then Agent. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Banks and shall be binding upon the Company, the Banks, the Agent and all future holders of the Notes. In the case of any waiver, the Company, the Banks and the Agent shall be restored to their former position and rights hereunder and under the outstanding Notes, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

10.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand, or three Business Days after being deposited in the mail, postage prepaid, or one Business Day after being deposited with an overnight courier service, or, in the case of telecopy notice, when sent, confirmation of receipt received, addressed (i) in the case of notices, requests and demands to or upon the Company, the Agent, and the CAF Loan Agent, as set forth below and (ii) in the case of notices, requests and demands to or upon any Bank, as set forth in an administrative questionnaire delivered by such Bank to the Agent, or, in each case, to such other address as may be hereafter notified by the respective parties hereto and any future holders of the Notes:

The Company: Humana Inc.
 The Humana Building
 500 West Main Street
 Louisville, Kentucky 40202
 Attention: James H. Bloem
 Senior Vice President and
 Chief Financial Officer
 Telecopy: (502) 580-3615

The Agent and JPMorgan Chase Bank
CAF Loan Agent: 1111 Fannin, 10th Floor
 Houston, TX 77272
 Attention: Cherry Armaez
 Telecopy: (713) 750-2782

provided that any notice, request or demand to or upon the Agent or the Banks pursuant to Section 2 shall not be effective until received.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Agent or any Bank, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.4 Survival of Representations and Warranties. All representations and warranties made hereunder and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the Notes.

10.5 Payment of Expenses and Taxes; Indemnity. (a) The Company agrees (i) to pay or reimburse the Agent for all its reasonable out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the Notes and any other documents prepared in connection herewith, and the consummation of the transactions contemplated hereby and thereby, including, without limitation, the reasonable fees and disbursements of counsel to the Agent, (ii) to pay or reimburse each Bank and the Agent for all their reasonable costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the Notes and any such other documents, including, without limitation, reasonable fees and disbursements of counsel (including, without limitation, the allocated cost of in-house counsel) to the Agent and to the several Banks, and (iii) to pay, indemnify, and hold each Bank and the Agent harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and other taxes, if any, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the Notes and any such other documents.

(b) The Company will indemnify each of the Agent and the Banks and the directors, officers and employees thereof and each Person, if any, who controls each one of the Agent and the Banks (any of the foregoing, an “Indemnified Person”) and hold each Indemnified Person harmless from and against any and all claims, damages, liabilities and expenses (including without limitation all fees and disbursements of counsel (including without limitation, the allocated cost of in-house counsel) with whom an Indemnified Person may consult in connection therewith and all expenses of litigation or preparation therefor) which an Indemnified Person may incur or which may be asserted against it in connection with any litigation or investigation (whether or not such Indemnified Person is a party to such litigation or investigation) involving this Agreement, the use of any proceeds of any Loans under this Agreement by the Company or any Subsidiary, any officer, director or employee thereof, excluding litigation commenced by the Company against any of the Agent or the Banks which (i) seeks enforcement of any of the Company’s rights hereunder and (ii) is determined adversely to any of the Agent or the Banks (all such non-excluded claims, damages, liabilities and expenses, “Indemnified Liabilities”), provided that the Company shall have no obligation hereunder to any

Indemnified Person with respect to Indemnified Liabilities to the extent such Indemnified Liabilities resulted from the gross negligence or willful misconduct of such Indemnified Person.

(c) The agreements in this subsection 10.5 shall survive repayment of the Loans and all other amounts payable hereunder.

10.6 Successors and Assigns; Participations; Purchasing Banks. (a) This Agreement shall be binding upon and inure to the benefit of the Company, the Banks, the Agent, all future holders of the Notes and their respective successors and assigns, except that the Company may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of each Bank.

(b) Any Bank other than a Conduit Lender may, in the ordinary course of its commercial banking business and in accordance with applicable law, at any time sell to one or more banks or other entities ("Participants") participating interests in any Loans owing to such Bank, any Notes held by such Bank, any Commitments of such Bank and/or any other interests of such Bank hereunder and under the other Loan Documents. In the event of any such sale by a Bank of a participating interest to a Participant, such Bank's obligations under this Agreement to the other parties under this Agreement shall remain unchanged, such Bank shall remain solely responsible for the performance thereof, such Bank shall remain the holder of any such Notes for all purposes under this Agreement, and the Company and the Agent shall continue to deal solely and directly with such Bank in connection with such Bank's rights and obligations under this Agreement and under the other Loan Documents. The Company agrees that if amounts outstanding under this Agreement and the Notes are due or unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of offset in respect of its participating interest in amounts owing under this Agreement and any Notes to the same extent as if the amount of its participating interest were owing directly to it as a Bank under this Agreement or any Notes, provided that such right of offset shall be subject to the obligation of such Participant to share with the Banks, and the Banks agree to share with such Participant, as provided in subsection 10.7. The Company also agrees that each Participant shall be entitled to the benefits of subsections 2.13, 2.14 and 2.15 with respect to its participation in the Commitments and the Eurodollar Loans outstanding from time to time; provided that no Participant shall be entitled to receive any greater amount pursuant to such subsections than the transferor Bank would have been entitled to receive in respect of the amount of the participation transferred by such transferor Bank to such Participant had no such transfer occurred. No Participant shall be entitled to consent to any amendment, supplement, modification or waiver of or to this Agreement or any Note, unless the same is subject to clause (a) of the proviso to subsection 10.1.

(c) Any Bank other than any Conduit Lender may, in the ordinary course of its commercial banking business and in accordance with applicable law, at any time assign to one or more banks or other entities ("CAF Loan Assignees") any CAF Loan owing to such Bank and any Individual CAF Loan Note held by such Bank evidencing such CAF Loan, pursuant to a CAF Loan Assignment executed by the assignor Bank and the CAF Loan Assignee. Upon such execution, from and after the date of such CAF Loan Assignment, the CAF Loan Assignee shall, to the extent of the assignment provided for in such CAF Loan Assignment, be deemed to have the same rights and benefits of payment and enforcement with respect to such CAF Loan and

Individual CAF Loan Note and the same rights of offset pursuant to subsection 8.1 and under applicable law and obligation to share pursuant to subsection 10.7 as it would have had if it were a Bank hereunder; provided that unless such CAF Loan Assignment shall otherwise specify and a copy of such CAF Loan Assignment shall have been delivered to the Agent for its acceptance and recording in the Register in accordance with subsection 10.6(f), the assignor thereunder shall act as collection agent for the CAF Loan Assignee thereunder, and the Agent shall pay all amounts received from the Company which are allocable to the assigned CAF Loan or Individual CAF Loan Note directly to such assignor without any further liability to such CAF Loan Assignee. A CAF Loan Assignee under a CAF Loan Assignment shall not, by virtue of such CAF Loan Assignment, become a party to this Agreement or have any rights to consent to or refrain from consenting to any amendment, waiver or other modification of any provision of this Agreement or any related document; provided that if a copy of such CAF Loan Assignment shall have been delivered to the Agent for its acceptance and recording in the Register in accordance with subsection 10.6(f), neither the principal amount of, the interest rate on, nor the maturity date of any CAF Loan or Individual CAF Loan Note assigned to the CAF Loan Assignee thereunder will be modified without the written consent of such CAF Loan Assignee. If a CAF Loan Assignee has caused a CAF Loan Assignment to be recorded in the Register in accordance with subsection 10.6(f), such CAF Loan Assignee may thereafter, in the ordinary course of its business and in accordance with applicable law, assign such Individual CAF Loan Note to any Bank, to any affiliate or subsidiary of such CAF Loan Assignee or to any other financial institution that has total assets in excess of \$1,000,000,000 and that in the ordinary course of its business extends credit of the type evidenced by such Individual CAF Loan Note, and the foregoing provisions of this subsection 10.6(c) shall apply, mutatis mutandis, to any such assignment by a CAF Loan Assignee. Except in accordance with the preceding sentence, CAF Loans and Individual CAF Loan Notes may not be further assigned by a CAF Loan Assignee, subject to any legal or regulatory requirement that the CAF Loan Assignee's assets must remain under its control.

(d) Any Bank other than a Conduit Lender may, in the ordinary course of its commercial banking business and in accordance with applicable law, at any time sell to any Bank or any Lender Affiliate thereof, and, with the consent of the Company (unless an Event of Default is continuing) and the Agent (which in each case shall not be unreasonably withheld) to one or more additional banks or financial institutions ("Purchasing Banks") all or any part of its rights and/or obligations under this Agreement and the Notes pursuant to a Commitment Transfer Supplement, executed by such Purchasing Bank, such transferor Bank and the Agent (and, in the case of a Purchasing Bank that is not then a Bank or a Lender Affiliate, and subject to the other qualifiers above, by the Company); provided, however, that (i) the Commitments purchased by such Purchasing Bank that is not then a Bank or a Lender Affiliate shall be equal to or greater than \$5,000,000, (ii) the transferor Bank which has transferred less than all of its Loans and Commitments to any such Purchasing Bank shall retain a minimum Commitment, after giving effect to such sale, equal to or greater than \$10,000,000 and (iii) any sale by a Bank of any portion of its Tranche B Commitment prior to the Transition Date must be accompanied by a simultaneous sale to such Purchasing Bank of such selling Bank's pro rata share of its commitment pursuant to and in accordance with subsection 4.5(a) of the Liquidity Facility Agreement and such Purchasing Bank shall be an Eligible Assignee (as defined in the Liquidity Facility Agreement). For purposes of the proviso contained in the previous sentence, the

amounts described therein shall be aggregated in respect of each Bank and its Lender Affiliates, if any. Upon (i) such execution of such Commitment Transfer Supplement, (ii) delivery of an executed copy thereof to the Company and (iii) payment by such Purchasing Bank, such Purchasing Bank shall for all purposes be a Bank party to this Agreement and shall have all the rights and obligations of a Bank under this Agreement, to the same extent as if it were an original party hereto with the Commitment Percentage of the Commitments set forth in such Commitment Transfer Supplement. Such Commitment Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing Bank and the resulting adjustment of Commitment Percentages arising from the purchase by such Purchasing Bank of all or a portion of the rights and obligations of such transferor Bank under this Agreement and the Notes. Upon the consummation of any transfer to a Purchasing Bank, pursuant to this subsection 10.6(d), the transferor Bank, the Agent and the Company shall make appropriate arrangements so that, if required, replacement Notes are issued to such transferor Bank and new Notes or, as appropriate, replacement Notes, are issued to such Purchasing Bank, in each case in principal amounts reflecting their Commitment Percentages or, as appropriate, their outstanding Loans as adjusted pursuant to such Commitment Transfer Supplement. Notwithstanding the foregoing, any Conduit Lender may assign at any time to its designating Bank hereunder without the consent of the Company or the Agent any or all of the Loans it may have funded hereunder and pursuant to its designation agreement and without regard to the limitations set forth in the first sentence of this subsection 10.6(d).

(e) The Agent shall maintain at its address referred to in subsection 10.2 (a) copy of each CAF Loan Assignment and each Commitment Transfer Supplement delivered to it and a register (the "Register") for the recordation of (i) the names and addresses of the Banks and the Commitment of, and principal amount of the Loans owing to, each Bank from time to time, and (ii) with respect to each CAF Loan Assignment delivered to the Agent, the name and address of the CAF Loan Assignee and the principal amount of each CAF Loan owing to such CAF Loan Assignee. The entries in the Register shall be conclusive, in the absence of manifest error, and the Company, the Agent and the Banks may treat each Person whose name is recorded in the Register as the owner of the Loan recorded therein for all purposes of this Agreement. The Register shall be available for inspection by the Company or any Bank or CAF Loan Assignee at any reasonable time and from time to time upon reasonable prior notice.

(f) Upon its receipt of a CAF Loan Assignment executed by an assignor Bank and a CAF Loan Assignee, together with payment to the Agent of a registration and processing fee of \$2,500, the Agent shall promptly accept such CAF Loan Assignment, record the information contained therein in the Register and give notice of such acceptance and recordation to the assignor Bank, the CAF Loan Assignee and the Company. Upon its receipt of a Commitment Transfer Supplement executed by a transferor Bank and a Purchasing Bank (and, in the case of a Purchasing Bank that is not then a Bank or an affiliate thereof, by the Company and the Agent) together with payment to the Agent of a registration and processing fee of \$3,500, the Agent shall (i) promptly accept such Commitment Transfer Supplement (ii) on the Transfer Effective Date determined pursuant thereto record the information contained therein in the Register and give notice of such acceptance and recordation to the Banks and the Company.

(g) The Company authorizes each Bank to disclose to any Participant, CAF Loan Assignee or Purchasing Bank (each, a "Transferee") and any prospective Transferee any

and all financial information in such Bank's possession concerning the Company which has been delivered to such Bank by the Company pursuant to this Agreement or which has been delivered to such Bank by the Company in connection with such Bank's credit evaluation of the Company prior to entering into this Agreement.

(h) If, pursuant to this subsection 10.6, any interest in this Agreement or any Note is transferred to a Non-U.S. Bank, the transferor Bank shall cause such transferee, concurrently with the effectiveness of such transfer to comply with the provisions of subsection 2.15.

(i) For the avoidance of doubt, the parties to this Agreement acknowledge that the provisions of this subsection 10.6 concerning assignments relate only to absolute assignments and that such provisions do not prohibit assignments creating security interests, including any pledge or assignment by a Bank to any Federal Reserve Bank in accordance with applicable law.

(j) Each of the Company, each Bank and the Agent hereby confirms that it will not institute against a Conduit Lender or join any other Person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Bank designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

(k) In the event that any Bank shall be a "Downgraded Bank" (as defined in subsection 4.5(b) of the Liquidity Facility Agreement or any successor provision thereof) and the Company has pursuant to such subsection 4.5(b) replaced any such Bank with increased commitments from other Banks or commitments from any Additional Bank(s) (as defined in such subsection 4.5(b)), such Downgraded Bank shall assign the portion of its Tranche B Commitments hereunder to each such other Bank or Additional Bank corresponding to the portion of the commitments transferred to such other Bank or Additional Bank pursuant to subsection 4.5(b) of the Liquidity Facility Agreement pursuant to a Commitment Transfer Supplement, executed by such Downgraded Bank, the transferee Bank(s), the Agent and the Company.

(l) In the event that any Bank shall be a "Defaulting Replaced Bank" (as defined in subsection 4.5(b) of the Liquidity Facility Agreement or any successor provision thereof) and the Company has pursuant to such subsection 4.5(b) replaced any such Bank with increased commitments from other Banks or any Additional Bank(s) (as defined in such subsection 4.5(b)), such Defaulting Replaced Bank shall assign the portion of its Tranche B Commitments hereunder to each such other Bank or Additional Bank corresponding to the portion of the commitments transferred to such other Bank or Additional Bank pursuant to subsection 4.5(b) of the Liquidity Facility Agreement pursuant to a Commitment Transfer Supplement, executed by such Defaulting Replaced Bank, the transferee Bank(s), the Agent and the Company.

10.7 Adjustments; Set-off. (a) Except to the extent that this Agreement provides for payments to be allocated to a particular Bank or Banks, if any Bank (a "Benefitted Bank") shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by offset, pursuant to events or proceedings of the nature referred to in subsection 8.1(f), or otherwise) in a greater proportion than any such payment to and collateral received by any other Bank, if any, in respect of such other Bank's Loans, or interest thereon, such Benefitted Bank shall purchase for cash from the other Banks such portion of each such other Bank's Loans, or shall provide such other Banks with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefitted Bank to share the excess payment or benefits of such collateral or proceeds ratably with each of the Banks; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Bank, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest. The Company agrees that each Bank so purchasing a portion of another Bank's Loan may exercise all rights of a payment (including, without limitation, rights of offset) with respect to such portion as fully as if such Bank were the direct holder of such portion.

(b) In addition to any rights and remedies of the Banks provided by law, at any time when an Event of Default is in existence, each Bank shall have the right, without prior notice to the Company, any such notice being expressly waived by the Company to the extent permitted by applicable law, upon any amount becoming due and payable by the Company hereunder (whether at the stated maturity, by acceleration or otherwise), to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Bank or any branch or agency thereof to or for the credit or the account of the Company. Each Bank agrees promptly to notify the Company and the Agent after any such setoff and application made by such Bank, provided that the failure to give such notice shall not affect the validity of such setoff and application.

10.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Company and the Agent.

10.9 GOVERNING LAW. THIS AGREEMENT AND THE NOTES AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

10.10 WAIVERS OF JURY TRIAL. THE COMPANY, THE AGENT, THE CAF LOAN AGENT AND THE BANKS EACH HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT, THE NOTES OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

10.11 Submission To Jurisdiction; Waivers. The Company hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the Courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof; and

(b) consents that any such action or proceeding may be brought in such courts, and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same.

10.12 Confidentiality of Information. Each Bank acknowledges that some of the information furnished to such Bank pursuant to this Agreement may be received by such Bank prior to the time such information shall have been made public, and each Bank agrees that it will keep all information so furnished confidential and shall make no use of such information until it shall have become public, except (a) in connection with matters involving operations under or enforcement of this Agreement or the Notes, (b) in accordance with each Bank's obligations under law or regulation or pursuant to subpoenas or other process to make information available to governmental or regulatory agencies and examiners or to others, (c) to each Bank's Affiliates, employees, agents (including accountants, legal counsel and other advisors) and Transferees and prospective Transferees so long as such Persons agree to be bound by this subsection 10.12 and (d) with the prior written consent of the Company. Notwithstanding anything herein to the contrary or any contrary understanding or agreement, immediately upon commencement of discussion, any party subject to confidentiality obligations hereunder or under any other related document (and any employee, representative or other agent of such party) may disclose to any and all persons, without limitation of any kind, such party's U.S. federal tax treatment and the U.S. federal tax structure of the transactions contemplated by this Agreement and any agreement relating hereto relating to such party and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment and tax structure. However, no such party shall disclose any information relating to such tax treatment or tax structure to the extent nondisclosure is reasonably necessary in order to comply with applicable securities laws.

10.13 Existing Credit Agreement. Each Bank which is a Bank party to the Existing Credit Agreement and the Company acknowledge that the commitments under the Existing Credit Agreement will terminate on the Closing Date, and each such Bank hereby waives any requirement of the Existing Credit Agreement that the Company give any notice of such termination.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

HUMANA INC.

By: /s/ James H. Bloem

Name: James H. Bloem
Title: Senior Vice President &
Chief Financial Officer

JPMORGAN CHASE BANK, as Agent, as CAF Loan Agent
and as a Bank

By: /s/ James S. Ely, III

Name: James S. Ely, III
Title: Managing Director

BANK OF AMERICA, N.A

By: /s/ Kevin Bertelsen

Name: Kevin Bertelsen
Title: Vice President

CITIBANK, N.A.

By: /s/ David A. Dodge

Name: David A. Dodge
Title: Managing Director

WOCHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ Kimberly Shaffer

Name: Kimberly Shaffer
Title: Director

364 Day Credit Agreement

LEHMAN BROTHERS HOLDINGS, INC.

By: /s/ Jane E. Gillard

Name: Jane E. Gillard
Title: Associate

THE BANK OF NOVA SCOTIA

By: /s/ Carolyn A. Calloway

Name: Carolyn A. Calloway
Title: Managing Director

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Sandra J. Hartay

Name: Sandra J. Hartay
Title: Vice President

PNC BANK, NATIONAL ASSOCIATION

By: /s/ Richard M. Ellis

Name: Richard M. Ellis
Title: Senior Vice President

BRANCH BANKING AND TRUST COMPANY

By: /s/ Thatcher L. Townsend III

Name: Thatcher L. Townsend III
Title: Senior Vice President

364 Day Credit Agreement

NATIONAL CITY BANK OF KENTUCKY

By: /s/ Deroy Scott

Name: Deroy Scott
Title: Senior Vice President

THE BANK OF NEW YORK

By: /s/ Kevin A. Higgins

Name: Kevin A. Higgins
Title: Vice President

364 Day Credit Agreement

Commitment Amounts and Percentages;
Lending Offices: Address for Notices

A. Commitment Amounts and Percentages

<u>Name of Bank</u>	<u>Commitment Amount</u>	<u>Commitment Percentage</u>
JPMORGAN CHASE BANK	\$ 40,000,000	15.10%
BANK OF AMERICA, N.A.	30,000,000	11.32
CITIBANK, N.A.	30,000,000	11.32
WACHOVIA BANK, NATIONAL ASSOCIATION	30,000,000	11.32
LEHMAN BROTHERS HOLDINGS, INC.	25,000,000	9.43
THE BANK OF NOVA SCOTIA	25,000,000	9.43
U.S. BANK NATIONAL ASSOCIATION	25,000,000	9.43
PNC BANK, NATIONAL ASSOCIATION	17,500,000	6.60
NATIONAL CITY BANK OF KENTUCKY	15,000,000	5.66
BRANCH BANKING AND TRUST COMPANY	15,000,000	5.66
THE BANK OF NEW YORK	12,500,000	4.73
TOTALS	\$ 265,000,000	100.00%

B. LENDING OFFICES; ADDRESSES FOR NOTICES

JPMORGAN CHASE BANK

270 Park Ave, 15th Floor
New York, NY 10017
Attention: Shamir Khan
Telephone: (212) 270-5833

PNC BANK, NATIONAL ASSOCIATION

1600 Market Street, 22nd Floor
Philadelphia, PA 19103
Attention: Nicholas A. Aponte
Telephone: (215) 585-5407

THE BANK OF NOVA SCOTIA

600 Peachtree St. N.E.
Atlanta, GA 30308
Attention: Pat Brown
Telephone: (404) 877-1506

LEHMAN BROTHERS HOLDINGS, INC.

745 7th Avenue, 19th Floor
New York, NY 10019
Attention: Francis Chang
Telephone: (212) 526-5390

THE BANK OF NEW YORK

One Wall Street
New York, NY 10286
Attention: Patrick Vatel
Telephone: (212) 635-7882

NATIONAL CITY BANK OF KENTUCKY

101 South Fifth Street, 37th Floor
Louisville, KY 40202
Attention: Deroy Scott
Telephone: (502) 581-7821

BANK OF AMERICA, N.A.

100 N. Tryon Street, NC 1-007-17-11
Charlotte, NC 28255
Attention: Joe Corah
Telephone (704) 386-5976

WACHOVIA BANK, NATIONAL ASSOCIATION

1339 Chestnut Street
3rd Floor PA 4819
Philadelphia, PA 19107
Attention: Kimberly Shaffer
Telephone: (267) 321-7033

CITIBANK, N.A.

388 Greenwich Street
New York, NY 10013
Attention: David Dodge
Telephone: (212) 816-4143

U.S. BANK NATIONAL ASSOCIATION

777 E. Wisconsin Avenue, MK-WI-TGCB
Milwaukee, WI 53202
Attention: Sandra J. Hartay
Telephone: (414) 765-6004

BRANCH BANKING AND TRUST COMPANY

500 West Broadway
Louisville, KY 40202
Attention: Frank Eckerd
Telephone: (502) 562-5877

PRICING GRID

<u>Public Debt Ratings S&P/Moody's</u>	<u>Alternate Base Rate Margin</u>	<u>Eurodollar Margin</u>	<u>Facility Fee - Tranche A</u>	<u>Facility Fee - Tranche B</u>
Level 1 <input type="checkbox"/> BBB+/Baa1	0 bps	85 bps	15 bps	20.0 bps
Level 2 <input type="checkbox"/> BBB/Baa2	0 bps	95 bps	17.5 bps	22.5 bps
Level 3 <input type="checkbox"/> BBB-/Baa3	5 bps	105 bps	20.0 bps	25.0 bps
Level 4 <input type="checkbox"/> BB+/Ba1	20 bps	120 bps	30.0 bps	35.0 bps
Level 5 <input type="checkbox"/> BB-/Ba1	37.5 bps	137.5 bps	37.5 bps	50.0 bps

Pricing will be determined based upon the lower of the ratings from S&P or Moody's, but in the event the Company's ratings are more than one Level apart, the pricing will be determined by using the rating which is one Level above the lower rating; provided, that (i) if on any day the ratings from S&P or Moody's are not at the same Level, then the Level applicable to the lower of such ratings shall be applicable for such day, (ii) if on any day the rating of only one of S&P or Moody's is available, then the Level of such rating shall be applicable for such day and (iii) if on any day a rating is available from neither of S&P or Moody's, then Level 5 shall be applicable for such day. Any change in the applicable Level resulting from a change in the rating of a S&P or Moody's shall become effective on the date such change is publicly announced by S&P or Moody's, as applicable. Notwithstanding the foregoing, with respect to any Loan outstanding after the Termination Date, the Applicable Margin for such Loan, for the period from the Termination Date until the date on which such Loan is paid in full, shall be the percentage per annum which is the sum of (i) the Applicable Margin determined pursuant to the pricing grid set forth above for the applicable rating Level, plus (ii) the facility fee percentage determined pursuant to the pricing grid set forth above for the applicable rating Level, plus (iii) 0.25%.

SECOND AMENDED AND RESTATED
RFC LOAN AGREEMENT

among

HUMANA INC.,

THE SEVERAL BANKS AND OTHER FINANCIAL INSTITUTIONS
FROM TIME TO TIME PARTIES HERETO,

RELATIONSHIP FUNDING COMPANY, LLC,

AND

JPMORGAN CHASE BANK,
AS ADMINISTRATIVE AGENT,

BANK OF AMERICA, N.A.,

CITIBANK, N.A.

and

WACHOVIA BANK, NATIONAL ASSOCIATION

and

J.P. MORGAN SECURITIES INC.

DATED AS OF OCTOBER 1, 2003

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SECOND AMENDED AND RESTATED RFC LOAN AGREEMENT, dated as of October 1, 2003, among HUMANA INC., a Delaware corporation (the "Company"), RELATIONSHIP FUNDING COMPANY, LLC, a Delaware limited liability company ("RFC"), the institutions listed in the signature pages hereto as Liquidity Institutions (together with their successors and permitted assigns, the "Banks") and JPMORGAN CHASE BANK, a New York banking corporation, as administrative agent for RFC and the Banks (in such capacity, the "Agent").

WITNESSETH:

WHEREAS, the parties hereto are party to the Amended and Restated RFC Loan Agreement, dated as of October 2, 2002 (the "Existing Loan Agreement"), among the Company, RFC, the Banks and the Agent, pursuant to which the Company could request from RFC, and RFC could, in its sole discretion, agree to make to the Company, revolving loans;

WHEREAS, the Company has requested RFC and the Banks to enter into a loan agreement that amends and restates the Existing Loan Agreement; and

WHEREAS, the Banks are willing to enter into such loan agreement upon and subject to the terms and conditions hereafter set forth;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto hereby agree that, effective as of the Closing Date (as defined below), the Existing Loan Agreement shall be amended and restated in its entirety as follows:

SECTION 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the following terms have the following meanings:

"Admitted Asset": with respect to any HMO Subsidiary or Insurance Subsidiary, any asset of such HMO subsidiary or Insurance Subsidiary which qualifies as an "admitted asset" (or any like item) under the applicable Insurance Regulations and HMO Regulations.

"Affiliate": as to any Person, any other Person (other than a Subsidiary) which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Aggregate Outstanding Extensions of Credit": an amount equal to the aggregate principal amount of all RFC Loans then outstanding.

"Agreement": this agreement, as the same may be amended, supplemented or otherwise modified from time to time.

“Alternate Base Rate”: for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Base CD Rate in effect on such day plus 1% and (c) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%. For purposes hereof: “Prime Rate” shall mean the rate of interest per annum publicly announced from time to time by the Agent as its prime rate in effect at its principal office in New York City (each change in the Prime Rate to be effective on the date such change is publicly announced); “Base CD Rate” shall mean the sum of (a) the product of (i) the Three-Month Secondary CD Rate and (ii) a fraction, the numerator of which is one and the denominator of which is one minus the C/D Reserve Percentage and (b) the C/D Assessment Rate; “Three-Month Secondary CD Rate” shall mean, for any day, the secondary market rate for three-month certificates of deposit reported as being in effect on such day (or, if such day shall not be a Business Day, the next preceding Business Day) by the Board of Governors of the Federal Reserve System (the “Board”) through the public information telephone line of the Federal Reserve Bank of New York (which rate will, under the current practices of the Board, be published in Federal Reserve Statistical Release H.15(519) during the week following such day), or, if such rate shall not be so reported on such day or such next preceding Business Day, the average of the secondary market quotations for three-month certificates of deposit of major money center banks in New York City received at approximately 10:00 A.M., New York City time, on such day (or, if such day shall not be a Business Day, on the next preceding Business Day) by the Agent from three New York City negotiable certificate of deposit dealers of recognized standing selected by it; “C/D Reserve Percentage” shall mean, for any day, that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board (or any successor), for determining the maximum reserve requirement for a member bank of the Federal Reserve System in New York City with deposits exceeding one billion Dollars in respect of new non-personal three-month certificates of deposit in the secondary market in Dollars in New York City and in an amount of \$100,000 or more; “C/D Assessment Rate” shall mean, for any day, the net annual assessment rate (rounded upward to the nearest 1/100th of 1%) determined by JPMorgan Chase Bank to be payable on such day to the Federal Deposit Insurance Corporation or any successor (“FDIC”) for FDIC’s insuring time deposits made in Dollars at offices of JPMorgan Chase Bank in the United States; and “Federal Funds Effective Rate” shall mean, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for the day of such transactions received by the Agent from three federal funds brokers of recognized standing selected by it. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Three-Month Secondary CD Rate or the Federal Funds Effective Rate shall be effective on the effective day of such change in the Prime Rate, the Three-Month Secondary CD Rate or the Federal Funds Effective Rate, respectively.

“Allocated Commercial Paper”: has the meaning assigned to it in the definition of CP Breakage Costs.

“Alternate Base Rate Loans”: RFC Loans held by the Banks hereunder at such time as they are made and/or being maintained at a rate of interest based upon the Alternate Base Rate.

“Applicable Margin”: for each Type of RFC Loan (other than CP Rate Loans), the rate per annum applicable to such type determined in accordance with the Pricing Grid.

“Available Facility Amount”: at a particular time, an amount equal to the difference between (a) the amount of the Facility Amount at such time and (b) the Aggregate Outstanding Extensions of Credit at such time.

“Bank Funded Loans”: RFC Loans that have been made by the Banks pursuant to subsection 2.1(c) or purchased by the Banks pursuant to the Liquidity Agreement. RFC Loans purchased by the Banks pursuant to the Liquidity Agreement shall be RFC Loans until the earliest to occur of (i) such RFC Loans being repaid pursuant hereto, (ii) such RFC Loans being repurchased by RFC pursuant to subsection 4.12 of the Liquidity Agreement and (iii) such RFC Loans being converted into loans under the 364 Day Facility pursuant to subsection 2.19.

“Banks”: as defined in the preamble hereto.

“Benefited Bank”: as defined in subsection 9.7.

“Borrowing Date”: any Business Day specified in a notice pursuant to subsection 2.1(b) or 2.1(c) as a date on which the Company requests RFC or each Bank (as the case may be) to make an RFC Loan hereunder.

“Business Day”: a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close, provided, that with respect to notices and determinations in connection with, and payments of principal and interest on, Eurodollar Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.

“Capital Stock”: any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants or options to purchase any of the foregoing.

“Change in Control”: of any corporation, shall occur where (a) any Person or “group” (as defined in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended), other than the Company, shall acquire more than 30% of the Voting Stock of such corporation or (b) the Continuing Directors shall not constitute a majority of the board of directors of such corporation.

“Closing Date”: the date on which all of the conditions precedent for the Closing Date set forth in Section 4 shall have been fulfilled.

“Code”: the Internal Revenue Code of 1986, as amended from time to time.

“Commercial Paper” means any short-term promissory notes issued by the CP Issuer in the commercial paper market.

“Commitment”: as to any Bank, its Commitment as defined in the Liquidity Agreement.

“Commitment Percentage”: as to any Bank, the percentage of the aggregate Commitments constituted by such Bank’s Commitment.

“Commonly Controlled Entity”: an entity, whether or not incorporated, which is under common control with the Company within the meaning of Section 4001 of ERISA or is part of a group which includes the Company and which is treated as a single employer under Section 414 of the Code.

“Conduit Lender”: any special purpose corporation organized and administered by any Bank for the purpose of making RFC Loans otherwise required to be made by such Bank and designated by such Bank in a written instrument; provided, that the designation by any Bank of a Conduit Lender shall not relieve the designating Bank of any of its obligations to fund a RFC Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such RFC Loan, and the designating Bank (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this Agreement with respect to its Conduit Lender, and provided, further, that no Conduit Lender shall (a) be entitled to receive any greater amount pursuant to subsection 2.12, 2.13, 2.14, 2.15 or 9.5 than the designating Bank would have been entitled to receive in respect of the extensions of credit made by such Conduit Lender (and each Bank which designates a Conduit Lender shall indemnify the Company against any increased taxes, costs, expenses, liabilities or losses associated with any payment thereunder to such Conduit Lender) or (b) be deemed to have any Commitment.

“Consolidated Assets”: the consolidated assets of the Company and its Subsidiaries, determined in accordance with GAAP.

“Consolidated EBIT”: for any period for which the amount thereof is to be determined, Consolidated Net Income for such period plus all amounts deducted in computing such Consolidated Net Income in respect of Consolidated Interest Expense and income taxes, all determined in accordance with GAAP; provided, that for purposes of calculating Consolidated EBIT for any period of four full fiscal quarters, (i) the Consolidated EBIT attributable to any Person or business unit acquired by the Company or its Subsidiaries during such period (such Consolidated EBIT to be calculated in the same manner as Consolidated EBIT for the Company and its Subsidiaries is calculated, mutatis mutandis, provided that amounts arising prior to the time such acquired Person or business unit was acquired attributable to (a) any discontinued operations or products of the acquired Person or business unit or (b) operations or products of the acquired Person or business unit which the Company expects to discontinue as disclosed in the

Company's reports filed with the Securities and Exchange Commission within three months after the date of acquisition of such Person or business unit shall be excluded in such calculation) shall be included on a pro forma basis for such period of four full fiscal quarters (assuming the consummation of each such acquisition and the incurrence, assumption or repayment of any Indebtedness in connection therewith occurred on the first day of such period of four full fiscal quarters) and (ii) the Consolidated EBIT of any Person or business unit disposed of by the Company or its Subsidiaries during such period (such Consolidated EBIT to be calculated in the same manner as Consolidated EBIT for the Company and its Subsidiaries is calculated, mutatis mutandis) shall be deducted on a pro forma basis for such period of four full fiscal quarters (assuming the consummation of each such disposition and the repayment of any Indebtedness in connection therewith occurred on the first day of such period of four full fiscal quarters).

"Consolidated EBITDA": for any fiscal period for which the amount thereof is to be determined, Consolidated EBIT for such fiscal period plus, to the extent deducted from Consolidated Net Income for such fiscal period, depreciation and amortization for such fiscal period.

"Consolidated Interest Expense": for any period for which the amount thereof is to be determined, all amounts deducted in computing Consolidated Net Income for such period in respect of interest expense on Indebtedness determined in accordance with GAAP; provided, that for purposes of calculating Consolidated Interest Expense for any period of four full fiscal quarters, (i) the Consolidated Interest Expense of any Person or business unit acquired by the Company or its Subsidiaries during such period (such Consolidated Interest Expense to be calculated in the same manner as Consolidated Interest Expense for the Company and its Subsidiaries is calculated, mutatis mutandis, provided that amounts arising prior to the time such acquired Person or business unit was acquired attributable to (a) any discontinued operations or products of the acquired Person or business unit or (b) operations or products of the acquired Person or business unit which the Company expects to discontinue as disclosed in the Company's reports filed with the Securities and Exchange Commission within three months after the date of acquisition of such Person or business unit shall be excluded in such calculation) shall be included on a pro forma basis for such period of four full fiscal quarters (assuming the consummation of each such acquisition and the incurrence, assumption or repayment of any Indebtedness in connection therewith occurred on the first day of such period of four full fiscal quarters) and (ii) the Consolidated Interest Expense of any Person or business unit disposed of by the Company or its Subsidiaries during such period (such Consolidated Interest Expense to be calculated in the same manner as Consolidated Interest Expense for the Company and its Subsidiaries is calculated, mutatis mutandis) shall be deducted on a pro forma basis for such period of four full fiscal quarters (assuming the consummation of each such disposition and the repayment of any Indebtedness in connection therewith occurred on the first day of such period of four full fiscal quarters). Consolidated Interest Expense shall in any event include the Synthetic Lease Interest Component of any Synthetic Lease entered into by the Company or any of its Subsidiaries.

“Consolidated Net Income”: for any period, the consolidated net income, if any, after taxes, of the Company and its Subsidiaries for such period determined in accordance with GAAP; provided, that, for all purposes other than subsection 6.1(a), Consolidated Net Income shall not be reduced or increased by the amount of any non-cash extraordinary charges or credits that would otherwise be deducted from or added to revenue in determining such Consolidated Net Income.

“Consolidated Net Tangible Assets”: at any date, the total amount of assets (less applicable reserves and other properly deductible items) after deducting therefrom (i) all current liabilities as disclosed on the consolidated balance sheet of the Company (excluding any thereof which are by their terms extendable or renewable at the option of the obligor thereon to a time more than 12 months after the time as of which the amount thereof is being computed and excluding any deferred income taxes that are included in current liabilities), and (ii) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangible assets, all as set forth on the most recent consolidated balance sheet of the Company and computed in accordance with GAAP.

“Consolidated Net Worth”: at any date, the stockholders’ equity of the Company and its Subsidiaries at such date, determined in accordance with GAAP.

“Consolidated Total Debt”: the aggregate of all Indebtedness (including the current portion thereof) of the Company and its Subsidiaries on a consolidated basis.

“Continuing Director”: any member of the Board of Directors of the Company who is a member of such Board on the date of this Agreement, and any Person who is a member of such Board and whose nomination as a director was approved by a majority of the Continuing Directors then on such Board.

“Contractual Obligation”: as to any Person, any provision of any security issued by such Person or of any agreement, instrument or undertaking to which such Person is a party or by which it or any of its property is bound.

“Control Group Person”: any Person which is a member of the controlled group or is under common control with the Company within the meaning of Section 414(b) or 414(c) of the Code or Section 4001(b)(1) of ERISA.

“CP Breakage Costs” means, with respect to any CP Excess Amount on any date (such date, the **“CP Payment Date”**), an amount equal to the excess, if any, of (i) the sum of (a) all interest that would have accrued (had such CP Payment Date not occurred) on such CP Excess Amount through and including the later to occur of (x) the day on which the principal component of Commercial Paper issued by the CP Issuer and allocated by the CP Issuer to fund advances under the Lexington Credit Agreement and used to fund or maintain one or more CP Rate Loans that will mature on or after the relevant CP Payment Date equals or exceeds such CP Excess Amount (such principal component, **“Allocated Commercial Paper”**) and (y) the day on which the latest maturing rate hedge agreement entered into by the CP Issuer and relating to the Commercial Paper described

in clause (x) hereof matures (such later date, the “Relevant Maturity Date”), plus (b) any amounts required to be paid to unwind any relevant rate hedge agreements, over (ii) the amount of income (less the reasonable costs and expenses of obtaining such income), if any, actually received by the CP Issuer from investing the CP Excess Amount for the period from such CP Payment Date until such Relevant Maturity Date.

“CP Cost of Funds” means, for each Settlement Period, the sum of (i) the per annum rate equivalent to the daily weighted average of the per annum rates which may be paid or are payable by the CP Issuer from time to time as interest on or otherwise in respect of the Commercial Paper of the CP Issuer and/or rate hedges that are allocated, in whole or in part, by the CP Issuer to the CP Rate Loans during the period commencing on the immediately preceding Settlement Date and ending on (but excluding) the current Settlement Date (such period, a “Settlement Period”), which rates shall reflect and give effect to (x) the commissions of placement agents and dealers in respect of Commercial Paper of the CP Issuer allocated to such period, and (y) net payments owed or received by the CP Issuer under any rate hedges entered into by the CP Issuer in connection therewith, plus (ii) the cost of all audit, rating agency and administrative expenses related to the facility, which shall equal 0.02%; provided that if any component of such rate is a discount rate, then in calculating the “CP Cost of Funds” for such Settlement Period, the CP Issuer shall for such component use the rate resulting from converting such discount rate to an interest-bearing equivalent rate per annum.

“CP Excess Amount”: as defined in subsection 2.15(d)(ii).

“CP Issuer”: Lexington Parker Capital Company, LLC, a Delaware limited liability company, and each other lender under the Lexington Credit Agreement.

“CP Margin”: as defined in the Program Fee Letter.

“CP Rate”: for each Settlement Period, the sum of (i) the CP Cost of Funds for such Settlement Period, plus (ii) the CP Margin.

“CP Rate Loans”: the RFC Loans held by RFC that bear interest at the CP Rate.

“Cross-Over Funding Date”: as defined in subsection 2.3.

“Default”: any of the events specified in subsection 7.1, whether or not any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

“Distribution”: (a) the declaration or payment of any dividend on or in respect of any shares of any class of Capital Stock of the Company other than dividends payable solely in shares of common stock of the Company; (b) the purchase, redemption or other acquisition of any shares of any class of Capital Stock of the Company directly or indirectly through a Subsidiary or otherwise; and (c) any other distribution on or in respect of any shares of any class of Capital Stock of the Company.

“Dollars” and “\$”: dollars in lawful currency of the United States of America.

“Domestic Lending Office”: with respect to each Bank the office of such Bank located within the United States which shall be making or maintaining Alternate Base Rate Loans.

“Downgrade Deposit”: as defined in Exhibit I to the Liquidity Agreement.

“Eligible Assignee”: as defined in Exhibit I to the Liquidity Agreement.

“ERISA”: the Employee Retirement Income Security Act of 1974, as amended from time to time.

“Eurocurrency Reserve Requirements”: for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including, without limitation, basic, supplemental, marginal and emergency reserves under any regulations of the Board of Governors of the Federal Reserve System or other Governmental Authority having jurisdiction with respect thereto), dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of such Board) maintained by a member bank of such System.

“Eurodollar Lending Office”: with respect to each Bank, the office of such Bank which shall be making or maintaining Eurodollar Loans.

“Eurodollar Loans”: RFC Loans held by the Banks hereunder at such time as they are being made and/or maintained at a rate of interest based upon the Eurodollar Rate.

“Eurodollar Rate”: with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum equal to the average (rounded upwards to the nearest whole multiple of one sixteenth of one percent) of the respective rates notified to the Agent by the Reference Banks as the rate at which each of their Eurodollar Lending Offices is offered Dollar deposits two Working Days prior to the beginning of such Interest Period in the interbank eurodollar market where the eurodollar and foreign currency and exchange operations of such Eurodollar Lending Office are then being conducted at or about 10:00 A.M., New York City time, for delivery on the first day of such Interest Period for the number of days comprised therein and in an amount comparable to the amount of the Eurodollar Loan of such Reference Bank to be outstanding during such Interest Period.

“Eurodollar Tranche”: the collective reference to Eurodollar Loans having the same Interest Period (whether or not originally made on the same day).

“Event of Default”: any of the events specified in subsection 7.1, provided that any requirement for the giving of notice, the lapse of time, or both, or any other condition, event or act has been satisfied.

“Excluded Day”: means any of the following:

- (1) the last 5 Business Days of a month;
- (2) the 15th day of the month (or if the 15th is not a Business Day, the next succeeding Business Day);
- (3) the last 10 Business Days of November; and
- (4) the last 15 Business Days of December.

“Facility Amount”: means \$265,000,000, as such amount may be reduced from time to time as provided herein.

“Facility Period”: the period from and including the Closing Date to but not including the first to occur of (i) the Termination Date or such earlier date on which the Facility Amount is reduced to zero as provided herein or (ii) the Wind-Down Date.

“Financing Lease”: any lease of property, real or personal, if the then present value of the minimum rental commitment thereunder should, in accordance with GAAP, be capitalized on a balance sheet of the lessee.

“GAAP”: (a) with respect to determining compliance by the Company with the provisions of subsections 6.1, 6.2 and 6.5, generally accepted accounting principles in the United States of America consistent with those utilized in preparing the audited financial statements referred to in subsection 3.6 and (b) with respect to the financial statements referred to in subsection 3.6 or the furnishing of financial statements pursuant to subsection 5.4 and otherwise, generally accepted accounting principles in the United States of America from time to time in effect.

“Governmental Authority”: 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.

“Green Bay Facility”: offices of the Company located at 1100 Employers Boulevard, De Pere, Wisconsin.

“Guarantee Obligation”: as to any Person, any arrangement whereby credit is extended to one party on the basis of any promise of such Person, whether that promise is expressed in terms of an obligation to pay the Indebtedness of another, or to purchase an obligation owed by that other, to purchase assets or to provide funds in the form of lease or other types of payments under circumstances that would enable that other to discharge one or more of its obligations, whether or not such arrangement is listed in the balance sheet of the obligor or referred to in a footnote thereto, but shall not include endorsements of items for collection in the ordinary course of business.

“Headquarters”: the principal executive offices of the Company located at 500 West Main Street, Louisville, Kentucky 40202.

“Hedge Agreement” means all interest rate swaps, caps or collar agreements or similar arrangements dealing with interest rates or currency exchange rates or the exchange of nominal interest obligations, either generally or under specific contingencies.

“HMO”: a health maintenance organization doing business as such (or required to qualify or to be licensed as such) under HMO Regulations.

“HMO Regulation”: all laws, regulations, directives and administrative orders applicable under federal or state law specific to health maintenance organizations and any regulations, orders and directives promulgated or issued pursuant thereto.

“HMO Regulator”: any Person charged with the administration, oversight or enforcement of an HMO Regulation.

“HMO Subsidiary”: any Subsidiary of the Company that is now or hereafter an HMO.

“Indebtedness”: of a Person, at a particular date, the sum (without duplication) at such date of (a) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services or which is evidenced by a note, bond, debenture or similar instrument, (b) all obligations of such Person under Financing Leases, (c) all obligations of such Person in respect of letters of credit, acceptances, or similar obligations issued or created for the account of such Person in excess of \$1,000,000, (d) all liabilities secured by any Lien on any property owned by the Company or any Subsidiary even though such Person has not assumed or otherwise become liable for the payment thereof, (e) the amount of any Synthetic Lease Obligations of such Person, (f) all Guarantee Obligations relating to any of the foregoing in excess of \$1,000,000, and (g) for purposes of subsection 8.1(e) only, all obligations of such Person in respect of Interest Rate Protection Agreements.

“Insolvency” or “Insolvent”: at any particular time, a Multiemployer Plan which is insolvent within the meaning of Section 4245 of ERISA.

“Insurance Regulation”: any law, regulation, rule, directive or order applicable and specific to an insurance company.

“Insurance Regulator”: any Person charged with the administration, oversight or enforcement of any Insurance Regulation.

“Insurance Subsidiary”: any Subsidiary of the Company that is now or hereafter doing business (or required to qualify or to be licensed) under Insurance Regulations.

“Interest Payment Date”: (a) as to any Alternate Base Rate Loan, the last day of each March, June, September and December, commencing on the first of such days to occur after Alternate Base Rate Loans are made or Eurodollar Loans are converted to Alternate Base Rate Loans and the final maturity date of such RFC Loan, (b) as to any Eurodollar Loan in

respect of which the Company has selected an Interest Period of one, two or three months, the last day of such Interest Period, (c) as to any Eurodollar Loan in respect of which the Company has selected a longer Interest Period than the periods described in clause (b), each day that is three months, or a whole multiple thereof, after the first day of such Interest Period and (d) with respect to any CP Rate Loan, the related Settlement Date with respect thereto.

“Interest Period”: with respect to any Eurodollar Loans:

(i) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loans and ending one, two, three or six months thereafter (or, with the consent of all the Banks, nine or twelve months thereafter), as selected by the Company in its notice of borrowing as provided in subsection 2.1(b) or its notice of conversion as provided in subsection 2.6(b), as the case may be; and

(ii) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Eurodollar Loans and ending one, two, three or six months thereafter (or, with the consent of all the Banks, nine or twelve months thereafter), as selected by the Company by irrevocable notice to the Agent not less than three Business Days prior to the last day of the then current Interest Period with respect to such Eurodollar Loans;

provided that, all of the foregoing provisions relating to Interest Periods are subject to the following:

(1) if any Interest Period pertaining to a Eurodollar Loan would otherwise end on a day which is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(2) if the Company shall fail to give notice as provided above, the Company shall be deemed to have selected an Alternate Base Rate Loan to replace the affected Eurodollar Loan;

(3) any Interest Period pertaining to a Eurodollar Loan that begins on the last Business Day of a 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 end on the last Business Day of a calendar month;

(4) any interest period pertaining to a Eurodollar Loan that would otherwise end after the Termination Date shall end on the Termination Date;

(5) the Company shall select Interest Periods so as not to require a payment or prepayment of any Eurodollar Loan during an Interest Period for such RFC Loan.

“Interest Rate Protection Agreement”: any interest rate protection agreement, interest rate futures contract, interest rate option, interest rate cap or other interest rate

hedge arrangement to or under which the Company or any of its Subsidiaries is a party or a beneficiary on the date hereof or becomes a party or a beneficiary after the date hereof.

“Jacksonville Facility”: the offices of the Company located at 76 South Laura Street, Jacksonville, Florida.

“Lender Affiliate”: (a) any Affiliate of any Bank, (b) any Person that is administered or managed by any Bank and that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and (c) with respect to any Bank which is a fund that invests in commercial loans and similar extensions of credit, any other fund that invests in commercial loans and similar extensions of credit and is managed or advised by the same investment advisor as such Bank or by an Affiliate of such Bank or investment advisor.

“Leverage Ratio”: at the last day of any full fiscal quarter of the Company, the ratio of (a) all Indebtedness of the Company and its Subsidiaries outstanding on such date to (b) Consolidated EBITDA for the period of four fiscal quarters of the Company ended on such day.

“Lexington”: Lexington Parker Capital Company, LLC, a Delaware limited liability company.

“Lexington Credit Agreement”: the Credit Agreement dated as of December 12, 2000, among RFC, Lexington and the other lenders, as amended, restated, supplemented or otherwise modified.

“Lien”: any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), or preference, priority or other security agreement or preferential arrangement that has the same practical effect as any of the foregoing (including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing).

“Liquidity Agreement”: the Liquidity Agreement, dated as of October 11, 2001, as amended by Amendment No. 1 thereto, among RFC, the liquidity institutions from time to time party thereto and JPMorgan Chase Bank as Administrative Agent, as the same has been and may be further amended, supplemented and modified from time to time.

“Loan Documents”: this Agreement and the Notes.

“Margin Stock”: as defined in Regulation U.

“Margin Stock Collateral”: all Margin Stock (other than Portfolio Margin Stock) of the Company and its Subsidiaries by which the RFC Loans are deemed “indirectly secured” within the meaning of Regulation U.

“Material Adverse Effect”: any material adverse effect on (a) the business, assets, operations or condition (financial or otherwise) of the Company and its Subsidiaries taken as a whole, (b) the ability of the Company to perform its obligations under this Agreement and the Notes or (c) the rights and remedies of the Banks with respect to the Company and its Subsidiaries under any of the Loan Documents.

“Multiemployer Plan”: a Plan which is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Non-U.S. Bank”: as defined in subsection 2.14(b).

“Note”: as defined in subsection 2.2(e).

“Other Collateral”: all assets of the Company and its Subsidiaries (other than Margin Stock) by which the RFC Loans are deemed “indirectly secured” within the meaning of Regulation U.

“Participants”: as defined in subsection 9.6(b).

“PBGC”: the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA.

“Person”: an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Plan”: at a particular time, any employee benefit plan which is covered by ERISA and in respect of which the Company or a Control Group Person is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Portfolio Margin Stock”: Margin Stock held by Insurance Subsidiaries or HMO Subsidiaries as portfolio investments, as to which the restrictions of Section 6 shall not apply.

“Pricing Grid”: the Pricing Grid set forth in Schedule II.

“Program Fee Letter”: the letter dated as of October 3, 2001 between the Agent, the Company and RFC, as the same may from time to time be amended, modified or otherwise supplemented.

“Purchasing Banks”: as defined in subsection 9.6(d).

“Reference Banks”: JPMorgan Chase Bank, Citibank, N.A. and Bank of America, N.A.

“Register”: as defined in subsection 9.6(e).

“Regulation T”: Regulation T of the Board of Governors of the Federal Reserve System.

“Regulation U”: Regulation U of the Board of Governors of the Federal Reserve System.

“Regulation X”: Regulation X of the Board of Governors of the Federal Reserve System.

“Reorganization”: with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of such term as used in Section 4241 of ERISA.

“Reportable Event”: any of the events set forth in Section 4043(b) of ERISA, other than those events as to which the thirty day notice period is waived under subsections .22, .23, .25, .27 or .28 of PBGC Reg. § 4043.

“Required Banks”: (a) during the Facility Period, Banks whose Commitment Percentages aggregate at least 51% and (b) after the Facility Amount has been reduced to zero, Banks whose outstanding Bank Funded Loans represent in the aggregate at least 51% of all outstanding Bank Funded Loans.

“Requirement of Law”: as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Responsible Officer”: the chief executive officer, the chief operating officer, the president, any executive or senior vice president or vice president of the Company, the chief financial officer, treasurer or controller of the Company.

“RFC Facility Amount”: means \$265,000,000, as such amount may be reduced from time to time as provided in subsection 2.4(d).

“RFC Loans”: all loans made by any of RFC and/or the Banks hereunder.

“RFC Obligations”: as defined in subsection 7.1.

“Riverview Square”: the office building of the Company located at 201 West Main Street, Louisville, Kentucky 40202.

“Section 2.1(c) Election”: as defined in subsection 2.1(c).

“Settlement Date”: for any CP Rate Loan, one or all of the first five Business Days of the month following the month in which the Borrowing Date for such RFC Loan occurs as specified in a notice to the Agent from RFC or any other Business Day agreeable to the Company and RFC.

“Settlement Period”: as defined in the definition of “CP Cost of Funds”.

“Significant Subsidiary”: means, at any particular time, any Subsidiary of the Company that would be a “significant subsidiary” of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the Securities and Exchange Commission.

“Single Employer Plan”: any Plan which is covered by Title IV of ERISA, but which is not a Multiemployer Plan.

“Solvent”: with respect to any Person (or group of Persons) on a particular date, that on such date (i) the fair value of the property of such Person (or group of Persons) is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person (or group of Persons), (ii) the present fair salable value of the assets of such Person (or group of Persons) is not less than the amount that will be required to pay the probable liability of such Person (or group of Persons) on its debts as they become absolute and matured, (iii) such Person (or group of Persons) is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (iv) such Person (or group of Persons) does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s (or group of Person’s) ability to pay as such debts and liabilities mature, (v) such Person (or group of Persons) is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person’s (or group of Person’s) property (after giving effect to any engagement in such business or transaction) would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person (or group of Persons) is engaged and (vi) such Person (or group of Persons) is solvent under all applicable HMO Regulations and Insurance Regulations. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Subsidiary”: as to any Person, a corporation of which shares of stock having ordinary voting power (other than stock having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a Subsidiary or Subsidiaries of the Company.

“Supplemental Fee”: as defined in subsection 2.3(a).

“Synthetic Lease”: each arrangement, however described, under which the obligor accounts for its interest in the property covered thereby under GAAP as lessee of a lease which is not a capital lease under GAAP and accounts for its interest in the property covered thereby for Federal income tax purposes as the owner.

“Synthetic Lease Interest Components”: with respect to any Person for any period, the portion of rent paid or payable (without duplication) for such period under Synthetic Leases for such Person that would be treated as interest in accordance with Financial Accounting Standards Board Statement No. 13 if such Synthetic Leases were treated as capital leases under GAAP.

“Synthetic Lease Obligation”: as to any Person with respect to any Synthetic Lease at any time of determination, the amount of the liability of such Person in respect of such Synthetic Lease that would (if such lease was required to be classified and accounted for as a capital lease on a balance sheet of such Person in accordance with GAAP) be required to be capitalized on the balance sheet of such Person at such time.

“Taxes”: as defined in subsection 2.14.

“Termination Date”: the date that is 364 days after the Closing Date (or, if such date is not a Business Day, the next preceding Business Day).

“364-Day Facility” means the Second Amended and Restated 364-Day Revolving Credit Agreement, dated as of October 1, 2003 among the Company, the several banks and other financial institutions from time to time party thereto and JPMorgan Chase Bank, as Agent and CAF Loan Agent thereunder, as the same has been and may be amended, supplemented and modified from time to time.

“Transfer Supplement”: a Transfer Supplement, substantially in the form of Exhibit B.

“Type”: as to any RFC Loan, its nature as an Alternate Base Rate Loan, Eurodollar Loan or CP Rate Loan.

“Waterside Building”: the real property located at 101 East Main Street, Louisville, Kentucky 40202, including the building housing insurance claim processing operations of the Company.

“Waterside Garage”: the parking garage of the Company located at 201 North Brook Street, Louisville, Kentucky 40202.

“Wind-Down Date”: the date on which RFC receives a notice from the Agent on or after a Wind-Down Event has occurred and is continuing.

“Wind-Down Event”: any one or more of the following events:

- (1) An Event of Default has occurred and is continuing;
- (2) Any Default or Event of Default has occurred and is continuing under the 364-Day Facility;
- (3) the Leverage Ratio on the last day of any full fiscal quarter of the Company is greater than 2.30 to 1.00:

(4) the ratio of (i) Consolidated EBIT for any period of four consecutive fiscal quarters of the Company to (ii) Consolidated Interest Expense during such period, is less than 4.20 to 1.00:

(5) The Company's long-term unsecured indebtedness is rated less than BBB- by S&P and less than Baa3 by Moody's.

“Working Day”: any Business Day on which dealings in foreign currencies and exchange between banks may be carried on in London, England.

1.2 Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the Notes or any certificate or other document made or delivered pursuant hereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, accounting terms relating to the Company and its Subsidiaries not defined in subsection 1.1 and accounting terms partly defined in subsection 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP.

(c) The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, subsection, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

SECTION 2. AMOUNT AND TERMS OF LOANS

2.1 RFC Loans. (a) Subject to the terms and conditions hereof, RFC may, in its sole discretion, make loans to the Company from time to time during the Facility Period in an aggregate principal amount at any one time outstanding which does not exceed the RFC Facility Amount. Subject to the terms and conditions hereof, the Banks shall make loans pursuant to a Section 2.1(c) Election; provided, that, after giving effect thereto, the aggregate sum of RFC Loans made by the Banks pursuant to Section 2.1(c) Elections would not exceed the Facility Amount less the RFC Facility Amount as reduced pursuant to subsection 2.4(d); provided, further, that, after giving effect thereto, the sum of the outstanding principal amount of CP Rate Loans made by RFC and any RFC Loans purchased by the Banks under the Liquidity Agreement shall not exceed the RFC Facility Amount. Notwithstanding anything herein, the aggregate principal amount of outstanding RFC Loans shall not exceed the Facility Amount. During the Facility Period the Company may use the Facility Amount by borrowing, prepaying the RFC Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The RFC Loans held by RFC will be CP Rate Loans. RFC Loans purchased from RFC by the Banks pursuant to the Liquidity Agreement, may be (i) Eurodollar Loans, (ii) Alternate Base Rate Loans or (iii) a combination thereof, as determined by the Company and notified to

the Agent in accordance with subsection 2.6. Eurodollar Loans shall be maintained by each Bank at its Eurodollar Lending Office, and Alternate Base Rate Loans shall be maintained by each Bank at its Domestic Lending Office. Notwithstanding anything to the contrary set forth herein, nothing in this Agreement shall be construed as a commitment by RFC to make RFC Loans to the Company.

(b) The Company may request a borrowing from RFC hereunder during the Facility Period on any Business Day other than an Excluded Day; provided that the Company shall give RFC and the Agent irrevocable notice (which notice must be received by RFC prior to 3:00 P.M., New York City time one Business Day prior to the requested Borrowing Date) specifying (A) the amount to be borrowed and (B) the requested Borrowing Date (which shall not be an Excluded Day); provided, that if such notice is not received prior to such deadline, RFC will use its best efforts given prevailing market conditions to fund the CP Rate Loan on the requested Borrowing Date; provided, further, that at no time shall the sum of any requested borrowing or borrowings pursuant to this subsection 2.1(b) and subsection 2.1(c) exceed the Available Facility Amount. Each borrowing hereunder shall be in an aggregate principal amount equal to \$10,000,000 or a whole multiple of \$1,000,000 in excess thereof. RFC shall notify the Company and the Agent by 11:30 A.M., New York City time, on the requested Borrowing Date if it does not intend to make the requested RFC Loan. If RFC decides to make the requested RFC Loan, RFC will make the amount thereof available to the Agent for the account of the Company at the office of the Agent set forth in subsection 9.2 prior to the close of business, New York City time, on the Borrowing Date requested by the Company in funds immediately available to the Agent. The proceeds of such RFC Loan will then be promptly made available to the Company by the Agent at such office of the Agent by crediting the account of the Company on the books of such office with the aggregate of the amounts made available to the Agent by RFC.

(c) The Company may elect to make a borrowing (such election, a "Section 2.1(c) Election") from the Banks hereunder during the Facility Period on any Working Day if the borrowing is of Eurodollar Loans or on any Business Day if the borrowing is of Alternate Base Rate Loans; provided that the Company shall give the Agent irrevocable notice (which notice must be received by the Agent (i) prior to 11:30 A.M., New York City time three Working Days prior to the requested Borrowing Date, in the case of Eurodollar Loans, and (ii) prior to 12:00 P.M., New York City time, on the requested Borrowing Date, in the case of Alternate Base Rate Loans), specifying (A) the amount to be borrowed, (B) the requested Borrowing Date, (C) whether such Loans are to be Eurodollar Loans, Alternate Base Rate Loans, or a combination thereof, and (D) if the borrowing is to be entirely or partly of Eurodollar Loans, the length of the Interest Period therefor; provided, further, that at no time shall the sum of any requested borrowing or borrowings pursuant to subsection 2.1(b) and this subsection 2.1(c) exceed the Available Facility Amount. Each borrowing hereunder shall be in an aggregate principal amount equal to \$10,000,000 or a whole multiple of \$1,000,000 in excess thereof. Upon receipt of such notice from the Company, the Agent shall promptly notify each Bank thereof. Each Bank will make the amount of its pro rata share of each borrowing pursuant to a Section 2.1(c) Election available to the Agent for the account of the Company at the office of the Agent set forth in subsection 9.2 prior to the close of business, New York City time, on such date in funds immediately available to the Agent. The proceeds of such RFC Loan will then be promptly made available to the Company by the Agent at such office of the Agent by crediting the account

of the Company on the books of such office with the aggregate of the amounts made available to the Agent by Banks.

2.2 Repayment of RFC Loans; Evidence of Debt. (a) The Company hereby unconditionally promises to pay to RFC or the Agent for the account of the Banks, as the case may be, the then unpaid principal amount of each RFC Loan, except CP Rate Loans, on the Termination Date (or such earlier date on which the RFC Loans become due and payable pursuant hereto). The Company hereby further agrees to pay interest on the unpaid principal amount of the RFC Loans from time to time outstanding from the date hereof until payment in full thereof at the rates per annum, and on the dates, set forth in subsection 2.7. The unpaid principal amount of each CP Rate Loan will be due and payable on the applicable Settlement Dates and the Termination Date.

(b) Each of RFC and each Bank shall maintain for its own account in accordance with its usual practice an account or accounts evidencing indebtedness of the Company to RFC or such Bank, as the case may be, resulting from each RFC Loan from time to time held by it, including the amounts of principal and interest payable and paid to RFC or to such Bank from time to time under this Agreement.

(c) The Agent shall maintain the Register pursuant to subsection 9.6(d), and a subaccount therein for RFC and each Bank, in which shall be recorded (i) (A) the amount of each RFC Loan made hereunder, the Type thereof and each Interest Period, if applicable, thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Company to RFC and to each Bank hereunder and (iii) both the amount of any sum received by the Agent hereunder from the Company and RFC's and each Bank's share thereof.

(d) The entries made in the Register and the accounts of RFC maintained pursuant to subsection 2.2(b) and (c) shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Company therein recorded; provided, however, that the failure of RFC, any Bank or the Agent to maintain the Register or any such account, or any error therein, shall not in any manner affect the obligation of the Company to repay (with applicable interest) the RFC Loans in accordance with the terms of this Agreement.

(e) The Company agrees that, upon the request to the Agent by any Bank that holds any RFC Loans after the Facility Period has expired, the Company will execute and deliver to such Bank a promissory note of the Company evidencing such loans substantially in the form of Exhibit A with appropriate insertions as to payee, date and principal amount (a "Note").

2.3 Fees. (a) If a Wind-Down Event occurs after the Cross-Over Funding Date, the Company shall pay to the Agent, for the account of the Banks, a supplemental fee calculated as set forth below; provided that such fee shall not be payable if the Company has terminated this Agreement and repaid all outstanding RFC Loans and all other amounts owing hereunder prior to the occurrence of such Wind-Down Event. The supplemental fee is the sum, for each day from the Cross-Over Funding Date to but excluding the date on which such Wind-Down Event occurs, of an amount equal to the product of the outstanding face amount of commercial paper allocable by the CP Issuer to the funding of the RFC Loans on such day and

the margin applicable to Eurodollar Loans hereunder on such day divided by 360. "Cross-Over Funding Date" is the first day on or after the Closing Date on which the Company's long-term unsecured indebtedness is rated less than BBB- by S&P or less than Baa3 by Moody's. Such fee shall be payable on the fifth Business Day following the date of such Wind-Down Event.

(b) The Company agrees to pay to the Agent the other fees in the amounts, and on the dates, agreed to by the Company and the Agent in the Program Fee Letter. The Agent will distribute to the Banks their respective portions of upfront fees paid by the Company to the Agent, as agreed between the Agent and each Bank.

2.4 Termination or Changes to Facility Amount or RFC Facility Amount.

(a) The Company shall have the right, upon not less than five Business Days' notice to the Agent and to RFC, from time to time, to reduce by an equal amount each of the Facility Amount and the RFC Facility Amount, provided that no such reduction shall be effective if, after giving effect thereto and to any prepayments of the RFC Loans made on the effective date thereof (including by way of converting such RFC Loans to Loans under the 364-Day Facility), the then outstanding principal amount of the CP Rate Loans and the outstanding principal amount of any RFC Loans purchased by the Banks under the Liquidity Agreement would exceed the RFC Facility Amount or the outstanding principal amount of the RFC Loans would exceed the Facility Amount. Any such reduction shall be in an amount of \$10,000,000 or a whole multiple of \$1,000,000 in excess thereof, and shall reduce permanently the amount of the Facility Amount and the RFC Facility Amount.

(b) The Facility Amount shall be reduced to zero automatically on the date specified in subsection 2.5(b).

(c) This Agreement shall terminate on the date on which the Facility Amount has been reduced to zero and all amounts owing hereunder to RFC, the Banks and the Agent have been paid in full.

(d) The RFC Facility Amount shall be decreased by RFC Loans made by the Banks pursuant to a Section 2.1(c) Election and increased by the repayment of any such loans, in each case, upon written notice from the Administrative Agent to RFC (which notice the Administrative Agent shall promptly provide to RFC upon such event); provided, that no such reduction shall be effective if, after giving effect thereto and to any prepayments of the RFC Loans made on the effective date thereof (including by way of converting such RFC Loans to Loans under the 364-Day Facility), the then outstanding principal amount of the CP Rate Loans and the outstanding principal amount of any RFC Loans purchased by the Banks under the Liquidity Agreement would exceed the RFC Facility Amount or the outstanding principal amount of the RFC Loans would exceed the Facility Amount.

2.5 Prepayments.

(a) The Company may at any time and from time to time, prepay the RFC Loans, in whole or in part, without premium or penalty (subject to the provisions of subsection 2.15), upon at least three Business Days' in the case of Eurodollar Loans, upon at least two Business Days' in the case of CP Rate Loans and upon at least one Business Day in the case of

Alternate Base Rate Loans, irrevocable notice to the Agent and RFC specifying the date and amount of prepayment and whether the prepayment is of CP Rate Loans, Eurodollar Loans or Alternate Base Rate Loans or a combination thereof, and if of a combination thereof, the amount of prepayment allocable to each. Upon receipt of such notice the Agent shall promptly notify RFC and, if applicable, each Bank thereof. If such notice is given, the payment amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to such date and amounts that are owing under subsection 2.15, on the amount prepaid. Partial prepayments shall be in an aggregate principal amount of \$5,000,000, or a whole multiple of \$1,000,000 in excess thereof, and may only be made if, after giving effect thereto, subsection 2.6(d) shall not have been contravened.

(b) The Company shall prepay all outstanding RFC Loans, together with all accrued interest thereon and any amounts due pursuant to subsection 2.15 on the date that is 30 days after the date on which a Wind-Down Event occurs.

2.6 Conversion Options: Minimum Amount of RFC Loans.

(a) CP Rate Loans may not be converted into RFC Loans of another Type except in accordance with this subsection 2.6(a), it being understood that only RFC Loans acquired by the Banks under the Liquidity Agreement may be maintained as Eurodollar Loans or Alternate Base Rate Loans hereunder. Immediately upon the consummation of a Purchase (as defined in and pursuant to the Liquidity Agreement) by a Bank, the amount thereof (other than the amount of such Purchase attributable to Yield (as defined in the Liquidity Agreement)), shall be automatically converted (without regard to any conditions precedent thereto) into an Alternate Base Rate Loan of such Bank. Any portion of such Purchase constituting Yield shall be due and payable to the Banks as accrued interest on the next Settlement Date applicable to the related CP Rate Loan purchased by such Bank and shall accrue interest from the date of such Purchase until paid in full at the rate applicable to Alternate Base Rate Loans.

(b) The Company may elect from time to time to convert Eurodollar Loans to Alternate Base Rate Loans by giving the Agent at least two Business Days' prior irrevocable notice of such election (given before 10:00 A.M., New York City time, on the date on which such notice is required). The Company may elect from time to time to convert Alternate Base Rate Loans to Eurodollar Loans by giving the Agent at least three Working Days' prior irrevocable notice of such election (given before 11:30 A.M., New York City time, on the date on which such notice is required). Upon receipt of such notice, the Agent shall promptly notify each Bank thereof. Promptly following the date on which such conversion is being made each Bank shall take such action as is necessary to transfer its portion of such RFC Loans to its Domestic Lending Office or its Eurodollar Lending Office, as applicable. All or any part of outstanding Eurodollar Loans and Alternate Base Rate Loans may be converted as provided herein, provided that, unless the Required Banks otherwise agree, (i) no RFC Loan may be converted into a Eurodollar Loan when any Event of Default has occurred and is continuing, (ii) partial conversions shall be in an aggregate principal amount of \$5,000,000 or a whole multiple thereof, and (iii) any such conversion may only be made if, after giving effect thereto, subsection 2.6(d) shall not have been contravened.

(c) Any Eurodollar Loans may be continued as such upon the expiration of an Interest Period with respect thereto by compliance by the Company with the notice provisions contained in subsection 2.6(b); provided that, unless the Required Banks otherwise agree, no Eurodollar Loan may be continued as such when any Event of Default has occurred and is continuing, but shall be automatically converted to an Alternate Base Rate Loan on the last day of the then current Interest Period with respect thereto. The Agent shall notify the Banks promptly that such automatic conversion contemplated by this subsection 2.6(c) will occur.

(d) All borrowings, conversions, payments, prepayments and selection of Interest Periods hereunder shall be in such amounts and be made pursuant to such elections so that, after giving effect thereto, the aggregate principal amount of the RFC Loans comprising any Eurodollar Tranche shall not be less than \$10,000,000. At no time shall there be more than 10 Eurodollar Tranches.

2.7 Interest Rate and Payment Dates for RFC Loans. (a) The Eurodollar Loans comprising each Eurodollar Tranche shall bear interest for each day during each Interest Period with respect thereto on the unpaid principal amount thereof at a rate per annum equal to the Eurodollar Rate plus the Applicable Margin.

(b) Alternate Base Rate Loans shall bear interest for each day from and including the date thereof on the unpaid principal amount thereof at a rate per annum equal to the Alternate Base Rate plus the Applicable Margin.

(c) CP Rate Loans shall bear interest for each Settlement Period relating thereto at the CP Rate applicable to such Settlement Period.

(d) If all or a portion of the (i) principal amount of any RFC Loans, (ii) any interest payable thereon or (iii) any fee or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum which is 2% above the Alternate Base Rate, and any overdue interest or other amount payable hereunder shall bear interest at a rate per annum which is 2% above the Alternate Base Rate, in each case from the date of such non-payment until paid in full (after as well as before judgment). If all or a portion of the principal amount of any RFC Loans shall not be paid when due (whether at stated maturity, by acceleration or otherwise), each Eurodollar Loan shall, unless the Required Banks otherwise agree, be converted to an Alternate Base Rate Loan at the end of the last Interest Period with respect thereto.

(e) Interest shall be payable in arrears on each Interest Payment Date.

2.8 Computation of Interest and Fees. (a) Interest in respect of Alternate Base Rate Loans shall be calculated on the basis of a (i) 365-day (or 366-day, as the case may be) year for the actual days elapsed when such Alternate Base Rate Loans are based on the Prime Rate, and (ii) a 360-day year for the actual days elapsed when based on the Base CD Rate or the Federal Funds Effective Rate. All other interest and fees payable hereunder shall be calculated on the basis of a 360-day year for the actual days elapsed. The Agent shall as soon as practicable notify the Company and the Banks of each determination of a Eurodollar Rate. Any change in the interest rate on a RFC Loan resulting from a change in the Alternate Base Rate or the

Applicable Margin or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change in the Alternate Base Rate is announced, such Applicable Margin changes as provided herein or such change in the Eurocurrency Reserve Requirements shall become effective, as the case may be. The Agent shall as soon as practicable notify the Company and the Banks of the effective date and the amount of each such change.

(b) Each determination of an interest rate by the Agent pursuant to any provision of this Agreement or of the CP Rate by RFC shall be conclusive and binding on the Company and the Banks in the absence of manifest error. The Agent shall, at the request of the Company, deliver to the Company a statement showing the quotations used by the Agent in determining any interest rate pursuant to subsection 2.7(a).

(c) If any Reference Bank's Commitment shall terminate (otherwise than on termination of all the Commitments), or its RFC Loans shall be assigned for any reason whatsoever, such Reference Bank shall thereupon cease to be a Reference Bank, and if, as a result of the foregoing, there shall only be one Reference Bank remaining, then the Agent (after consultation with the Company and the Banks) shall, by notice to the Company and the Banks, designate another Bank as a Reference Bank so that there shall at all times be at least two Reference Banks.

(d) Each Reference Bank shall use its best efforts to furnish quotations of rates to the Agent as contemplated hereby. If any of the Reference Banks shall be unable or otherwise fails to supply such rates to the Agent upon its request, the rate of interest shall be determined on the basis of the quotations of the remaining Reference Banks or Reference Bank.

2.9 Inability to Determine Interest Rate. In the event that:

(i) the Agent shall have determined in its reasonable judgment (which determination shall be conclusive and binding upon the Company) that, by reason of circumstances affecting the interbank eurodollar market generally, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for any requested Interest Period;

(ii) only one of the Reference Banks is able to obtain bids for its Dollar deposits for such Interest Period in the manner contemplated by the term "Eurodollar Rate"; or

(iii) the Agent shall have received notice prior to the first day of such Interest Period from Banks constituting the Required Banks that the interest rate determined pursuant to subsection 2.7(a) for such Interest Period does not accurately reflect the cost to such Banks (as conclusively certified by such Banks) of making or maintaining their affected RFC Loans during such Interest Period;

with respect to (A) proposed RFC Loans that the Company has requested the Banks make as Eurodollar Loans, (B) Eurodollar Loans that will result from the requested conversion of Alternate Base Rate Loans into Eurodollar Loans or (C) the continuation of Eurodollar Loans beyond the expiration of the then current Interest Period with respect thereto, the Agent shall forthwith give facsimile or telephonic notice of such determination to the Company and the

Banks at least one day prior to, as the case may be, the requested Borrowing Date for such Eurodollar Loans, the conversion date of such Eurodollar Loans or the last day of such Interest Period. If such notice is given (x) any requested Eurodollar Loans shall be made as Alternate Base Rate Loans, (y) any Alternate Base Rate Loans that were to have been converted to Eurodollar Loans shall be continued as Alternate Base Rate Loans and (z) any outstanding Eurodollar Loans shall be converted, on the last day of the then current Interest Period with respect thereto, to Alternate Base Rate Loans. Until the Agent has withdrawn such notice, the Company shall not have the right to convert Alternate Base Rate Loans to Eurodollar Loans. The Agent shall withdraw such notice upon its determination that the event or events which gave rise to such notice no longer exist.

2.10 Pro Rata Borrowings and Payments. (a) Each borrowing by the Company of RFC Loans pursuant to subsection 2.1(c) shall be made ratably from the Banks in accordance with their Commitment Percentages.

(b) If the Company pays less than the amount of interest due hereunder on any date, the Agent shall distribute such interest to RFC and each Bank based on the ratio that the amount of such interest then due and owing to RFC or such Bank bears to the amount then due and owing to RFC and all Banks.

(c) Each payment (including each prepayment) by the Company on account of principal of the RFC Loans shall be made first to the payment in full of RFC Loans held by RFC and then to the payment in full of RFC Loans held by the Banks, pro rata according to the respective outstanding principal amounts of such RFC Loans then held by the Banks.

(d) All payments (including prepayments) to be made by the Company on account of principal, interest and fees shall be made without set-off or counterclaim and shall be made to RFC or the Agent, for the account the Banks, as the case may be, at RFC's or the Agent's office set forth in subsection 9.2, as applicable, in lawful money of the United States of America and in immediately available funds. The Agent shall distribute any such payments it receives to the Banks promptly upon receipt in like funds as received. If any payment hereunder becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day, and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension. Any amount received by RFC later than 11:00 A.M., New York City time, on a Business Day will be deemed to have been received on the following Business Day and such amount shall continue to accrue interest at the applicable rate until the next Business Day.

(e) Unless the Agent shall have been notified in writing by any Bank prior to a Borrowing Date that such Bank will not make the amount which would constitute its Commitment Percentage of the borrowing of RFC Loans pursuant to subsection 2.1(c) on such date available to the Agent, the Agent may assume that such Bank has made such amount available to the Agent on such Borrowing Date, and the Agent may, in reliance upon such assumption, make available to the Company a corresponding amount. If such amount is made available to the Agent on a date after such Borrowing Date, such Bank shall pay to the Agent on demand an amount equal to the product of (i) the daily average Federal Funds Effective Rate during such period as quoted by the Agent, times (ii) the amount of such Bank's Commitment

Percentage of such borrowing, times (iii) a fraction the numerator of which is the number of days that elapse from and including such Borrowing Date to the date on which such Bank's Commitment Percentage of such borrowing shall have become immediately available to the Agent and the denominator of which is 360. A certificate of the Agent submitted to any Bank with respect to any amounts owing under this subsection 2.10(e) shall be conclusive, absent manifest error. If such Bank's Commitment Percentage of such borrowing is not in fact made available to the Agent by such Bank within three Business Days of such Borrowing Date, the Agent shall be entitled to recover such amount with interest thereon at the rate per annum applicable to Alternate Base Rate Loans hereunder, on demand, from the Company.

2.11 Illegality. Notwithstanding any other provisions herein, if after the date hereof the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Bank to make or maintain Eurodollar Loans as contemplated by this Agreement, (a) the Bank shall, within 30 Working Days after it becomes aware of such fact, notify the Company, through the Agent, of such fact, (b) the commitment of such Bank hereunder to make Eurodollar Loans or to convert Alternate Base Rate Loans to Eurodollar Loans shall forthwith be cancelled and (c) such Bank's RFC Loans then outstanding as Eurodollar Loans, if any, shall be converted automatically to Alternate Base Rate Loans on the respective last days of the then current Interest Periods for such RFC Loans or within such earlier period as required by law. Each Bank shall take such action as may be reasonably available to it without material legal or financial disadvantage (including changing its Eurodollar Lending Office) to prevent the adoption of or any change in any such Requirement of Law from becoming applicable to it.

2.12 Requirements of Law. (a) If after the date hereof the adoption of or any change in any Requirement of Law or in the interpretation or application thereof or compliance by any Bank with any request or directive (whether or not having the force of law) after the date hereof from any central bank or other Governmental Authority:

(i) shall subject any Bank to any tax of any kind whatsoever (other than a withholding tax) with respect to this Agreement, any Note, or any Eurodollar Loans held by it, or change the basis of taxation of payments to such Bank of principal, facility fee, interest or any other amount payable hereunder in respect of RFC Loans (except for changes in the rate of tax on the overall net income of such Bank);

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, or deposits or other liabilities in or for the account of, advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Bank which are not otherwise included in the determination of the Eurodollar Rate hereunder; or

(iii) shall impose on such Bank any other condition;

and the result of any of the foregoing is to increase the cost to such Bank, by any amount which such Bank reasonably deems to be material, of making, renewing or maintaining advances or extensions of credit or to reduce any amount receivable hereunder, in each case, in respect thereof, then, in any such case, the Company shall promptly pay such Bank, upon its demand,

any additional amounts necessary to compensate such Bank for such additional cost or reduced amount receivable; provided, however, that notwithstanding anything contained in this subsection 2.12(a) to the contrary, such Bank shall not be entitled to receive any amounts pursuant to this subsection 2.12(a) that it is also entitled to pursuant to subsection 2.14(a). If a Bank becomes entitled to claim any additional amounts pursuant to this subsection 2.12(a), it shall, within 30 Business Days after it becomes aware of such fact, notify the Company, through the Agent, of the event by reason of which it has become so entitled. A certificate as to any additional amounts payable pursuant to the foregoing sentence submitted by such Bank, through the Agent, to the Company shall be conclusive in the absence of manifest error. Each Bank shall take such action as may be reasonably available to it without legal or financial disadvantage (including changing its Eurodollar Lending Office) to prevent any such Requirement of Law or change from becoming applicable to it. This covenant shall survive the termination of this Agreement and payment of the outstanding RFC Loans and all other amounts payable hereunder.

(b) In the event that after the date hereof a Bank is required to maintain reserves of the type contemplated by the definition of “Eurocurrency Reserve Requirements”, such Bank may require the Company to pay, promptly after receiving notice of the amount due, additional interest on the related Eurodollar Loan of such Bank at a rate per annum determined by such Bank up to but not exceeding the excess of (i) (A) the applicable Eurodollar Rate divided by (B) one minus the Eurocurrency Reserve Requirements over (ii) the applicable Eurodollar Rate. Any Bank wishing to require payment of any such additional interest on account of any of its Eurodollar Loans shall notify the Company no more than 30 Working Days after each date on which interest is payable on such Eurodollar Loan of the amount then due it under this subsection 2.12(b), in which case such additional interest on such Eurodollar Loan shall be payable to such Bank at the place indicated in such notice. Each such notification shall be accompanied by such information as the Company may reasonably request.

2.13 Capital Adequacy. If any Bank shall have determined that after the date hereof the adoption of or any change in any Requirement of Law regarding capital adequacy or in the interpretation or application thereof or compliance by such Bank or any corporation controlling such Bank with any request or directive after the date hereof regarding capital adequacy (whether or not having the force of law) from any central bank or Governmental Authority, does or shall have the effect of reducing the rate of return on such Bank’s or such corporation’s capital as a consequence of its obligations hereunder or its obligations under the Liquidity Agreement to a level below that which such Bank or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Bank’s or such corporation’s policies with respect to capital adequacy) by an amount which is reasonably deemed by such Bank to be material, then from time to time, promptly after submission by such Bank, through the Agent, to the Company of a written request therefor (such request shall include details reasonably sufficient to establish the basis for such additional amounts payable and shall be submitted to the Company within 30 Working Days after it becomes aware of such fact), the Company shall promptly pay to such Bank such additional amount or amounts as will compensate such Bank for such reduction. The agreements in this subsection 2.13 shall survive the termination of this Agreement, the Liquidity Agreement and payment of the RFC Loans and the Notes and all other amounts payable hereunder.

2.14 Taxes. (a) All payments made by the Company under this Agreement shall be made free and clear of, and without reduction or withholding 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 Governmental Authority excluding, in the case of the Agent, RFC (and its beneficial owners) and each Bank, net income and franchise taxes imposed on the Agent, RFC (or its beneficial owners) or such Bank by the jurisdiction under the laws of which the Agent, RFC (or its beneficial owners) or such Bank is organized or any political subdivision or taxing authority thereof or therein, or by any jurisdiction in which such Bank's Domestic Lending Office or Eurodollar Lending Office, as the case may be, is located or any political subdivision or taxing authority thereof or therein (all such non-excluded taxes, levies, imposts, deductions, charges or withholdings being hereinafter called "Taxes"). If any Taxes are required to be withheld from any amounts payable to the Agent, RFC or any Bank hereunder or under the Notes, the amounts so payable to the Agent, RFC or such Bank shall be increased to the extent necessary to yield to the Agent, RFC or such Bank (after payment of all Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement and the Notes. Whenever any Taxes are payable by the Company, as promptly as possible thereafter, the Company shall send to the Agent for its own account or for the account of RFC or such Bank, as the case may be, a certified copy of any original official receipt that is received by the Company showing payment thereof (or, if no official receipt is received by the Company, a statement of the Company indicating payment thereof). If the Company fails to pay any Taxes when due to the appropriate taxing authority or fails to remit to the Agent the required receipts or other required documentary evidence, the Company shall indemnify the Agent, RFC and the Banks for any incremental taxes, interest or penalties that may become payable by the Agent, RFC or any Bank as a result of any such failure, except to the extent such failure is attributable to a failure by a Non-U.S. Bank to comply with the form delivery and notice requirements of paragraph (b) below or a breach of the representations contained in paragraph (d) below.

(b) Each of the Agent, RFC and each Bank (or Transferee) that, is not a citizen or resident of the United States of America, a corporation, partnership or other entity created or organized in or under the laws of the United States of America (or any jurisdiction thereof), or any estate or trust that is subject to federal income taxation regardless of the source of its income (in each case, a "Non-U.S. Bank") shall deliver to the Company and the Agent (or, in the case of a Participant, to the Bank from which the related participation shall have been purchased) two copies of either U.S. Internal Revenue Service Form W-8BEN or Form W-8ECI, or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Bank claiming complete exemption from U.S. federal withholding tax on all payments by the Company under this Agreement. Such forms shall be delivered by each Non-U.S. Bank on or before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation). In addition, each Non-U.S. Bank shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Non-U.S. Bank. Each Non-U.S. Bank shall promptly notify the Company at any time it determines that it is no longer in a position to provide any previously delivered certificate to the Company (or any other form of certification adopted by the U.S. taxing authorities for such purpose). Notwithstanding any other provision of this paragraph, a Non-U.S. Bank shall not be required to deliver any form pursuant to this paragraph that such Non-U.S. Bank is not legally able to deliver, provided, however, that in the

event that the failure to be able to deliver such form is not attributable to a change in law, the Company shall be relieved of the obligation to make additional payments under subsection 2.14(a) above.

(c) The agreements in subsection 2.14 shall survive the termination of this Agreement and the payment of the RFC Loans and all other amounts payable hereunder.

(d) RFC represents that it is solely owned by a domestic partnership within the meaning of Code Section 7701(a)(30)(B) as of the Closing Date, and that it will remain solely owned by a domestic partnership within the meaning of Code Section 7701(a)(30)(B) or a domestic corporation within the meaning of Code Section 7701(a)(30)(C).

2.15 Indemnity. The Company agrees to indemnify RFC and each Bank and to hold RFC and each Bank harmless from any loss or expense (other than any loss of anticipated margin or profit) which RFC or such Bank may sustain or incur as a consequence of (a) default by the Company in payment when due of the principal amount of or interest on CP Rate Loans by RFC or any Eurodollar Loans of such Bank, (b) default by the Company in making a borrowing or conversion after the Company has given a notice of borrowing in accordance with subsection 2.1(b) or a notice of continuation or conversion pursuant to subsection 2.6, (c) default by the Company in making any prepayment after the Company has given a notice in accordance with subsection 2.6 or (d) the making of (i) a prepayment of a Eurodollar Loan on a day which is not the last day of an Interest Period with respect and/or (ii) a prepayment of principal of a CP Rate Loan in an amount that is excess of the principal amount of Allocated Commercial Paper that is maturing on such prepayment date ("CP Excess Amount"), including, without limitation, in respect of Eurodollar Loans, any such loss or expense arising from the reemployment of funds obtained by it to maintain its Eurodollar Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained and in respect of CP Rate Loans, CP Breakage Costs. Any Bank claiming any amount under this subsection 2.15 shall provide calculations, in reasonable detail, of the amount of its loss or expense. This covenant shall survive termination of this Agreement and payment of the outstanding RFC Loans and all other amounts payable hereunder.

2.16 Application of Proceeds of RFC Loans. Subject to the provisions of the following sentence, the Company may use the proceeds of the RFC Loans for any lawful general corporate purpose, including acquisitions. The Company will not, directly or indirectly, apply any part of the proceeds of any such RFC Loan for the purpose of "purchasing" or "carrying" any Margin Stock within the respective meanings of each of the quoted terms under Regulation U, or to refund any indebtedness incurred for such purpose, provided that the Company may use the proceeds of RFC Loans for such purposes, if such usage does not violate Regulation U as now and from time to time hereafter in effect.

2.17 Notice of Certain Circumstances; Assignment of Commitments Under Certain Circumstances. (a) Any Bank claiming any additional amounts payable pursuant to subsections 2.12, 2.13 or 2.14 or exercising its rights under subsection 2.11, shall, in accordance with the respective provisions thereof, provide notice to the Company and the Agent. Such notice to the Company and the Agent shall include details reasonably sufficient to establish the basis for such additional amounts payable or the rights to be exercised by the Bank.

(b) Any Bank claiming any additional amounts payable pursuant to subsections 2.12, 2.13 or 2.14 or exercising its rights under subsection 2.11, shall use reasonable efforts (consistent with legal and regulatory restrictions) to file any certificate or document requested by the Company or to change the jurisdiction of its applicable lending office if the making of such filing or change would avoid the need for or reduce the amount of any such additional amounts which may thereafter accrue or avoid the circumstances giving rise to such exercise and would not, in the reasonable determination of such Bank, be otherwise disadvantageous in any material respect to such Bank.

(c) In the event that the Company shall be required to make any additional payments to any Bank pursuant to subsections 2.12, 2.13 or 2.14 or any Bank shall exercise its rights under subsection 2.11, the Company shall have the right at its own expense, upon notice to such Bank and the Agent, to require such Bank to transfer and to assign without recourse (in accordance with and subject to the terms of subsection 10.6) all its interest, rights and obligations under this Agreement to another financial institution (including any Bank) acceptable to the Agent and RFC (which approval shall not be unreasonably withheld) which shall assume such obligations; provided that (i) no such assignment shall conflict with any Requirement of Law and (ii) such assuming financial institution shall pay to such Bank in immediately available funds on the date of such assignment the outstanding principal amount of the RFC Loans held by such Bank together with accrued interest thereon and all other amounts accrued for its account or owed to it hereunder, including, but not limited to additional amounts payable under subsections 2.11, 2.12, 2.13 or 2.14.

2.18 Regulation U. (a) If at any time the Company shall use the proceeds of any RFC Loans for the purpose of “purchasing” or “carrying” any Margin Stock within the respective meanings of each of the quoted terms under Regulation U, or to refund any indebtedness incurred for such purpose, and, after giving effect to such purchase or refund, more than 25% of the value (determined in accordance with Regulation U) of the assets subject to the restrictions of Section 7 would be represented by Margin Stock, the Company shall give notice thereof to the Agent, RFC and the Banks, and thereafter the RFC Loans made by each Bank shall at all times be treated for purposes of Regulation U as two separate extensions of credit (the “A Credit” and the “B Credit” of such Bank and, collectively, the “A Credits” and the “B Credits”), as follows:

(i) the aggregate amount of the A Credit of RFC or such Bank shall be an amount equal to such RFC or such Bank’s pro rata share (based on the amount of its Commitment Percentage) of the maximum loan value (as determined in accordance with Regulation U), of all Margin Stock Collateral; and

(ii) the aggregate amount of the B Credit of RFC or such Bank shall be an amount equal to RFC or such Bank’s pro rata share (based on the amount of its Commitment Percentage) of all RFC Loans outstanding hereunder minus such Bank’s A Credit.

In the event that any Margin Stock Collateral is acquired or sold, the amount of the A Credit of such Bank shall be adjusted (if necessary), to the extent necessary by prepayment, to an amount equal to such Bank’s pro rata share (based on the amount of its Commitment Percentage) of the

maximum loan value (determined in accordance with Regulation U) as of the date of such acquisition or sale) of the Margin Stock Collateral immediately after giving effect to such acquisition or sale. Nothing contained in this subsection 2.18 shall be deemed to permit any sale of Margin Stock Collateral in violation of any other provisions of this Agreement.

(b) Each Bank will maintain its records to identify the A Credit of such Bank and the B Credit of such Bank, and, solely for the purposes of complying with Regulation U, the A and B Credits shall be treated as separate extensions of credit. Each Bank hereby represents and warrants that the loan value of the Other Collateral is sufficient for such Bank to lend its pro rata share of the B Credit.

(c) The benefits of the indirect security in Margin Stock Collateral created by any provisions of this Agreement shall be allocated first to the benefit and security of the payment of the principal of and interest on the A Credits of the Banks and of all other amounts payable by the Company under this Agreement in connection with the A Credits (collectively, the “A Credit Amounts”) and second, only after the payment in full of the A Credit Amounts, to the benefit and security of the payment of the principal of and interest on the B Credits of the Banks and of all other amounts payable by the Company under this Agreement in connection with the B Credits (collectively, the “B Credit Amounts”). The benefits of the indirect security in Other Collateral created by any provisions of this Agreement, shall be allocated first to the benefit and security of the payment of the B Credit Amounts and second, only after the payment in full of the B Credit Amounts, to the benefit and security of the payment of the A Credit Amounts.

(d) The Company shall furnish to each Bank at the time of each acquisition and sale of Margin Stock Collateral such information and documents as the Agent or such Bank may require to determine the A and B Credits, and at any time and from time to time, such other information and documents as the Agent or such Bank may reasonably require to determine compliance with Regulation U.

(e) Each Bank shall be responsible for its own compliance with and administration of the provisions of this subsection 2.18 and Regulation U, and the Agent shall have no responsibility for any determinations or allocations made or to be made by any Bank as required by such provisions.

2.19 Purchase and Termination.

If (x) a Wind-Down Event has occurred, or (y) at any time when all of the RFC Loans are held by the Banks or no CP Rate Loans are outstanding, or (z) on or after the tenth Business Day immediately preceding the Termination Date, the Company may deliver a notice (the “CP Termination Notice”) to the Administrative Agent, RFC and the CP Issuer. Upon delivery of a CP Termination Notice and in the case of (x) and (z) of the preceding sentence, RFC shall take such action as set forth in subsection 4.13 of the Liquidity Agreement. The Company agrees to pay any amounts owing under subsection 2.15 in connection with any such purchase. Upon the delivery of the CP Termination Notice and, in the case of (x) and (z) of the first sentence of this subsection 2.19, payment of such amounts as may be due RFC pursuant to subsection 4.13 of the Liquidity Agreement, the Company shall convert the outstanding amount

of such RFC Loans into loans under the 364-Day Facility in accordance with subsection 2.1(d) thereof. Upon such conversion the Facility Amount shall be zero.

2.20 Additional Fee Payable to Downgraded Banks.

If a Bank funds a Downgrade Deposit under the Liquidity Agreement, then the Company shall pay to the Agent, for the account of such Bank, on the amount of such Downgrade Deposit from time to time, an amount per annum equal to the Applicable Margin with respect to Eurodollar Loans as an additional fee hereunder. Such fee shall be payable by the Company in arrears on the last day of each month, commencing on the first of such days to occur after such Bank funds its Downgrade Deposit and on the Termination Date.

SECTION 3. REPRESENTATIONS AND WARRANTIES

The Company hereby represents and warrants that:

3.1 Corporate Existence; Compliance with Law. Each of the Company and its Subsidiaries (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the corporate power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification and (d) is in compliance with all Requirements of Law, including, without limitation, HMO Regulations and Insurance Regulations, except to the extent that the failure to be so qualified or to comply therewith would not have a Material Adverse Effect.

3.2 No Legal Obstacle to Agreement; Enforceability. Neither the execution and delivery of any Loan Document, nor the making by the Company of any borrowings hereunder, nor the consummation of any transaction herein or therein referred to or contemplated hereby or thereby nor the fulfillment of the terms hereof or thereof or of any agreement or instrument referred to in this Agreement, has constituted or resulted in or will constitute or result in a breach of any Requirement of Law, including without limitation, HMO Regulations and Insurance Regulations, or any Contractual Obligation of the Company or any of its Subsidiaries, or result in the creation under any agreement or instrument of any security interest, lien, charge or encumbrance upon any of the assets of the Company or any of its Subsidiaries. No approval, authorization or other action by any Governmental Authority, including, without limitation, HMO Regulators and Insurance Regulators, or any other Person is required to be obtained by the Company or any of its Subsidiaries in connection with the execution, delivery and performance of this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, or the making of any borrowing by the Company hereunder. This Agreement has been, and each other Loan Document will be, duly executed and delivered on behalf of the Company. This Agreement constitutes, and each other Loan Document when executed and delivered will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of

creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

3.3 Litigation. Except as disclosed in the Company's Annual Report on Form 10-K for its fiscal year ended December 31, 2002 and the Company's Quarterly Reports on Form 10-Q for its fiscal quarters ended March 31, 2003 and June 30, 2003 filed with the Securities and Exchange Commission and previously distributed to the Banks, as of the date hereof, there is no litigation, at law or in equity, or any proceeding before any federal, state, provincial or municipal board or other governmental or administrative agency, including without limitation, HMO Regulators and Insurance Regulators, pending or to the knowledge of the Company threatened which, after giving effect to any applicable insurance, could reasonably be expected to have a Material Adverse Effect or which seeks to enjoin the consummation of any of the transactions contemplated by this Agreement or any other Loan Document, and no judgment, decree, or order of any federal, state, provincial or municipal court, board or other governmental or administrative agency, including without limitation, HMO Regulators and Insurance Regulators, has been issued against the Company or any Subsidiary which has, or may involve, a material risk of a Material Adverse Effect. The Company does not believe that the final resolution of the matters disclosed in its Annual Report on Form 10-K for its fiscal year ended December 31, 2002 and the Company's Quarterly Reports on Form 10-Q for its fiscal quarters ended March 31, 2003 and June 30, 2003 filed with the Securities and Exchange Commission and previously distributed to the Banks, will have a Material Adverse Effect.

3.4 Disclosure. Neither this Agreement nor any agreement, document, certificate or statement furnished to the Banks by the Company in connection herewith (including, without limitation, the information relating to the Company and its Subsidiaries included in the Confidential Information Memorandum dated September 2003 delivered in connection with the syndication of the credit facilities hereunder) contains any untrue statement of material fact or, taken as a whole together with all other information furnished to the Banks by the Company, omits to state a material fact necessary in order to make the statements contained herein or therein not misleading. All pro forma financial statements made available to the Banks have been prepared in good faith based upon reasonable assumptions. There is no fact known to the Company which materially adversely affects or in the future could reasonably be expected to materially adversely affect the business, operations, affairs or condition of the Company and its Subsidiaries on a consolidated basis, except to the extent that they may be affected by future general economic conditions.

3.5 Defaults. Neither the Company nor any of its Subsidiaries is in default under or with respect to any Requirement of Law or Contractual Obligation in any respect which has had, or may have, a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

3.6 Financial Condition. The Company has furnished to the Agent and each Bank copies of the following:

- (a) The Annual Report of the Company on Form 10-K for the fiscal year ended December 31, 2002; and

(b) the Quarterly Reports of the Company on Form 10-Q for the fiscal quarters ended March 31, 2003 and June 30, 2003.

The financial statements included therein, including the related schedules and notes thereto, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as disclosed therein). As of the date of such financial statements, neither the Company nor any of its Subsidiaries had any known contingent liabilities of any significant amount which in accordance with GAAP are required to be referred to in said financial statements or in the notes thereto which could reasonably be expected to have a Material Adverse Effect. During the period from December 31, 2002 to and including the date hereof, there has been no sale, transfer or other disposition by the Company or any of its consolidated Subsidiaries of any asset reflected on the balance sheet referred to above that would have been a material part of its business or property and no purchase or other acquisition of any business or property (including any capital stock of any other Person) material in relation to the consolidated financial condition of the Company and its consolidated Subsidiaries at December 31, 2002 other than as disclosed in Schedule VI.

3.7 Changes in Condition. Since December 31, 2002, there has been no development or event nor any prospective development or event, which has had, or could reasonably be expected to have, a Material Adverse Effect.

3.8 Assets. The Company and each Subsidiary have good and marketable title to all material assets carried on their books and reflected in the financial statements referred to in subsection 4.6 or furnished pursuant to subsection 6.4, except for assets held on Financing Leases or purchased subject to security devices providing for retention of title in the vendor, and except for assets disposed of as permitted by this Agreement.

3.9 Tax Returns. The Company and each of its Subsidiaries have filed all tax returns which are required to be filed and have paid, or made adequate provision for the payment of, all taxes which have or may become due pursuant to said returns or to assessments received. All federal tax returns of the Company and its Subsidiaries through their fiscal years ended in 1999 have been audited by the Internal Revenue Service or are not subject to such audit by virtue of the expiration of the applicable period of limitations, and the results of such audits are fully reflected in the balance sheets referred to in subsection 3.6. The Company knows of no material additional assessments since said date for which adequate reserves have not been established.

3.10 Contracts, etc. Attached hereto as Schedule III is a statement of outstanding Indebtedness of the Company and its Subsidiaries for borrowed money in excess of \$2,000,000 as of the date set forth therein, and a complete and correct list of all agreements, contracts, indentures, instruments, documents and amendments thereto to which the Company or any Subsidiary is a party or by which it is bound pursuant to which any such Indebtedness of the Company and its Subsidiaries is outstanding on the date hereof. Said Schedule III also includes a complete and correct list of all such Indebtedness of the Company and its Subsidiaries outstanding on the date indicated in respect of Guarantee Obligations in excess of \$2,000,000 and letters of credit in excess of \$2,000,000, and there have been no increases in such Indebtedness since said date other than as permitted by this Agreement.

3.11 Subsidiaries. As of the date hereof, the Company has only the Subsidiaries set forth in Schedule IV, all of the outstanding capital stock of each of which is duly authorized, validly issued, fully paid and nonassessable and owned as set forth in said Schedule IV. Schedule IV indicates all Subsidiaries of the Company which are not Wholly-Owned Subsidiaries and the percentage ownership of the Company and its Subsidiaries in each such Subsidiary. The capital stock and securities owned by the Company and its Subsidiaries in each of the Company's Subsidiaries are owned free and clear of any mortgage, pledge, lien, encumbrance, charge or restriction on the transfer thereof other than restrictions on transfer imposed by applicable securities laws and restrictions, liens and encumbrances outstanding on the date hereof and listed in said Schedule IV.

3.12 Burdensome Obligations. Neither the Company nor any Subsidiary is a party to or bound by any agreement, deed, lease or other instrument, or subject to any charter, by-law or other corporate restriction which, in the reasonable opinion of the management thereof, is so unusual or burdensome as to in the foreseeable future have a Material Adverse Effect. The Company does not presently anticipate that future expenditures of the Company and its Subsidiaries needed to meet the provisions of any federal or state statutes, orders, rules or regulations will be so burdensome as to have a Material Adverse Effect.

3.13 Pension Plans. Each Plan maintained by the Company, any Subsidiary or any Control Group Person or to which any of them makes or will make contributions is in material compliance with the applicable provisions of ERISA and the Code. Neither the Company nor any Subsidiary nor any Control Group Person maintains, contributes to or participates in any Plan that is a "defined benefit plan" as defined in ERISA. Neither the Company, any Subsidiary, nor any Control Group Person has since August 31, 1987 maintained, contributed to or participated in any Multiemployer Plan, with respect to which a complete withdrawal would result in any withdrawal liability. The Company and its Subsidiaries have met all of the funding standards applicable to all Plans that are not Multiemployer Plans, and there exists no event or condition which would permit the institution of proceedings to terminate any Plan that is not a Multiemployer Plan. The current value of the benefits guaranteed under Title IV of ERISA of each Plan that is not a Multiemployer Plan does not exceed the current value of such Plan's assets allocable to such benefits.

3.14 Environmental and Public and Employee Health and Safety Matters. The Company and each Subsidiary has complied with all applicable Federal, state, and other laws, rules and regulations relating to environmental pollution or to environmental regulation or control or to public or employee health or safety, except to the extent that the failure to so comply would not be reasonably likely to result in a Material Adverse Effect. The Company's and the Subsidiaries' facilities do not contain, and have not previously contained, any hazardous wastes, hazardous substances, hazardous materials, toxic substances or toxic pollutants regulated under the Resource Conservation and Recovery Act, the Comprehensive Environmental Response Compensation and Liability Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Clean Air Act, the Clean Water Act or any other applicable law relating to environmental pollution or public or employee health and safety, in violation of any such law, or any rules or regulations promulgated pursuant thereto, except for violations that would not be reasonably likely to result in a Material Adverse Effect. The Company is aware of no events, conditions or circumstances involving environmental pollution or contamination or

public or employee health or safety, in each case applicable to it or its Subsidiaries, that would be reasonably likely to result in a Material Adverse Effect.

3.15 Federal Regulations. No part of the proceeds of any RFC Loans will be used in any transaction or for any purpose which violates the provisions of Regulations T, U or X as now and from time to time hereafter in effect. If requested by any Bank or the Agent, the Company will furnish to the Agent and each Bank a statement to the foregoing effect in conformity with the requirements of Form FR U-1 or Form FR G-3 referred to in Regulation U.

3.16 Investment Company Act; Other Regulations. 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. Except as set forth in Schedule VII, the Company is not subject to regulation under any Federal or State statute or regulation (other than Regulation X) which limits its ability to incur Indebtedness.

3.17 Solvency. Each of the Company, and the Company and its Subsidiaries taken as a whole, is Solvent.

3.18 Casualties. Neither the businesses nor the properties of the Company or any of its Subsidiaries are affected by any fire, explosion, accident, strike, lockout or other material labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty (whether or not covered by insurance) that could reasonably be expected to have a Material Adverse Effect.

3.19 Business Activity. Except as set forth in Schedule VIII, neither the Company nor any of its Subsidiaries is engaged in any line of business that is not related to the healthcare industry other than the sale of life insurance in connection with the sale of medical insurance or other healthcare services, sale of long term care insurance, or any business or activity which is immaterial to the Company and its Subsidiaries on a consolidated basis.

3.20 Purpose of RFC Loans. The proceeds of the RFC Loans shall be used to finance any lawful general corporate purpose, including acquisitions, provided that no part of the proceeds of any RFC Loans will be used in any transaction or for any purpose which violates the provisions of Regulation U as now and from time to time hereafter in effect.

SECTION 4. CONDITIONS

4.1 Conditions to the Closing Date. The Company will not request the initial RFC Loan hereunder unless the Company has satisfied the following conditions:

(a) Loan Documents. The Agent shall have received this Agreement and the Liquidity Agreement, executed and delivered by a duly authorized officers of each of the parties thereto.

(b) Legal Opinions. The Agent shall have received, with a copy for each Bank, opinions rendered by (i) the assistant general counsel of the Company, substantially in the form of Exhibit D-1, and (ii) Fried, Frank, Harris, Shriver & Jacobson, counsel to the Company, substantially in the form of Exhibit D-2.

(c) Closing Certificate. The Agent shall have received, with a copy for each Bank, a Closing Certificate, substantially in the form of Exhibit C and dated the Closing Date, executed by a Responsible Officer of the Company.

(d) Legality, etc. The consummation of the transactions contemplated hereby shall not contravene, violate or conflict with any Requirement of Law including, without limitation, HMO Regulations and Insurance Regulations, and all necessary consents, approvals and authorizations of any Governmental Authority or any Person to or of such consummation shall have been obtained and shall be in full force and effect.

(e) Fees. The Agent shall have received the fees to be received on the Closing Date referred to in subsection 2.3(b).

(f) Corporate Proceedings. The Agent shall have received a copy of the resolutions, in form and substance reasonably satisfactory to the Agent, of the Board of Directors of the Company authorizing (i) the execution, delivery and performance of this Agreement, the Notes and the other Loan Documents, and (ii) the borrowings contemplated hereunder, certified by the Secretary or an Assistant Secretary of the Company as of the Closing Date, which certificate shall state that the resolutions thereby certified have not been amended, modified, revoked or rescinded and shall be in form and substance reasonably satisfactory to the Agent.

(g) Corporate Documents. The Agent shall have received true and complete copies of the certificate of incorporation and by-laws of the Company, certified as of the Closing Date as complete and correct copies thereof by the Secretary or an Assistant Secretary of the Company.

(h) No Material Litigation. Except as previously disclosed to the Agent pursuant to subsection 3.3, no litigation, inquiry, investigation, injunction or restraining order (including any proposed statute, rule or regulation) shall be pending, entered or threatened which, in the reasonable judgment of the Required Banks, could reasonably be expected to have a Material Adverse Effect.

(i) Incumbency Certificate. The Agent shall have received a certificate of the Secretary or an Assistant Secretary of the Company, dated the Closing Date, as to the incumbency and signature of the officers of the Company executing each Loan Document and any certificate or other document to be delivered by it pursuant hereto and thereto, together with evidence of the incumbency of such Secretary or Assistant Secretary.

(j) Good Standing Certificates. The Agent shall have received copies of certificates dated as of a recent date from the Secretary of State or other appropriate authority of such jurisdiction, evidencing the good standing of the Company in its jurisdiction of incorporation and in Kentucky.

(k) No Change. There shall not have occurred any change, or event, and the Agent shall not have become aware of any previously undisclosed information regarding the Company and its Subsidiaries, which in each case in the reasonable judgment of the Required Banks, could reasonably be expected to have a Material Adverse Effect.

(l) Conditions under 364-Day Facility. On or prior to the Closing Date, all conditions to the funding of the initial loans under the 364-Day Facility shall have been satisfied and the Agent shall have received a certificate of a Responsible Officer of the Company to such effect.

4.2 Conditions to Each Loan. The Company will not request any RFC Loan hereunder unless the Company has satisfied the following conditions:

(a) Representations and Warranties. Each of the representations and warranties made by the Company and its Subsidiaries in or pursuant to the Loan Documents shall be true and correct in all material respects on and as of such date as if made on and as of such date.

(b) No Default. No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the RFC Loans requested to be made on such date.

(c) Additional Matters. All corporate and other proceedings, and all documents, instruments and other legal matters in connection with the transactions contemplated by this Agreement and the other Loan Documents shall be reasonably satisfactory in form and substance to the Agent, and the Agent shall have received such other documents, instruments, legal opinions or other items of information reasonably requested by it, including, without limitation, copies of any debt instruments, security agreements or other material contracts to which the Company may be a party in respect of any aspect or consequence of the transactions contemplated hereby or thereby as it shall reasonably request.

(d) Regulations. In the case of any RFC Loan the proceeds of which will be used, in whole or in part, to finance an acquisition, such acquisition shall be in full compliance with all applicable requirements of law, including, without limitation, Regulations T, U and X of the Board of Governors of the Federal Reserve System.

(e) Governmental, Third Party Approvals. In the case of any RFC Loan the proceeds of which will be used, in whole or in part, to finance an acquisition, all necessary governmental and regulatory approvals, and all third party approvals the failure to obtain which would result in the acceleration of indebtedness unless such indebtedness is paid when due, in connection with such acquisition or in connection with this Agreement shall have been obtained and remain in effect, and all applicable waiting periods with respect to antitrust matters shall have expired without any action being taken by any competent authority which restrains such acquisition.

(f) No Restraints. In the case of any RFC Loan the proceeds of which will be used, in whole or in part, to finance an acquisition, there shall exist no judgment, order, injunction or other restraint which would prevent the consummation of such acquisition.

(g) Form FR U-1; Form FR G-3. In the case of any RFC Loan the proceeds of which will be used, in whole or in part, to purchase or carry Margin Stock, the Company shall have executed and delivered to the Agent and each Bank a statement on Form FR U-1 referred to

in Regulation U or, if applicable, Form FR G-3 referred to in Regulation U, showing compliance with Regulation U after giving effect to such RFC Loan.

(h) Legal Opinion. In the case of any RFC Loan the proceeds of which will be used, in whole or in part, to purchase or carry Margin Stock, the Agent shall have received a written legal opinion of Fried, Frank, Harris, Shriver & Jacobson, counsel to the Company, or such other counsel reasonably acceptable to the Agent, to the effect that such RFC Loan and the Company's use of the proceeds thereof does not violate Regulation U or Regulation X.

(i) Liquidity Agreement. With respect to any requested RFC Loans that are CP Rate Loans only, the Liquidity Agreement is in full force and effect and no default has occurred and is continuing thereunder or would result from such requested RFC Loans.

(j) Wind-Down Event. No Wind-Down Event has occurred and is continuing or would result from the requested RFC Loan.

Each borrowing by the Company hereunder shall constitute a representation and warranty by the Company as of the date of such extension of credit that the conditions contained in this subsection 4.2 have been satisfied.

SECTION 5. AFFIRMATIVE COVENANTS

The Company hereby agrees that, from and after the Closing Date and so long as the Commitments remain in effect, any Note remains outstanding and unpaid or any other amount is owing to RFC, any Bank or the Agent hereunder, the Company shall and (except in the case of delivery of financial information, reports and notices) shall cause each of its Subsidiaries to:

5.1 Taxes, Indebtedness, etc. Duly pay, discharge or otherwise satisfy, or cause to be paid, discharged or otherwise satisfied, before the same shall become in arrears, all taxes, assessments, levies and other governmental charges imposed upon such corporation and its properties, sales and activities, or any part thereof, or upon the income or profits therefrom; provided, however, that any such tax, assessment, charge or levy need not be paid if the validity or amount thereof shall currently be contested in good faith by appropriate proceedings and if the Company or the Subsidiary in question shall have set aside on its books appropriate reserves in conformity with GAAP with respect thereto. Each of the Company and its Subsidiaries will promptly pay when due, or in conformance with customary trade terms, all other Indebtedness, liabilities and other obligations of whatever nature incident to its operations; provided, however, that any such Indebtedness, liability or obligation need not be paid if the validity or amount thereof shall currently be contested in good faith and if the Company or the Subsidiary in question shall have set aside on its books appropriate reserves in conformity with GAAP with respect thereto.

5.2 Maintenance of Properties; Maintenance of Existence. Keep its material properties in good repair, working order and condition and will comply at all times with the provisions of all material leases and other material agreements to which it is a party so as to

prevent any material loss or forfeiture thereof or thereunder unless compliance therewith is being contested in good faith by appropriate proceedings and if the Company or the Subsidiary in question shall have set aside on its books appropriate reserves in conformity with GAAP with respect thereto; and in the case of the Company or any Subsidiary of the Company while such Person remains a Subsidiary, will do all things necessary to preserve, renew and keep in full force and effect and in good standing its corporate existence and all rights, privileges and franchises necessary to continue such businesses.

5.3 Insurance. Maintain or cause to be maintained, with financially sound and reputable insurers including any Subsidiary which is engaged in the business of providing insurance protection, insurance (including, without limitation, public liability insurance, business interruption insurance, reinsurance for medical claims and professional liability insurance against claims for malpractice) with respect to its material properties and business and the properties and business of its Subsidiaries in at least such amounts and against at least such risks as are customarily carried under similar circumstances by other corporations engaged in the same or a similar business; and furnish to the Agent, upon written request, full information as to the insurance carried. Such insurance may be subject to co-insurance, deductibility or similar clauses which, in effect, result in self-insurance of certain losses, and the Company may self-insure against such loss or damage, provided that adequate insurance reserves are maintained in connection with such self-insurance.

5.4 Financial Statements. The Company will and will cause each of its Subsidiaries to maintain a standard modern system of accounting in which full, true and correct entries will be made of all dealings or transactions in relation to its business and affairs in accordance with GAAP consistently applied, and will furnish (or make available via the IntraLinks website) the following to the Agent (if not provided via IntraLinks, in duplicate if so requested):

(a) Annual Statements. As soon as available, and in any event within 100 days after the end of each fiscal year, the consolidated balance sheet as at the end of each fiscal year and consolidated statements of profit and loss and of retained earnings for such fiscal year of the Company and its Subsidiaries, together with comparative consolidated figures for the next preceding fiscal year, accompanied by reports or certificates of PricewaterhouseCoopers, or, if they cease to be the auditors of the Company, of other independent public accountants of national standing and reputation, to the effect that such balance sheet and statements were prepared in accordance with GAAP consistently applied and fairly present the financial position of the Company and its Subsidiaries as at the end of such fiscal year and the results of their operations and changes in financial position for the year then ended and the statement of such accountants and of the treasurer of the Company that such said accountants and treasurer have caused the provisions of this Agreement to be reviewed and that nothing has come to their attention to lead them to believe that any Default exists hereunder or, if such is not the case, specifying such Default or possible Default and the nature thereof. In addition, such financial statements shall be accompanied by a certificate of the treasurer of the Company containing computations showing compliance with subsections 6.1, 6.2, 6.3 and 6.5.

(b) Quarterly Statements. As soon as available, and in any event within 55 days after the close of each of the first three fiscal quarters of the Company and its Subsidiaries

in each year, consolidated balance sheets as at the end of such fiscal quarter and consolidated profit and loss and retained earnings statements for the portion of the fiscal year then ended, of the Company and its Subsidiaries, together with computations showing compliance with subsections 6.1, 6.2, 6.3 and 6.5, accompanied by a certificate of the treasurer of the Company that such statements and computations have been properly prepared in accordance with GAAP, consistently applied, and fairly present the financial position of the Company and its Subsidiaries as at the end of such fiscal quarter and the results of their operations and changes in financial position for such quarter and for the portion of the fiscal year then ended, subject to normal audit and year-end adjustments, and to the further effect that he has caused the provisions of this Agreement and all other agreements to which the Company or any of its Subsidiaries is a party and which relate to Indebtedness to be reviewed, and has no knowledge that any Default has occurred under this Agreement or under any such other agreement, or, if said treasurer has such knowledge, specifying such Default and the nature thereof.

(c) ERISA Reports. The Company will furnish the Agent with copies of any request for waiver of the funding standards or extension of the amortization periods required by Sections 303 and 304 of ERISA or Section 412 of the Code promptly after any such request is submitted by the Company to the Department of Labor or the Internal Revenue Service, as the case may be. Promptly after a Reportable Event occurs, or the Company or any of its Subsidiaries receives notice that the PBGC or any Control Group Person has instituted or intends to institute proceedings to terminate any pension or other Plan, or prior to the Plan administrator's terminating such Plan pursuant to Section 4041 of ERISA, the Company will notify the Agent and will furnish to the Agent a copy of any notice of such Reportable Event which is required to be filed with the PBGC, or any notice delivered by the PBGC evidencing its institution of such proceedings or its intent to institute such proceedings, or any notice to the PBGC that a Plan is to be terminated, as the case may be. The Company will promptly notify the Agent upon learning of the occurrence of any of the following events with respect to any Plan which is a Multiemployer Plan: a partial or complete withdrawal from any Plan which may result in the incurrence by the Company or any of its Subsidiaries of withdrawal liability in excess of \$1,000,000 under Subtitle E of Title IV of ERISA, or of the termination, insolvency or reorganization status of any Plan under such Subtitle E which may result in liability to the Company or any of its Subsidiaries in excess of \$1,000,000. In the event of such a withdrawal, upon the request of the Agent, the Company will promptly provide information with respect to the scope and extent of such liability, to the best of the Company's knowledge.

5.5 Certificates; Other Information. Furnish (or make available via the IntraLinks website) to the Agent:

(a) within five Business Days after the same are sent, copies of all financial statements and reports which the Company sends to its stockholders, and within five Business Days after the same are filed, copies of all financial statements and reports which the Company may make to, or file with, the Securities and Exchange Commission;

(b) not later than thirty days prior to the end of each fiscal year of the Company, a schedule of the Company's insurance coverage and such supplemental schedules with respect thereto as the Agent may from time to time reasonably request;

(c) within five Business Days after the consummation of a transaction described in subsection 6.4(c) or (d) or subsection 6.5(f) which, in each case, involves a Significant Subsidiary or assets which, if they constituted a separate Subsidiary, would constitute a Significant Subsidiary, a certificate of the treasurer or chief financial officer of the Company demonstrating pro forma compliance with the financial covenants in this Agreement after giving effect to such transaction; and

(d) promptly, such additional financial and other information as the Agent may from time to time reasonably request.

5.6 Compliance with ERISA. Each of the Company and its Subsidiaries will meet, and will cause all Control Group Persons to meet, all minimum funding requirements applicable to any Plan imposed by ERISA or the Code (without giving effect to any waivers of such requirements or extensions of the related amortization periods which may be granted), and will at all times comply, and will cause all Control Group Persons to comply, in all material respects with the provisions of ERISA and the Code which are applicable to the Plans. At no time shall the aggregate actual and contingent liabilities of the Company under Sections 4062, 4063, 4064 and other provisions of ERISA (calculated as if the 30% of collective net worth amount referred to in Section 4062(b)(1)(A)(i)(II) of ERISA exceeded the actual total amount of unfunded guaranteed benefits referred to in Section 4062(B)(1)(A)(i)(I) of ERISA) with respect to all Plans (and all other pension plans to which the Company, any Subsidiary, or any Control Group Person made contributions prior to such time) exceed \$5,000,000. Neither the Company nor its Subsidiaries will permit any event or condition to exist which could permit any Plan which is not a Multiemployer Plan to be terminated under circumstances which would cause the lien provided for in Section 4068 of ERISA to attach to the assets of the Company or any of its Subsidiaries.

5.7 Compliance with Laws. Comply with all Contractual Obligations and Requirements of Law (including, without limitation, the HMO Regulations, Insurance Regulations, Regulation X and laws relating to the protection of the environment), except where the failure to comply therewith could not, in the aggregate, have a Material Adverse Effect.

5.8 Inspection of Property; Books and Records; Discussions. Keep proper books of records and account in which full, true and correct entries in conformity with GAAP, all Requirements of Law, including but not limited to, HMO Regulations and Insurance Regulations, and the terms hereof shall be made of all dealings and transactions in relation to its business and activities; and permit, upon reasonable notice, representatives of any Bank to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Company and its Subsidiaries with officers and employees of the Company and its Subsidiaries and with its independent certified public accountants.

5.9 Notices. Promptly give notice to the Agent and to RFC of:

(a) the occurrence of any Default, Event of Default or Wind-Down Event;

(b) any (i) default or event of default under any Contractual Obligation of the Company or any of its Subsidiaries or (ii) litigation, investigation or proceeding which exists at any time between the Company or any of its Subsidiaries and any Governmental Authority (including, without limitation, HMO Regulators and Insurance Regulators), which in either case, if not cured or if adversely determined, as the case may be, could reasonably be expected to have a Material Adverse Effect;

(c) the commencement of any litigation or proceeding or a material development or material change in any ongoing litigation or proceeding affecting the Company or any of its Subsidiaries as a result of which commencement, development or change the Company or one of its Subsidiaries could reasonably be expected to incur a liability (as a result of an adverse judgment or ruling, settlement, incurrence of legal fees and expenses or otherwise) of \$10,000,000 or more and not covered by insurance or in which material injunctive or similar relief is sought;

(d) the following events, as soon as possible and in any event within 30 days after the Company knows: (i) the occurrence or expected occurrence of any Reportable Event with respect to any Plan, or any withdrawal from, or the termination, Reorganization or Insolvency of any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the PBGC or the Company or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the terminating, Reorganization or Insolvency of, any Plan;

(e) a development or event which could reasonably be expected to have a Material Adverse Effect;

(f) the material non-compliance with any Contractual Obligation or Requirement of Law, including, without limitation, HMO Regulations and Insurance Regulations, that is not currently being contested in good faith by appropriate proceedings;

(g) the revocation of any material license, permit, authorization, certificate or, qualification of the Company or any Subsidiary by any Governmental Authority, including, without limitation, the HMO Regulators and Insurance Regulators; and

(h) any significant change in or material additional restriction placed on the ability of a Significant Subsidiary to continue business as usual, including, without limitation, any such restriction prohibiting the payment to the Company of dividends by any Significant Subsidiary, by any Governmental Authority, including, without limitation, the HMO Regulators and Insurance Regulators.

Each notice pursuant to this subsection shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Company proposes to take with respect thereto.

5.10 Maintenance of Licenses, Etc. Preserve and maintain, and cause each of its Subsidiaries to preserve and maintain, all licenses, permits, authorizations, certifications and qualifications (including, without limitation, those qualifications with respect to solvency and

capitalization) required under the HMO Regulations or the Insurance Regulations in connection with the ownership or operation of HMO's or insurance companies except were the failure to do so would not result in a Material Adverse Effect.

5.11 Further Assurances. Execute any and all further documents, and take all further action which the Agent may reasonably request in order to effectuate the transactions contemplated by the Loan Documents.

SECTION 6. NEGATIVE COVENANTS

The Company hereby agrees that, from and after the Closing Date and so long as the Commitments remain in effect, any Note remains outstanding and unpaid or any other amount is owing to RFC, any Bank or the Agent hereunder, the Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

6.1 Financial Condition Covenants.

(a) Maintenance of Net Worth. Permit Consolidated Net Worth at any time to be less than 75% of its Consolidated Net Worth of the Company and its consolidated subsidiaries as at March 31, 2001 plus 50% of Consolidated Net Income for each full fiscal quarter after March 31, 2001 (without any deduction for any such fiscal quarter in which such Consolidated Net Income is a negative number).

(b) Interest Coverage. Permit the ratio of (i) Consolidated EBIT for any period of four consecutive fiscal quarters of the Company to (ii) Consolidated Interest Expense during such period, to be less than 4.00 to 1.00:

(c) Maximum Leverage Ratio. Permit the Leverage Ratio on the last day of any full fiscal quarter of the Company to be more than 2.50 to 1.00:

6.2 Limitation on Subsidiary Indebtedness. The Company shall not permit any of the Subsidiaries of the Company to create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Subsidiary to the Company or any other Subsidiary;

(b) Indebtedness of a corporation which becomes a Subsidiary after the date hereof, provided that (i) such indebtedness existed at the time such corporation became a Subsidiary and was not created in anticipation thereof and (ii) immediately before and after giving effect to the acquisition of such corporation by the Company no Default or Event of Default shall have occurred and be continuing; or

(c) additional Indebtedness of Subsidiaries of the Company not exceeding \$125,000,000 in aggregate principal amount at any one time outstanding.

6.3 Limitation on Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, except for:

- (a) Liens, if any, securing the obligations of the Company under this Agreement and the Notes;
- (b) Liens for taxes not yet due or which are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Company or its Subsidiaries, as the case may be, in conformity with GAAP;
- (c) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 60 days or which are being contested in good faith by appropriate proceedings;
- (d) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation;
- (e) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;
- (f) easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Company or such Subsidiary;
- (g) Liens in existence on the Closing Date listed on Schedule V, securing Indebtedness in existence on the Closing Date, provided that no such Lien is spread to cover any additional property after the Closing Date and that the amount of Indebtedness secured thereby is not increased;
- (h) Liens securing Indebtedness of the Company and its Subsidiaries not prohibited hereunder incurred to finance the acquisition of fixed or capital assets, provided that (i) such Liens shall be created substantially simultaneously with the acquisition of such fixed or capital assets, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (iii) the principal amount of Indebtedness secured by any such Lien shall at no time exceed 80% of the original purchase price of such property;
- (i) Liens on the property or assets of a corporation which becomes a Subsidiary after the date hereof, provided that (i) such Liens existed at the time such corporation became a Subsidiary and were not created in anticipation thereof, (ii) any such Lien is not spread to cover any other property or assets after the time such

corporation becomes a Subsidiary and (iii) the amount of Indebtedness secured thereby, if any, is not increased;

(j) Liens on the Headquarters, Riverview Square, the Waterside Garage, the Green Bay Facility, the Jacksonville Facility and the Waterside Building; or

(k) Liens not otherwise permitted under this subsection 6.3 securing obligations in an aggregate amount not exceeding at any time 10% of Consolidated Net Tangible Assets as at the end of the immediately preceding fiscal quarter of the Company.

6.4 Limitations on Fundamental Changes. Enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or make any material change in its method of conducting business, or purchase or otherwise acquire all or substantially all of the Capital Stock, or the property, business or assets, of any other Person (other than any Subsidiary) or any business division thereof except:

(a) any Subsidiary of the Company may be merged or consolidated with or into the Company (provided that the Company shall be the continuing or surviving corporation) and any Subsidiary of the Company may be merged or consolidated with or into any one or more wholly owned Subsidiaries of the Company (provided that the surviving corporation shall be a wholly owned Subsidiary);

(b) the Company may merge into another corporation owned by the Company for the purpose of causing the Company to be incorporated in a different jurisdiction;

(c) the Company or a wholly owned Subsidiary of the Company may merge with another corporation, provided that (i) the Company or such wholly owned Subsidiary (subject to clause (ii)), as the case may be, shall be the continuing or surviving corporation of such merger, (ii) in the case of a wholly owned Subsidiary of the Company which is merged into another corporation which is the continuing or surviving corporation of such merger, the Company shall cause such continuing or surviving corporation to be a wholly owned Subsidiary of the Company and (iii) immediately before and after giving effect to such merger no Default or Event of Default shall have occurred and be continuing; or

(d) the Company and its Subsidiaries may purchase or otherwise acquire all or substantially all of the Capital Stock, or the property, business or assets, of any other Person, or any business division thereof, so long as no Default or Event of Default shall have occurred and be continuing.

6.5 Limitation on Sale of Assets. Convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets (including, without limitation, receivables and leasehold interests), whether now owned or hereafter acquired, except:

(a) obsolete or worn out property disposed of in the ordinary course of business;

(b) the sale or discount without recourse of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof;

(c) the sale or other disposition of the Headquarters, Riverview Square, the Waterside Garage, the Green Bay Facility, the Jacksonville Facility and the Waterside Building;

(d) the sale or other disposition of securities held for investment purposes in the ordinary course of business;

(e) any wholly owned Subsidiary may sell, lease, transfer or otherwise dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Company or any other wholly owned Subsidiary of the Company (except to a Subsidiary referred to in subsection 6.2(b)); or

(f) the sale or other disposition of any other property so long as no Default or Event of Default shall have occurred and be continuing; provided that the aggregate book value of all assets so sold or disposed of in any period of twelve consecutive calendar months shall not exceed in the aggregate 12% of the Consolidated Assets of the Company and its Subsidiaries as on the first day of such period.

6.6 Limitation on Distributions. The Company shall not make any Distribution except that, so long as no Default exists or would exist after giving effect thereto, the Company may make a Distribution.

6.7 Transactions with Affiliates. Enter into any transaction (unless such transaction or any series of such transactions is immaterial), including, without limitation, any purchase, sale, lease or exchange of property or the rendering of any service, with any Affiliate (other than the Company and its Subsidiaries) unless such transaction is otherwise permitted under this Agreement, is in the ordinary course of the Company's or such Subsidiary's business and is upon fair and reasonable terms no less favorable to the Company or such Subsidiary, as the case may be, than it would obtain in an arm's length transaction.

6.8 Sale and Leaseback. Enter into any arrangement with any Person providing for the leasing by the Company or any Subsidiary of real or personal property which has been or is to be sold or transferred by the Company or such Subsidiary to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of the Company or such Subsidiary, unless such arrangement is upon fair and reasonable terms no less favorable to the Company or such Subsidiary than would be obtained in a comparable arm's length transaction between an informed and willing seller or lessor under no compulsion to sell or lease and an informed and willing buyer or lessee under no compulsion to buy or lease.

SECTION 7. DEFAULTS

7.1 Events of Default. Upon the occurrence of any of the following events.

(a) any default shall be made by the Company in any payment in respect of: (i) interest on any of the RFC Loans or any fee payable hereunder as the same shall become due and such default shall continue for a period of five days; or (ii) any principal of the RFC Loans as the same shall become due, whether at maturity, by prepayment, by acceleration or otherwise; or

(b) any default shall be made by either the Company or any Subsidiary of the Company in the performance or observance of any of the provisions of subsections 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 and 6.8; or

(c) any default shall be made in the due performance or observance of any other covenant, agreement or provision to be performed or observed by the Company under this Agreement, and such default shall not be rectified or cured within a period of 30 days; or

(d) any representation or warranty made or deemed made by the Company herein or in any other Loan Document or which is contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement shall have been untrue in any material respect on or as of the date made and the facts or circumstances to which such representation or warranty relates shall not have been subsequently corrected to make such representation or warranty no longer incorrect in any material respect; or

(e) any default shall be made in the payment of any item of Indebtedness of the Company or any Subsidiary, or under the terms of any agreement relating to any Indebtedness of the Company or any Subsidiary, and such default shall continue without having been duly cured, waived or consented to, beyond the period of grace, if any, therein specified; provided, however, that such default shall not constitute an Event of Default unless the aggregate outstanding principal amount of such item of Indebtedness and all other items of Indebtedness of the Company and its Subsidiaries as to which such defaults exist and have continued without being duly cured, waived or consented to beyond the respective periods of grace, if any, therein specified exceeds \$25,000,000; or

(f) either the Company or any Subsidiary shall be involved in financial difficulties as evidenced:

(i) by its commencement of a voluntary case under Title 11 of the United States Code as from time to time in effect, or by its authorizing, by appropriate proceedings of its board of directors or other governing body, the commencement of such a voluntary case;

(ii) by the filing against it of a petition commencing an involuntary case under said Title 11 which shall not have been dismissed within 60 days after the date on which said petition is filed or by its filing an answer or other pleading within said 60-day period admitting or failing to deny the material allegations of such a petition or seeking, consenting or acquiescing in the relief therein provided;

(iii) by the entry of an order for relief in any involuntary case commenced under said Title 11;

(iv) by its seeking relief as a debtor under any applicable law, other than said Title 11, of any jurisdiction relating to the liquidation or reorganization of debtors or to the modification or alteration of the rights of creditors, or by its consenting to or acquiescing in such relief;

(v) by the entry of an order by a court of competent jurisdiction (i) finding it to be bankrupt or insolvent, (ii) ordering or approving its liquidation, reorganization or any modification or alteration of the rights of its creditors, or (iii) assuming custody of, or appointing a receiver or other custodian for, all or a substantial part of its property; or

(vi) by its making an assignment for the benefit of, or entering into a composition with, its creditors, or appointing or consenting to the appointment of a receiver or other custodian for all or a substantial part of its property; or

(vii) the Company or any of its Subsidiaries shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) a Change in Control of the Company shall occur;

(h) (i) any Person shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any "accumulated funding deficiency" (as defined in Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Required Banks, likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) the Company or any Commonly Controlled Entity shall, or in the reasonable opinion of the Required Banks is likely to, incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan or (vi) any other event or condition shall occur or exist, with respect to a Plan; and in each case in clauses (i) through (vi) above, such event or condition, together with all other such events or conditions, if any, could subject the Company or any of its Subsidiaries to any tax, penalty or other liabilities which in the aggregate could have a Material Adverse Effect; or

(i) one or more judgments or decrees shall be entered against the Company or any of its Subsidiaries and such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 45 days from the entry thereof that (i) involves in the aggregate a liability (not paid or fully covered by insurance) of

\$25,000,000 or more, or (ii) could reasonably be expected to have a Material Adverse Effect; or

(j) (i) any material non-compliance by the Company or any Significant Subsidiary with any term or provision of the HMO Regulations or Insurance Regulations pertaining to fiscal soundness, solvency or financial condition; or (ii) the assertion in writing by an HMO Regulator or Insurance Regulator that it is taking administrative action against the Company or any Significant Subsidiary to revoke or suspend any contract of insurance, license, permit, certification, authorization, accreditation or charter or to enforce the fiscal soundness, solvency or financial provisions or requirements of the HMO Regulations or Insurance Regulations against any of such entities and the Company or such Significant Subsidiary shall have been unable to cause such HMO Regulator or Insurance Regulator to withdraw such written notice within five Business Days following receipt of such written notice by the Company or such Significant Subsidiary, in each of clauses (i) and (ii), to the extent such event will or is reasonably expected to have a Material Adverse Effect; or

(k) on or after the Closing Date, (i) for any reason any Loan Document ceases to be or is not in full force and effect or (ii) the Company shall assert that any Loan Document has ceased to be or is not in full force and effect;

then, and in any such event, (A) if such event is an Event of Default specified in paragraph (f) above with respect to the Company, automatically the Facility Period shall immediately terminate and the RFC Loans hereunder (with accrued interest thereon and amounts payable pursuant to subsection 2.15) and all other amounts owing under this Agreement and the Notes shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: (i) with the consent of the Required Banks, the Agent may, or upon the request of the Required Banks, the Agent shall, by notice to the Company and to RFC, declare the Facility Period to be terminated forthwith, whereupon the Facility Period shall immediately terminate; and (ii) with the consent of the Required Banks, the Agent may, or upon the request of the Required Banks, the Agent shall, by notice of default to the Company and to RFC, declare the RFC Loans hereunder (with accrued interest thereon and amounts payable pursuant to subsection 2.15) and all other amounts owing under this Agreement (the "RFC Obligations") to be due and payable forthwith, whereupon the same shall immediately become due and payable.

Except as expressly provided above in this subsection, presentment, demand, protest and all other notices of any kind are hereby expressly waived.

7.2 Annulment of Defaults. An Event of Default shall not be deemed to be in existence for any purpose of this Agreement if the Agent, with the consent of or at the direction of the Required Banks, subject to subsection 9.1, shall have waived such event in writing or stated in writing that the same has been cured to its reasonable satisfaction, but no such waiver shall extend to or affect any subsequent Event of Default or impair any rights of the Agent or the Banks upon the occurrence thereof.

7.3 Waivers. The Company hereby waives to the extent permitted by applicable law (a) all presentments, demands for performance, notices of nonperformance (except to the extent required by the provisions hereof), protests, notices of protest and notices of dishonor in connection with any RFC Loans, (b) any requirement of diligence or promptness on the part of RFC or any Bank in the enforcement of its rights under the provisions of this Agreement or any Note, and (c) any and all notices of every kind and description which may be required to be given by any statute or rule of law.

7.4 Course of Dealing. No course of dealing between the Company and RFC or any Bank shall operate as a waiver of any of RFC's or the Banks' rights under this Agreement or any Note. No delay or omission on the part of RFC or any Bank in exercising any right under this Agreement or any Note or with respect to any of the RFC Obligations shall operate as a waiver of such right or any other right hereunder. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion. No waiver or consent shall be binding upon RFC or any Bank unless it is in writing and signed by the Agent or RFC and/or such of the Banks as may be required by the provisions of this Agreement. The making of a RFC Loan during the existence of a Default shall not constitute a waiver thereof.

SECTION 8. THE AGENT

8.1 Appointment. RFC and each Bank hereby irrevocably designates and appoints JPMorgan Chase Bank as the Agent of such Person under this Agreement, and each such Person irrevocably authorizes JPMorgan Chase Bank, as the Agent for such Person, to take such action on its behalf under the provisions of this Agreement and to exercise such powers and perform such duties as are expressly delegated to the Agent, as the case may be, by the terms of this Agreement, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with RFC or any Bank, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or otherwise exist against the Agent.

8.2 Delegation of Duties. The Agent may execute any of its duties under this Agreement by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

8.3 Exculpatory Provisions. Neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement (except for its or such Person's own gross negligence or willful misconduct), or (b) responsible in any manner to RFC or any of the Banks for any recitals, statements, representations or warranties made by the Company or any officer thereof contained in this Agreement or in any certificate, report, statement or other document referred to or provided for in, or received by the Agent under or in connection with, this Agreement or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or the Notes or for any failure of the Company to perform its obligations hereunder. The Agent shall not be

under any obligation to RFC or any Bank to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement, or to inspect the properties, books or records of the Company.

8.4 Reliance by Agent. The Agent shall be entitled to rely, and shall be fully protected in relying, upon any Note, writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, teletype, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including, without limitation, counsel to the Company), independent accountants and other experts selected by the Agent. The Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Agent. The Agent shall be fully justified in failing or refusing to take any action under this Agreement unless it shall first receive such advice or concurrence of RFC and/or the Required Banks as it deems appropriate or it shall first be indemnified to its satisfaction by the Banks against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the Notes in accordance with a request of RFC or the Required Banks, as the case may be, and such request and any action taken or failure to act pursuant thereto shall be binding upon RFC and all the Banks and all future holders of the Notes.

8.5 Notice of Default. The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Agent has received notice from RFC, a Bank or the Company referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Agent receives such a notice, the Agent shall promptly give notice thereof to RFC and the Banks. The Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Banks; provided that, unless and until the Agent shall have received such directions, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of RFC and the Banks.

8.6 Non-Reliance on Agent and Other Banks. Each of RFC and each Bank expressly acknowledges that neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Agent hereinafter taken, including any review of the affairs of the Company, shall be deemed to constitute any representation or warranty by the Agent to RFC or to any Bank. Each of RFC and each Bank represents to the Agent that it has, independently and without reliance upon the Agent or any other Bank, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Company and made its own decision to make its RFC Loans hereunder and enter into this Agreement. Each Bank also represents that it will, independently and without reliance upon the Agent, RFC or any other Bank, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement, and to make such investigation as it deems necessary to inform itself as to

the business, operations, property, financial and other condition and creditworthiness of the Company. Except for notices, reports and other documents expressly required to be furnished to the Banks by the Agent hereunder, the Agent shall not have any duty or responsibility to provide any Bank with any credit or other information concerning the business, operations, property, financial and other condition or creditworthiness of the Company which may come into the possession of the Agent or any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates.

8.7 Indemnification. The Banks agree to indemnify the Agent in its capacity as such (to the extent not reimbursed by the Company and without limiting the obligation of the Company to do so), ratably according to the respective amounts of their then existing Commitments, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including without limitation at any time following the payment of the RFC Loans) be imposed on, incurred by or asserted against the Agent in any way relating to or arising out of this Agreement, or any documents contemplated by or referred to herein or the transactions contemplated hereby or any action taken or omitted by the Agent under or in connection with any of the foregoing; provided that no Bank shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's gross negligence or willful misconduct. The agreements in this subsection shall survive the payment of the RFC Loans and all other amounts payable hereunder.

8.8 Agent in Its Individual Capacity. The Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with the Company as though the Agent were not the Agent hereunder. With respect to its RFC Loans held by it and any Note issued to it, the Agent shall have the same rights and powers under this Agreement as any Bank and may exercise the same as though it were not the Agent, and the terms "Bank" and "Banks" shall include the Agent in its individual capacity.

8.9 Successor Agent. The Agent may resign as Agent, upon 10 days' notice to the Banks and RFC. If the Agent shall resign as Agent under this Agreement, then the Required Banks shall appoint from among the Banks a successor agent for the Banks which successor agent shall be approved by the Company and RFC, whereupon such successor agent shall succeed to the rights, powers and duties of the Agent and the term "Agent" shall mean such successor agent effective upon its appointment, and the former Agent's rights, powers and duties as Agent shall be terminated, without any other or further act or deed on the part of such former Agent or any of the parties to this Agreement or any holders of the Notes. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 8 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement.

SECTION 9. MISCELLANEOUS

9.1 Amendments and Waivers. Neither this Agreement, any Note, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this subsection. With the written consent of the Required Banks and RFC, the

Agent and the Company may, from time to time, enter into written amendments, supplements or modifications hereto for the purpose of adding any provisions to this Agreement or the Notes or changing in any manner the rights of the Banks or of the Company hereunder or thereunder or waiving, on such terms and conditions as the Agent may specify in such instrument, any of the requirements of this Agreement or the Notes or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall (a) extend the maturity (whether as stated, by acceleration or otherwise) of any Note, or reduce the rate or extend the time of payment of interest thereon, or reduce or extend the payment of any fee payable to the Banks hereunder, or reduce the principal amount thereof, or amend, modify, waive any provision of subsection 2.10, in each case without the consent of each Bank directly affected thereby, or (b) amend, modify or waive any provision of this subsection 9.1 or reduce the percentage specified in the definition of Required Banks or consent to the assignment or transfer by the Company of any of its rights and obligations under this Agreement, in each case without the written consent of all the Banks, or (c) amend, modify or waive any provision of Section 8 without the written consent of the then Agent. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Banks and shall be binding upon the Company, the Banks, RFC, the Agent and all future holders of the Notes. In the case of any waiver, the Company, RFC, the Banks and the Agent shall be restored to their former position and rights hereunder and under the outstanding Notes, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

9.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand, or three Business Days after being deposited in the mail, postage prepaid, or one Business Day after being deposited with an overnight courier service, or, in the case of telecopy notice, when sent, confirmation of receipt received, addressed (i) in the case of notices, requests and demands to or upon the Company, the Agent, and RFC, as set forth below and (ii) in the case of notices, requests and demands to or upon any Bank, as set forth in an administrative questionnaire delivered by such Bank to the Agent, or, in each case, to such other address as may be hereafter notified by the respective parties hereto and any future holders of the Notes:

The Company: Humana Inc.
 The Humana Building
 500 West Main Street
 Louisville, Kentucky 40202
 Attention: James H. Bloem
 Senior Vice President and
 Chief Financial Officer
 Telecopy: (502) 580-3615

The Agent: JPMorgan Chase Bank
 1111 Fannin, 10th Floor
 Houston, TX 77272
 Attention: Cherry Arnaez
 Telecopy: (713) 750-2782

RFC: c/o The Liberty Hampshire Company, LLC
227 West Monroe
Suite 4000
Chicago, Illinois 60606
Attn: Operations Department
Fax: (312) 977-1967/1699

provided that any notice, request or demand to or upon the Agent, RFC or the Banks pursuant to Section 2 shall not be effective until received.

9.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Agent, RFC or any Bank, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

9.4 Survival of Representations and Warranties. All representations and warranties made hereunder and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the Notes.

9.5 Payment of Expenses and Taxes; Indemnity. (a) The Company agrees (i) to pay or reimburse the Agent and RFC for all their reasonable out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement, the Liquidity Agreement and the Notes and any other documents prepared in connection herewith, and the consummation of the transactions contemplated hereby and thereby, including, without limitation, the reasonable fees and disbursements of counsel to the Agent and to RFC, (ii) to pay or reimburse, RFC each Bank and the Agent for all their reasonable costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the Notes and any such other documents, including, without limitation, reasonable fees and disbursements of counsel (including, without limitation, the allocated cost of in-house counsel) to the Agent, to RFC and to the several Banks, and (iii) to pay, indemnify, and hold RFC, each Bank and the Agent harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and other taxes, if any, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the Notes and any such other documents.

(b) The Company will indemnify each of the Agent, RFC, the CP Issuer and the Banks and the directors, officers, managers, members and employees thereof and each Person, if any, who controls each one of the Agent, RFC, the CP Issuer and the Banks (any of the foregoing, an "Indemnified Person") and hold each Indemnified Person harmless from and

against any and all claims, damages, liabilities and expenses (including without limitation (i) all fees and disbursements of counsel (including without limitation, the allocated cost of in-house counsel) with whom an Indemnified Person may consult in connection therewith and all expenses of litigation or preparation therefore and (ii) any amounts paid or payable by any Bank pursuant to its indemnity obligations under subsection 4.8 of the Liquidity Agreement) which an Indemnified Person may incur or which may be asserted against it in connection with any litigation or investigation (whether or not such Indemnified Person is a party to such litigation or investigation) involving this Agreement, the use of any proceeds of any RFC Loans under this Agreement by the Company or any Subsidiary, any officer, director, member, manager or employee thereof, excluding litigation commenced by the Company against any of the Agent or the Banks which (i) seeks enforcement of any of the Company's rights hereunder and (ii) is determined adversely to any of the Agent or the Banks (all such non-excluded claims, damages, liabilities and expenses, "Indemnified Liabilities"), provided that the Company shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities to the extent such Indemnified Liabilities resulted from the gross negligence or willful misconduct of such Indemnified Person.

(c) The agreements in this subsection 9.5 shall survive repayment of the RFC Loans and all other amounts payable hereunder.

9.6 Successors and Assigns; Participations; Purchasing Banks. (a) This Agreement shall be binding upon and inure to the benefit of the Company, the Banks, the Agent, all future holders of the Notes and their respective successors and assigns, except that the Company may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of each Bank and RFC.

(b) Any Bank other than a Conduit Lender may, in the ordinary course of its commercial banking business and in accordance with applicable law, at any time sell to one or more banks or other entities ("Participants") participating interests in any RFC Loans owing to such Bank, any Notes held by such Bank, and/or any other interests of such Bank hereunder and under the other Loan Documents. In the event of any such sale by a Bank of a participating interest to a Participant, such Bank's obligations under this Agreement to the other parties under this Agreement shall remain unchanged, such Bank shall remain solely responsible for the performance thereof, such Bank shall remain the holder of any such Notes for all purposes under this Agreement, and the Company, RFC and the Agent shall continue to deal solely and directly with such Bank in connection with such Bank's rights and obligations under this Agreement and under the other Loan Documents. The Company agrees that if amounts outstanding under this Agreement and the Notes are due or unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of offset in respect of its participating interest in amounts owing under this Agreement and any Notes to the same extent as if the amount of its participating interest were owing directly to it as a Bank under this Agreement or any Notes, provided that such right of offset shall be subject to the obligation of such Participant to share with the Banks, and the Banks agree to share with such Participant, as provided in subsection 9.7. The Company also agrees that each Participant shall be entitled to the benefits of subsections 2.12, 2.13 and 2.14 with respect to its participation in the Commitments and the Eurodollar Loans outstanding from time to time; provided that no Participant shall be entitled to receive any greater amount pursuant

to such subsections than the transferor Bank would have been entitled to receive in respect of the amount of the participation transferred by such transferor Bank to such Participant had no such transfer occurred. No Participant shall be entitled to consent to any amendment, supplement, modification or waiver of or to this Agreement or any Note, unless the same is subject to clause (a) of the proviso to subsection 9.1.

(c) Any Bank other than a Conduit Lender may, in the ordinary course of its commercial banking business and in accordance with applicable law, at any time sell to any Bank or any Lender Affiliate thereof, and, with the consent of the Company (unless an Event of Default is continuing), RFC and the Agent (which in each case shall not be unreasonably withheld) to one or more additional banks or financial institutions (“Purchasing Banks”) all or any part of its rights and/or obligations under this Agreement and the Notes pursuant to a Transfer Supplement, executed by such Purchasing Bank, such transferor Bank and the Agent (and, in the case of a Purchasing Bank that is not then a Bank or a Lender Affiliate, and subject to the other qualifiers above, by the Company and RFC) and agreement by such Purchasing Banks to be bound by the terms of this agreement including without limitation the provisions of subsection 9.15 hereof; provided, however, that (i) each such sale shall be accompanied by a corresponding simultaneous assignment of such selling Bank’s pro rata share to the Purchasing Bank of (x) its Commitment by taking such action as set forth in subsection 4.5(a) of the Liquidity Agreement and (y) its Tranche B Commitment (as defined in the 364-Day Facility) pursuant to and in accordance with the provisions of subsection 10.6(d) of the 364-Day Facility and (ii) the Purchasing Bank shall be an Eligible Assignee (as defined in the Liquidity Agreement). Upon (i) such execution of such Transfer Supplement, (ii) delivery of an executed copy thereof to the Company and RFC, (iii) compliance with the assignment procedures under subsection 4.5(a) of the Liquidity Agreement and (iv) payment, if any, by such Purchasing Bank, such Purchasing Bank shall for all purposes be a Bank party to this Agreement and shall have all the rights and obligations of a Bank under this Agreement, to the same extent as if it were an original party hereto. Such Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing Bank and the resulting adjustment of all or a portion of the rights and obligations of such transferor Bank under this Agreement and the Notes. Upon the consummation of any transfer to a Purchasing Bank, pursuant to this subsection 9.6(c), the transferor Bank, the Agent and the Company shall make appropriate arrangements so that, if required, replacement Notes are issued to such transferor Bank and new Notes or, as appropriate, replacement Notes, are issued to such Purchasing Bank, in each case in principal amounts reflecting their interests or, as appropriate, their outstanding RFC Loans as adjusted pursuant to such Transfer Supplement. Notwithstanding the foregoing, any Conduit Lender may assign at any time to its designating Bank hereunder with the consent of RFC, which consent shall not be unreasonably withheld, but without the consent of the Company or the Agent any or all of the RFC Loans it may have funded hereunder and pursuant to its designation agreement and without regard to the limitations set forth in the first sentence of this subsection 9.6(c); provided, that such designating Bank affirms its obligations pursuant to subsection 9.15.

(d) The Agent shall maintain at its address referred to in subsection 9.2 (a) copy of Transfer Supplement delivered to it and a register (the “Register”) for the recordation of the names and addresses of the Banks and the Commitment of, and principal amount of the RFC Loans owing to, RFC and to each Bank from time to time. The entries in the Register shall be

conclusive, in the absence of manifest error, and the Company, the Agent, RFC and the Banks may treat each Person whose name is recorded in the Register as the owner of the RFC Loan recorded therein for all purposes of this Agreement. The Register shall be available for inspection by the Company, RFC or any Bank at any reasonable time and from time to time upon reasonable prior notice.

(e) Upon its receipt of a Transfer Supplement executed by a transferor Bank and a Purchasing Bank (and, in the case of a Purchasing Bank that is not then a Bank or an affiliate thereof, by the Company, RFC and the Agent) together with payment to the Agent of a registration and processing fee of \$3,500, the Agent shall (i) promptly accept such Transfer Supplement (ii) on the Transfer Effective Date determined pursuant thereto record the information contained therein in the Register and give notice of such acceptance and recordation to RFC, the Banks and the Company.

(f) The Company authorizes each Bank to disclose to any Participant or Purchasing Bank (each, a “Transferee”) and any prospective Transferee any and all financial information in such Bank’s possession concerning the Company which has been delivered to such Bank by the Company pursuant to this Agreement or which has been delivered to such Bank by the Company in connection with such Bank’s credit evaluation of the Company prior to entering into this Agreement.

(g) If, pursuant to this subsection 9.6, any interest in this Agreement or any Note is transferred to a Non-U.S. Bank, the transferor Bank shall cause such Transferee, concurrently with the effectiveness of such transfer to comply with the provisions of subsection 2.14.

(h) For the avoidance of doubt, the parties to this Agreement acknowledge that the provisions of this subsection 9.6 concerning assignments relate only to absolute assignments and that such provisions do not prohibit assignments creating security interests, including any pledge or assignment by a Bank to any Federal Reserve Bank in accordance with applicable law.

(i) Each of the Company, each Bank and the Agent hereby confirms that it will not institute against a Conduit Lender or join any other Person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Bank designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

(j) Nothing in this section is intended to modify the requirements contained in the Liquidity Agreement for replacement, addition or participation of Banks thereto.

(k) RFC may, without the consent of any party, assign the RFC Loans at any time to a Liquidity Institution pursuant to the terms of the Liquidity Agreement.

9.7 Adjustments; Set-off. Except to the extent that this Agreement provides for payments to be allocated to a particular Bank or Banks, if any Bank (a “Benefited Bank”) shall at any time receive any payment of all or part of its RFC Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by offset, pursuant to events or proceedings of the nature referred to in subsection 7.1(f), or otherwise) in a greater proportion than any such payment to and collateral received by any other Bank, if any, in respect of such other Bank’s RFC Loans, or interest thereon, such Benefited Bank shall purchase for cash from the other Banks such portion of each such other Bank’s RFC Loans, or shall provide such other Banks with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefited Bank to share the excess payment or benefits of such collateral or proceeds ratably with each of the Banks; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Bank, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest. The Company agrees that each Bank so purchasing a portion of another Bank’s RFC Loan may exercise all rights of a payment (including, without limitation, rights of offset) with respect to such portion as fully as if such Bank were the direct holder of such portion.

(b) In addition to any rights and remedies of the Banks provided by law, at any time when an Event of Default is in existence, each Bank shall have the right, without prior notice to the Company, any such notice being expressly waived by the Company to the extent permitted by applicable law, upon any amount becoming due and payable by the Company hereunder (whether at the stated maturity, by acceleration or otherwise), to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Bank or any branch or agency thereof to or for the credit or the account of the Company. Each Bank agrees promptly to notify the Company and the Agent after any such setoff and application made by such Bank, provided that the failure to give such notice shall not affect the validity of such setoff and application.

9.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Company and the Agent.

9.9 GOVERNING LAW. THIS AGREEMENT AND THE NOTES AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

9.10 WAIVERS OF JURY TRIAL. THE COMPANY, RFC, THE AGENT AND THE BANKS EACH HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT, THE NOTES OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

9.11 Submission To Jurisdiction; Waivers. The Company hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the Courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof; and

(b) consents that any such action or proceeding may be brought in such courts, and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same.

9.12 Confidentiality of Information. Each Bank acknowledges that some of the information furnished to such Bank pursuant to this Agreement may be received by such Bank prior to the time such information shall have been made public, and each Bank agrees that it will keep all information so furnished confidential and shall make no use of such information until it shall have become public, except (a) in connection with matters involving operations under or enforcement of this Agreement or the Notes, (b) in accordance with each Bank's obligations under law or regulation or pursuant to subpoenas or other process to make information available to governmental or regulatory agencies and examiners or to others, (c) to each Bank's Affiliates, employees, agents (including accountants, legal counsel and other advisors) and Transferees and prospective Transferees so long as such Persons agree to be bound by this subsection 9.12 and (d) with the prior written consent of the Company. Notwithstanding anything herein to the contrary or any contrary understanding or agreement, immediately upon commencement of discussion, any party subject to confidentiality obligations hereunder or under any other related documents (and any employee, representative or other agent of such party) may disclose to any and all persons, without limitation of any kind, such party's U.S. federal tax treatment and the U.S. federal tax structure of the transactions contemplated by this Agreement or any agreement relating hereto relating to such party and all materials of any kind (including opinions or other tax analyses) that are provided to it related to such tax treatment and tax structure. However, no such party shall disclose any information relating to such tax treatment or tax structure to the extent nondisclosure is reasonably necessary in order to comply with applicable securities laws.

9.13 Bankruptcy Petition Against RFC. Each party to this Agreement hereby covenants and agrees that on behalf of itself and each of its affiliates, that prior to the date which is one year and one day after the payment in full of all outstanding indebtedness of RFC, such party will not institute against, or join any other Person in instituting against, RFC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States. The agreements contained in this subsection and the parties' respective obligations hereunder shall survive the termination of this Agreement.

9.14 Special RFC Indemnity. The Company agrees to indemnify RFC and its officers, managers, members (and the direct and indirect owners of such members), employees, representatives and agents from and against all liabilities, losses, suits, costs or expenses of any

kind in any way related to the acquisition by RFC of RFC Loans (collectively, “Indemnified Amounts”), provided, however that the Company shall not have any obligations pursuant to this subsection 9.14 relating to any Indemnified Amounts resulting solely from the gross negligence or willful misconduct of the Person seeking indemnification. The Company’s liability with respect to any Indemnified Amounts with respect to income taxes shall be limited to the amount of tax (calculated based upon the highest marginal U.S. federal income tax rate for individuals and the highest marginal state and local tax rates for individuals resident in New York City), plus interest and penalties thereon, on the increase in net income of RFC as a result of, arising out of, or in any way related to or by reason of the successful assertion by any governmental authority that the Intended Characterization is inappropriate in any regard. As used herein, “Intended Characterization” means that, for all applicable state, local and federal income tax purposes, RFC’s acquisition of RFC Loans shall be treated as the acquisition by RFC of a debt instrument. This indemnity is in addition to any obligations of the Company set forth in subsection 9.5. The agreements contained in this subsection and the parties’ respective obligations hereunder shall survive the termination of this Agreement.

9.15 Limited Recourse. Each party to this Agreement acknowledges and agrees that all transactions with RFC shall be without recourse of any kind to RFC. RFC shall have no obligation to pay any amounts constituting fees, reimbursement for expense or indemnities owing under this Agreement (collectively, “Expense Claims”) and such Expense Claims shall not constitute a claim (as defined in Section 101 of Title 11 of the United States Bankruptcy Code) against RFC unless and until RFC has received sufficient amounts pursuant to the CP Rate Loans to pay such Expense Claims and such amounts are not required to pay the outstanding indebtedness of RFC. The agreements contained in this section and the parties’ respective obligations hereunder shall survive the termination of this Agreement.

[remainder of this page intentionally blank – signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

HUMANA INC.

By: /s/ James H. Bloem

Name: James H. Bloem
Title: Senior Vice President &
Chief Financial Officer

RELATIONSHIP FUNDING COMPANY, LLC

By: /s/ Thomas J. Irvin

Name: Thomas J. Irvin
Title: Manager

JPMORGAN CHASE BANK, as Agent, as CAF
Loan Agent and as a Bank

By: /s/ James S. Ely, III

Name: James S. Ely, III
Title: Managing Director

BANK OF AMERICA, N.A

By: /s/ Kevin Bertelsen

Name: Kevin Bertelsen
Title: Vice President

CITIBANK, N.A.

By: /s/ David A. Dodge

Name: David A. Dodge
Title: Managing Director

364 Day Credit Agreement

WOCHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ Kimberly Shaffer

Name: Kimberly Shaffer
Title: Director

LEHMAN BROTHERS HOLDINGS, INC.

By: /s/ Jane E. Gillard

Name: Jane E. Gillard
Title: Associate

THE BANK OF NOVA SCOTIA

By: /s/ Carolyn A. Calloway

Name: Carolyn A. Calloway
Title: Managing Director

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Sandra J. Hartay

Name: Sandra J. Hartay
Title: Vice President

PNC BANK, NATIONAL ASSOCIATION

By: /s/ Richard M. Ellis

Name: Richard M. Ellis
Title: Senior Vice President

364 Day Credit Agreement

BRANCH BANKING AND TRUST COMPANY

By: /s/ Thatcher L. Townsend III

Name: Thatcher L. Townsend III
Title: Senior Vice President

NATIONAL CITY BANK OF KENTUCKY

By: /s/ Derooy Scott

Name: Derooy Scott
Title: Senior Vice President

364 Day Credit Agreement

Lending Offices: Addresses for Notices

JPMORGAN CHASE BANK

270 Park Ave, 15th Floor
New York, NY 10017
Attention: Shamir Khan
Telephone: (212) 270-5833

PNC BANK, NATIONAL ASSOCIATION

1600 Market Street, 22nd Floor
Philadelphia, PA 19103
Attention: Nicholas A. Aponte
Telephone: (215) 585-5407

THE BANK OF NOVA SCOTIA

600 Peachtree St. N.E
Atlanta, GA 30308
Attention: Pat Brown
Telephone: (404) 877-1506

LEHMAN BROTHERS HOLDING, INC.

745 7th Avenue, 19th Floor
New York, NY 10019
Attention: Francis Chang
Telephone: (212) 526-5390

THE BANK OF NEW YORK

One Wall Street
New York, NY 10286
Attention: Patrick Vatel
Telephone: (212) 635-7882

NATIONAL CITY BANK OF KENTUCKY

101 South Fifth Street, 37th Floor
Louisville, KY 40202
Attention: Deroy Scott
Telephone: (502) 581-7821

BANK OF AMERICA, N.A.

100 N. Tryon Street, NC 1-007-17-11
Charlotte, NC 28255
Attention: Joe Corah
Telephone (704) 386-5976

WACHOVIA BANK, NATIONAL ASSOCIATION

1339 Chestnut Street
3rd Floor PA 4819
Philadelphia, PA 19107
Charlotte, NC 28288
Attention: Kimberly Shaffer
Telephone: (267) 321-7033

CITIBANK, N.A.

388 Greenwich Street
New York, NY 10013
Attention: David Dodge
Telephone: (212) 816-4143

U.S. BANK NATIONAL ASSOCIATION

777 E. Wisconsin Avenue, MK-WI-TGCB
Milwaukee, WI 53202
Attention: Sandra J. Hartay
Telephone: (414) 765-6004

BRANCH BANKING AND TRUST COMPANY

500 West Broadway
Louisville, KY 40202
Attention: Frank Eckerd
Telephone: (502) 562-5877

PRICING GRID

<u>Public Debt Ratings S&P/Moody's</u>	<u>Alternate Base Rate Margin</u>	<u>Eurodollar Margin</u>
Level 1 <input type="checkbox"/> BBB+/Baa1	0 bps	85 bps
Level 2 <input type="checkbox"/> BBB/Baa2	0 bps	95 bps
Level 3 <input type="checkbox"/> BBB-/Baa3	5 bps	105 bps
Level 4 <input type="checkbox"/> BB+/Ba1	20 bps	120 bps
Level 5 < BB+/Ba1	37.5 bps	137.5 bps

Pricing will be determined based upon the lower of the ratings from S&P or Moody's, but in the event the Company's ratings are more than one Level apart, the pricing will be determined by using the rating which is one Level above the lower rating; provided, that (i) if on any day the ratings from S&P or Moody's are not at the same Level, then the Level applicable to the lower of such ratings shall be applicable for such day, (ii) if on any day the rating of only one of S&P or Moody's is available, then the Level of such rating shall be applicable for such day and (iii) if on any day a rating is available from neither of S&P or Moody's, then Level 5 shall be applicable for such day. Any change in the applicable Level resulting from a change in the rating of a S&P or Moody's shall become effective on the date such change is publicly announced by S&P or Moody's, as applicable.

**HUMANA RETIREMENT AND SAVINGS PLAN
SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN
THRIFT EXCESS PLAN
HUMANA OFFICERS' TARGET RETIREMENT PLAN
AMENDMENTS**

HUMANA RETIREMENT AND SAVINGS PLAN (“QUALIFIED PLAN”)

• **Hardship Withdrawals**

- Previous: No limit on number of hardship withdrawals
- As Amended: Limits hardship withdrawals to two per plan year and suspends contributions for six months after withdrawal

• **Rollovers**

- Previous: Allowed for rollovers to Humana’s plan only from certain other qualified plans
- As Amended: Permits additional rollovers allowed by a new law (Economic Growth and Tax Relief Reconciliation Act), including rollovers from retirement plans and deferred compensation plans for public employees

SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN (“SERP”), THRIFT EXCESS PLAN (“TEP”) (“NONQUALIFIED PLANS”)

• **Beneficiaries**

- Previous: Beneficiary designations were the same beneficiaries designated for the qualified plan
- As Amended: Participants can designate beneficiaries independently with respect to each of the nonqualified plans

• **Merge the SERP and TEP into a single plan**

- Previous: Plans were separate with different provisions and investment vehicles

-
- As Amended: A single plan. Accounts within the plan will remain separate, since the SERP funds but not the TEP funds are an offset to the Humana Officers' Target Retirement Plan
 - **Distributions**
 - Previous: Beneficiaries could select a variety of forms of payment, including annuity, fixed-term payments, lump sums
 - As Amended: Beneficiaries will have to take a lump-sum payment of all total amounts of \$25,000 or below in the Nonqualified Plan
 - **Investment Options**
 - Previous: Amounts credited to the SERP were deemed invested in the same manner as amounts invested in the Humana Retirement and Savings Plan ("Qualified Plan"). Amounts credited to the TEP were deemed to be invested in the Stable Value Fund option, which is also available under the Qualified Plan
 - As Amended: Amounts credited to the SERP and TEP will be deemed invested in the investment vehicles selected by participants in the Qualified Plan effective December 31, 2003, subject to certain exceptions to insure compliance with Section 16(b)

HUMANA OFFICERS' TARGET RETIREMENT PLAN ("Target Plan")

- **Offsets**
 - Previous: The Target Plan provided that balances in the participant's SERP and Retirement Account are offsets to the Company's obligations for payment. The plan was silent on the calculation of the offset if the Retirement Account is reduced by a qualified domestic relations order ("QDRO") in a divorce settlement or for any other reason (such as in the case of a rehired person who rolled over funds to an IRA following a prior termination)
 - As Amended: Clarifies that the offset will be calculated without regard to the QDRO or other removal of funds so that the Company will be in the same position it would have been in had the offset not occurred

Humana Inc.
Computation of Ratio of Earnings to Fixed Charges

	For the nine months ended September 30, 2003	For the twelve months ended December 31,				
		2002	2001	2000	1999	1998
		(Dollars in thousands)				
Income (loss) before income taxes	\$ 245,004	\$209,934	\$183,080	\$113,990	\$(404,839)	\$203,083
Fixed charges	30,207	44,349	52,010	52,843	53,592	61,327
Total earnings	\$ 275,211	\$254,283	\$235,090	\$166,833	\$(351,247)	\$264,410
Interest charged to expense	\$ 12,473	\$ 17,252	\$ 25,302	\$ 28,615	\$ 33,393	\$ 46,972
One-third of rent expense	17,734	27,097	26,708	24,228	20,199	14,355
Total fixed charges	\$ 30,207	\$ 44,349	\$ 52,010	\$ 52,843	\$ 53,592	\$ 61,327
Ratio of earnings to fixed charges (1)(2)	9.1x	5.7x	4.5x	3.2x	(3)	4.3x

Notes

- (1) For the purposes of determining the ratio of earnings to fixed charges, earnings consist of income or loss before income taxes and fixed charges. Fixed charges include gross interest expense, amortization of deferred financing expenses and an amount equivalent to interest included in rental charges. One-third of rental expense represents a reasonable approximation of the interest amount.
- (2) There are no shares of preferred stock outstanding.
- (3) Due to a loss in 1999, caused primarily by pretax charges of \$584.8 million, the ratio coverage was less than 1.0x. Additional pretax earnings of \$404.8 million would be needed to achieve a coverage of 1.0x.

CERTIFICATION PURSUANT TO SECTION 302 OF SARBANES-OXLEY ACT OF 2002

I, Michael B. McCallister, principal executive officer of Humana Inc., certify that:

1. I have reviewed this quarterly report on Form 10-Q of Humana Inc.;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of the annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date November 5, 2003

Signature: /s/ Michael B. McCallister

Michael B. McCallister
Principal Executive Officer

CERTIFICATION PURSUANT TO SECTION 302 OF SARBANES-OXLEY ACT OF 2002

I, James H. Bloem, principal financial officer of Humana Inc., certify that:

1. I have reviewed this quarterly report on Form 10-Q of Humana Inc.;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of the annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date November 5, 2003

Signature: /s/ James H. Bloem

James H. Bloem
Principal Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Humana Inc. (the "Company") on Form 10-Q for the period ending September 30, 2003 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned hereby certifies, pursuant to 18 U.S.C. Sec. 1350, as adopted pursuant to Sec. 906 of the Sarbanes-Oxley Act of 2002, in his capacity as an officer of Humana Inc., that:

1. The Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Michael B. McCallister

Michael B. McCallister
President and Chief Executive Officer

November 5, 2003

/s/ James H. Bloem

James H. Bloem
Chief Financial Officer

November 5, 2003

A signed original of this written statement required by Section 906 has been provided to Humana Inc. and will be retained by Humana Inc. and furnished to the Securities and Exchange Commission or its staff upon request.