

US XPRESS ENTERPRISES INC

FORM 8-K

(Unscheduled Material Events)

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Sector	Transportation
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SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

DATE OF REPORT: JANUARY 29, 1998
(Date of earliest event reported)

U.S. XPRESS ENTERPRISES, INC.

(Exact name of Registrant as specified in its charter)

NEVADA
(State of
incorporation)

0-24806
(Commission File No.)

62-1378182
(IRS Employer
Identification No.)

2931 SOUTH MARKET STREET, CHATTANOOGA, TENNESSEE 37410

(Address of principal executive offices, including zip code)

(423) 697-7377

(Registrant's telephone number, including area code)

ITEM 2. ACQUISITION OR DISPOSITION OF ASSETS.

On January 29, 1998, U.S. Xpress Enterprises, Inc. (the "Company") completed the acquisition of privately-held Victory Express, Inc. for \$51 million in cash and the assumption of approximately \$2 million in debt. The acquired company will be operated by existing management as the Victory division of the Company's U.S. Xpress, Inc. subsidiary. Victory Express, Inc. is a truckload carrier based in Ohio with annual revenue of approximately \$65 million. The acquisition was financed with proceeds from a recently consummated \$200 million long-term unsecured line of credit facility arranged through a syndicate of banks.

The Company operates through two subsidiaries: U.S. Xpress, Inc. and CSI/Crown, Inc., U.S. Xpress, Inc. is a national truckload carrier that operates over 3,500 tractors providing time-definite and expedited services in the United States, Canada and Mexico; regional truckload services in the Midwest, Southeast and Western United States; and logistics services that specialize in serving the air-freight industry. CSI/Crown, Inc. provides logistics services to the floorcovering industry, including national and local distribution, freight consolidation and warehousing services.

The foregoing description does not purport to be complete and is qualified in its entirety by reference to the Asset Purchase Agreement and the Credit Agreement attached hereto as Exhibits 10.1 and 10.2.

ITEM 7. FINANCIAL STATEMENTS AND EXHIBITS.

(a) Financial Statements of Business Acquired:

It is impracticable to provide the required financial statements at this time. They will be filed as soon as they are available, but not later than 60 days after the date this report is due to be filed.

(b) Pro Forma Financial Information:

It is impracticable to provide the required pro forma financial statements at this time. They will be filed as soon as they are available, but not later than 60 days after the date this report is due to be filed.

(c) Exhibits:

Exhibit No.	Description
- - - - -	- - - - -
10.1	Stock Purchase Agreement dated as of December 24, 1997 by and between U.S. Xpress Enterprises, Inc. and Richard H. Schaffer, Richard H. Schaffer Irrevocable Trust dated December 24, 1991 and Richard H. Schaffer Irrevocable Non-Withdrawal Trust dated December 24, 1991.
10.2	Credit Agreement dated as of January 13, 1998 among U.S. Xpress Enterprises, Inc., Wachovia Bank, N.A., NationsBank, N.A., BankBoston, N.A., SunTrust Bank, Chattanooga, N.A. and the banks listed therein.

SIGNATURES

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

U.S. XPRESS ENTERPRISES, INC.

(Registrant)

By: /s/ Ray M. Harlin

Name: Ray M. Harlin, Executive
 Vice President, Chief
 Financial Officer

Date: February 13, 1998

EXHIBIT 10.1

STOCK PURCHASE AGREEMENT

BY AND BETWEEN

**RICHARD H. SCHAEFER,
RICHARD H. SCHAEFER
IRREVOCABLE WITHDRAWAL TRUST
DATED DECEMBER 24, 1991,**

AND

**RICHARD H. SCHAEFER
IRREVOCABLE NON-WITHDRAWAL TRUST
DATED DECEMBER 24, 1991**

AND

U.S. XPRESS ENTERPRISES, INC.

December 16, 1997

STOCK PURCHASE AGREEMENT

THIS AGREEMENT made by and between U.S. Xpress Enterprises, Inc., a Nevada corporation (the "BUYER"), and Richard H. Schaefer ("SCHAEFER"), Richard H. Schaefer Irrevocable Withdrawal Trust Dated December 24, 1991, and Richard H. Schaefer Irrevocable Non-Withdrawal Trust Dated December 24, 1991 (together, the "TRUSTS") (Schaeffer and the Trusts are collectively referred to as the "SELLERS") is entered into on December 16, 1997. The Buyer and the Sellers are referred to collectively herein as the "PARTIES."

W I T N E S S E T H:

WHEREAS, the Sellers in the aggregate own all of the outstanding capital stock of Victory Express, Inc., an Ohio corporation (the "TARGET"); and

WHEREAS, the Sellers desire to sell and the Buyer desires to purchase all of the outstanding capital stock of the Target pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE I **PURCHASE AND SALE OF TARGET SHARES**

1.1 BASIC TRANSACTION. On and subject to the terms and conditions of this Agreement, the Buyer agrees to purchase from each of the Sellers, and each of the Sellers agrees to sell, transfer, assign

and deliver to the Buyer, all of his or its Shares of the Target for the consideration specified below in Section 1.2.

1.2 PURCHASE PRICE. The Buyer agrees to pay to the Sellers at the Closing as consideration for the Shares Fifty-One Million Dollars (\$51,000,000) (the "PURCHASE PRICE") by delivery of the Purchase Price in cash payable by wire transfer of immediately available funds pursuant to the wire transfer instructions attached hereto as EXHIBIT 1.2(A). The Base Purchase Price shall be allocated among the Sellers in proportion to their respective holdings of Shares as set forth in EXHIBIT 1.2(B). The Parties further agree that Five Million One Hundred Thousand Dollars (\$5,100,000) (the "ESCROW FUNDS") shall be withheld from the funds to be delivered pursuant to Schaefer's wire instructions and be delivered instead to National City Bank, Dayton, Ohio (hereinafter the "ESCROW AGENT") in cash payable by wire transfer of immediately available funds pursuant to wire transfer instructions attached hereto as EXHIBIT 1.2(C). All Escrow Funds are to be held in escrow pursuant to the terms of an Escrow Agreement in the form of EXHIBIT 1.2(D) hereto (the "ESCROW AGREEMENT") as a non-exclusive source of indemnification. All payments or distributions from the Escrow Funds shall be made in accordance with the terms of the Escrow Agreement. All income earned on the Escrow Funds shall be for the benefit of the Sellers in accordance with the terms of the Escrow Agreement. All fees and expenses of the Escrow Agent incurred in connection with the escrow shall be borne equally by the Buyer and the Sellers.

1.3 THE CLOSING. The delivery of the Purchase Price pursuant to Section 1.2 hereof, the sale, transfer, and delivery of the Shares pursuant to Section 1.1 hereof and the delivery of the other instruments, certificates and legal opinions required hereunder (the "CLOSING"), shall take place at the law office of Fred J. Andary, Esq., 1700 First National Plaza, Dayton, Ohio, at 11:00 A.M. local time on January, 30, 1998 or on such other date or at such other time or place as the parties hereto shall agree in writing (the date and time of the Closing being referred to herein as the "CLOSING DATE").

1.4 DELIVERIES AT THE CLOSING. At the Closing, (i) the Sellers will deliver to the Buyer the various certificates, instruments, and documents referred to in Section 6.1 below, (ii) the Buyer will deliver to the Sellers the various certificates, instruments, and documents referred to in Section 6.2

below, (iii) each of the Sellers will deliver to the Buyer stock certificates representing all of his or its Target Shares, endorsed in blank or accompanied by duly executed assignment documents, and (iv) the Buyer will deliver to each of the Sellers the consideration specified in Section 1.2 above.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF THE SELLERS

In order to induce the Buyer to enter into this Agreement and the consummate the transactions contemplated hereby, Schaefer represents and warrants that as of the date hereof and as of the Closing Date, the following representations and warranties are true, complete and accurate, and all such representations and warranties shall be continuing and shall survive the Closing pursuant to Section 7.1 below. The Trusts make the statements referenced in Sections 2.1, Section 2.2 and the last sentence of Section 2.4 and are not making any representations or warranties involving any of the other Sections in this Article III.

2.1 ORGANIZATION OF THE TRUSTS. Each Seller represents and warrants that each of the Trusts is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization. Attached hereto as EXHIBIT 2.1 are a true, complete and correct copies of the trust agreements and all related documents governing the Trusts.

2.2 OWNERSHIP OF AND TITLE TO THE SHARES, ETC. Each Seller represents and warrants that as concerns the shares he or it possesses that he or it owns the shares of the Target set forth opposite such Seller's name on EXHIBIT 1.2(B) hereof (the "SHARES"); that each such Seller has good and marketable title to the Shares set forth after his or its name, free and clear of all liens, encumbrances, restrictions on transfer, options, charges, security interests, equities and claims whatsoever; that each has the full legal right, capacity and power to execute, deliver and perform this Agreement; that this Agreement and the collateral documents referenced herein executed by each such Seller constitutes the legal, valid and binding obligation of each such Seller according to its respective terms; that each such Seller has full legal right and power to sell, transfer and deliver such Shares in the manner provided in this Agreement; that upon delivery of, and payment for,

such Shares pursuant to this Agreement, the Buyer will acquire good and marketable title thereto, free and clear of all liens, encumbrances, restrictions on transfer, options, charges, security interests, equities and claims whatsoever; and that such Shares are at the date hereof and will on the Closing Date be duly authorized, validly issued and outstanding, fully-paid and non-assessable, with no personal liability attaching to the ownership thereof.

2.3 NO CONFLICT. Except as set forth on Schedule 2.3, neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will (i) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court to which the Sellers or the Target are subject or any provision of the charter, bylaws or other organizational document of the Target or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which the Sellers or the Target are a party or by which they are bound or to which any of the Target's assets are subject which would have a material impact or effect on this transaction or the operations of the Target, or (iii) result in the imposition of any lien, charge, encumbrance or other security interest upon any of the Target's assets. There is no option, warrant, purchase right, or other contract or commitment that could require the sale, transfer, or other disposal of any capital stock or other securities of the Target (other than this Agreement). There are no outstanding or authorized options, warrants, purchase rights, subscription rights, conversion rights, exchange rights, or other contracts or commitments that could require the Target to issue, sell, or otherwise cause to become outstanding any of its capital stock or any other securities. There are no outstanding or authorized stock appreciation, phantom stock, profit participation, or similar rights with respect to the Target. There are no voting trusts, proxies, or other agreements or understandings with respect to the voting of the capital stock of the Target. Neither the Sellers nor the Target are required to give any notice to, make any filing with, or obtain any authorization, consent, or approval of any government or governmental agency in order for the parties to consummate the transactions contemplated by this Agreement, other than compliance with the provisions of the Hart-Scott- Rodino Antitrust Improvements Act.

2.4 CAPITAL STOCK AND STOCKHOLDER RELATIONS The entire authorized capital stock of the Target consists of two hundred fifty (250) shares of common stock no par value per share (the "TARGET SHARES"), of which 134.5 Target Shares are issued and outstanding and 15.5 Target Shares are held in treasury. All of the issued and outstanding Target Shares have been duly authorized, validly issued, fully paid, and are nonassessable. The Shares constitute all of the issued and (with the exception of any of the Target Shares held in treasury) outstanding Target Shares. There are no outstanding options, warrants, contracts, preemptive rights, proxies, calls, commitments or demands of rights of any character obligating the Target to issue any Target Shares or options or rights with respect thereto or any other securities, and there are not existing or outstanding securities of any kind convertible into or exchangeable for Target Shares. There are no outstanding obligations of the Target to repurchase, redeem or otherwise acquire any Target Shares. No current or former stockholder of the Target or of any corporation heretofore merged with or into the Target has any claim or cause of action whatsoever against the Target arising out of or in any way connected with any occurrence or state of facts in existence prior to the Closing Date, and no such present or former stockholder shall come to have any claim or cause of action whatsoever against the Target, or any officer, director or stockholder of the Target, by virtue of, or in any way connected with, the transactions contemplated by this Agreement or otherwise. By the execution of this Agreement, the Sellers hereby waive any and all rights, options, calls, equities or other claims (other than claims they may have pursuant to this Agreement) which the Sellers may have with respect to the Target Shares by reason of the transactions contemplated by this Agreement or any prior transaction, or any other claim or demand whatsoever that they may have against the Target.

2.5 ORGANIZATION, QUALIFICATION, AND CORPORATE POWER OF THE TARGET. The Target is a corporation duly organized, validly existing, and in good standing under the laws of the State of Ohio. The Target is duly authorized to conduct business and is in good standing under the laws of each jurisdiction where such qualification is required, all such jurisdictions being set forth on Schedule

2.5. The Target has all requisite authority, corporate or otherwise and all

authorizations necessary to carry on and conduct the businesses in which it is engaged and to own or lease and use the properties and

assets owned and used by it. The Target is not in default under or in violation of any provision of its charter, bylaws or other organizational or governing instrument.

2.6 ORGANIZATIONAL DOCUMENTS. The Sellers have delivered to the Buyer (or will deliver within seven (7) days of the date hereof) correct, complete and certified copies of the charter documents and bylaws of the Target (as amended and in effect as of the date hereof), the minute books (containing complete, correct and true records of meetings of the stockholders, the board of directors, and any committees of the board of directors), the stock certificate books, and the stock record books of the Target (containing the complete, true and accurate record of stock issuances as of the date of delivery). Schedule 2.6 contains a true and complete list of all of the current officers and

directors of the Target.

2.7 BROKERS' FEES. Neither the Target nor the Sellers have any liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement.

2.8 TITLE TO ASSETS. The Target has good and marketable title to, or a valid leasehold interest in, the properties and assets used by it, wherever located, including those shown on the Baseline Financial Statement of the Target dated September 30, 1997, or acquired after the date thereof, free and clear of all security interests, except for properties and assets disposed of in the ordinary course of business since the date of the aforesaid balance sheet.

2.9 SUBSIDIARIES AND AFFILIATES. Except as set forth on Schedule 2.9, the Target does not have any subsidiaries or affiliated businesses or operations, and there are no other assets, operations, personnel, know how or the like owned, employed or used by the Target in the operation of the transportation business known as "Victory Express" that would not inure to the sole benefit and control of the Buyer upon consummation of the transactions contemplated by the Agreement.

2.10 FINANCIAL STATEMENTS. The Sellers have delivered to the Buyer financial statements of the Target for the fiscal years ended December 31, 1994, December 31, 1995, December 31, 1996,

and, attached hereto as EXHIBIT 2.10, for the month ended September 30, 1997, (the "BASELINE FINANCIAL STATEMENT") and the month ended November 30, 1997 (collectively the "FINANCIAL STATEMENTS"). The Financial Statements (including the notes thereto) have been prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby, present fairly the financial condition of the Target as of such dates and the results of operations of the Target for such periods, are correct and complete, and are consistent with the books and records of the Target (which books and records are correct and complete and kept in accordance with GAAP); provided, however, that the Baseline Financial Statement is subject to year-end adjustments which will not in the aggregate result in a material adverse change to the Baseline Financial Statement. The Baseline Financial Statement will also lack footnotes and other normal presentation items.

2.11 EVENTS SUBSEQUENT TO THE BASELINE FINANCIAL STATEMENT. Since September 30, 1997 and other than as set forth in Schedule 2.11, Target has conducted its business in the ordinary course and there has not been any change in the business, financial condition, operations, results of operations, relationships with any suppliers or customers or future prospects of the Target which will or is likely to have an adverse effect on either the net income or stockholders equity of the Target. Without limiting the generality of the foregoing, since that date and except as set forth on Schedule 2.11:

(A) the Target has not sold, leased, transferred, or assigned any of its assets, tangible or intangible, other than for a fair consideration in the ordinary course of business;

(B) other than shipper contracts, the Target has not entered into any material agreement, contract, lease, or license (or series of related agreements, contracts, leases, and licenses) or any agreement, contract, lease, or license (or series of related agreements, contracts, leases and licenses) outside the ordinary course of business;

(C) no party (including the Target) has accelerated, terminated, modified, or canceled any material agreement, contract, lease, or license (or series of related agreements, contracts, leases, and licenses) to which the Target is a party or by which the Target is bound;

- (D) the Target has not granted or allowed to be imposed any lien, claim, charge, security interest or other encumbrance upon any of its assets;
- (E) the Target has not made any material capital expenditure (or series of related capital expenditures) or any capital expenditure outside the ordinary course of business that has not been reflected on the Baseline Financial Statement;
- (F) other than in the ordinary course of business, the Target has not made any capital investment in, or any acquisition of the securities or assets of, any third party;
- (G) the Target has not made any loan or advance to, and has not received a loan or advance from the Sellers which will remain outstanding at the Closing;
- (H) the Target has not issued any note, bond, or other debt instrument or created, incurred, assumed, or guaranteed any indebtedness for borrowed money or capitalized lease obligation;
- (I) the Target has not unreasonably delayed or postponed the payment of accounts payable or other liabilities beyond the payment terms applicable to said accounts payable or liabilities;
- (J) the Target has not canceled, compromised, waived, or released any right or claim (or series of related rights and claims) either involving more than Twenty-Five Thousand Dollars (\$25,000.00) or outside the ordinary course of business;
- (K) the Target has not granted any license or sublicense of any rights under or with respect to any of the Target Intellectual Property;
- (L) other than as set forth in the documents delivered pursuant to Section 2.6, there has been no change made or authorized in the charter or bylaws of the Target;

(M) the Target has not issued, sold, or otherwise disposed of any of the Target Shares, or granted any options, warrants, or other rights to purchase or obtain (including upon conversion, exchange, or exercise) any of the Target Shares;

(N) the Target has not declared, set aside, nor paid any dividend or made any distribution with respect to the Target Shares (whether in cash or in kind) or redeemed, purchased, or otherwise acquired any of the Target Shares;

(O) the Target has not experienced any damage, destruction, or loss (whether or not covered by insurance) which materially adversely affect its properties or business;

(P) the Target has not made any loan to, or entered into any other transaction with or on behalf of (including but not limited to guarantees of debt), any of its directors, officers, and employees other than normal salary, bonuses and employee benefits paid or granted in the ordinary course of business consistent with past practice; provided, however that none of the Sellers will directly or indirectly have received any bonuses, dividends or other forms of compensation (other than routine monthly salary paid in the ordinary course) from January 1, 1997 through the Closing;

(Q) the Target has not granted any increase in the base compensation of any of its directors, officers, and employees outside the ordinary course of business, and has not adopted, amended, modified, or terminated any bonus, profit-sharing, incentive, severance, or other plan, contract, or commitment for the benefit of any of its directors, officers, and employees (or taken any such action with respect to any other Employee Benefit Plan);

(R) the Target has not made any other change in employment terms for any of its directors, officers, and employees;

(S) other than in the ordinary course of business, the Target has not made or pledged to make any charitable or other capital contribution;

(T) there has not been any other occurrence, event, incident, action, failure to act, or transaction outside the ordinary course of business involving the Target, and the Target has conducted its business in the ordinary and usual course and in a reasonable business manner;

(U) the Target has not committed to any of the foregoing;

(V) the Target has not incurred any liability, contingent or otherwise, except in the ordinary and usual course of business; and

(W) the Target has not made any change in any method of accounting or principle of accounting.

2.12 UNDISCLOSED LIABILITIES. Except as set forth on Schedule 2.12, the Target does not have any liability or obligation whatsoever, whether accrued, absolute, contingent or otherwise (and there is no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against it giving rise to any liability), except for liabilities set forth and adequately reserved against in the Baseline Financial Statement and all subsequent financial statements.

2.13 LEGAL COMPLIANCE. Except as set forth on Schedule 2.13, the Target has reasonably complied with all applicable laws (including rules, regulations, codes, plans, injunctions, judgments, orders, decrees, rulings, and charges thereunder) of federal, state, local, and foreign governments (and all agencies thereof), and no material action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand, or notice has been filed, commenced or threatened against it alleging any failure so to comply.

2.14 TAX MATTERS.

(A) The Target has filed all tax returns and reports that it was required to file. All such tax returns and reports were correct and complete. All taxes owed by the Target (whether or not

shown on any tax return) have been paid or accrued on the Baseline Financial Statement. The Target currently is not the beneficiary of any extension of time within which to file any tax return or report or to make any tax payment. No claim has ever been made by an authority in a jurisdiction where the Target does not file tax returns or reports that the Target is or may be subject to taxation by that jurisdiction.

(B) The Target has withheld and paid all taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party.

(C) Schaefer does not expect any authority to assess any additional taxes for any period for which tax returns have been filed. There is no dispute or claim concerning any tax liability of the Target either (i) claimed or raised by any authority in writing or (ii) as to which either Schaefer or any of the officers and employees of the Target responsible for tax matters has been notified or has knowledge based upon personal contact with any agent of such authority. As concerns income tax, Schedule 2.14(c) sets forth all federal, state and local tax returns filed with respect to the Target for taxable periods ended on or after December 31, 1987, indicates those tax returns that have been audited, and indicates those tax returns that currently are the subject of audit, investigation or other inquiry. Schaefer has delivered to the Buyer correct and complete copies of all federal and state income tax returns, examination reports, and statements of deficiencies assessed against or agreed to by the Target since December 31, 1987. Schedule 2.14(d) sets forth all other tax returns and reports filed with respect to the Target for taxable periods ended on or after December 31, 1996, indicates those tax returns that have been audited, and indicates those tax returns that currently are the subject of audit, investigation or other inquiry.

(D) The Target has not waived any statute of limitations in respect of taxes or agreed to any extension of time with respect to a tax assessment or deficiency.

(E) The Target has not filed a consent under Code (S)341(f) concerning collapsible corporations. The Target has not made any payments, is not obligated to make any payments, nor is a party to any agreement that under certain circumstances could obligate it to make any payments that will not be deductible under Code (S)280G. The Target has not been a United States real property holding corporation within the meaning of Code (S)8979(c)(2) during the applicable period specified in Code (S)8979(c)(1)(A)(ii). The Target is not a party to any tax allocation or sharing agreement. The Target (A) has not been a member of an affiliated group filing a consolidated federal income tax return and (B) has no liability for the taxes of any person or entity (other than the Target) under Reg. (S)1.1502-6 (or any similar provision of state or local law), as a transferee or successor, by contract, or otherwise.

(F) Schedule 2.14(f) sets forth the following information with respect to the Target as of the most recent practicable date: (i) the basis of the Target in its assets; and (ii) the amount of any net operating loss, net capital loss, unused investment or other credit, unused foreign tax, or excess charitable contribution allocable to the Target.

(G) The unpaid taxes of the Target (i) did not, as of the Baseline Financial Statement, exceed the reserve for tax liability set forth on the face of the Baseline Financial Statement (rather than in any notes thereto) and (ii) do not exceed that reserve as adjusted for the passage of time through the Closing Date in accordance with the past custom and practice of the Target in filing tax returns.

2.15 REAL PROPERTY. Schedule 2.15(a) lists and briefly describes all real property that the Target leases for the operation of its terminal and general offices (the "REAL ESTATE"). No real property is owned by the Target other than a residential condominium located in Ft. Myers, Florida (copies of the deeds, condominium governing documents and most recent condominium fee invoice being attached as Schedule 2.15(b) (the "CONDOMINIUM")). Attached hereto as EXHIBIT 2.15 is a true, complete and correct copy of the lease for the Real Estate (the

"LEASE").

(A) GENERAL. Except for the Real Estate and the Condominium, there is no real property owned, leased or occupied by the Target and used or connected with its business.

(B) CODES, ORDINANCES, USE AND NOTICE OF CONDEMNATION. There are no existing, pending, or proposed violations of any fire or health codes, building ordinances, or rules of the Board of Fire Underwriters (or organization exercising functions similar thereto), with respect to the Real Estate, nor is there, any defect in the Real Estate which would render all or any part thereof unsuitable for its continued use by the Target in the manner historically used by Target except that the Real Estate is located partially on wetlands and a flood plain and the appropriate approval has been granted to so construct and operate the Real Estate thereon. Neither Schaefer nor the Target has received any notice of any condemnation proceeding in process or proposed that would affect the Real Estate. Schaefer shall advise the Buyer forthwith of any notice concerning violations, condemnation proceeding, and tax or utility rate increases that may affect the Real Estate.

(C) LICENSES AND PERMITS. The Target holds all licenses, certificates, permits, franchises and rights from all appropriate federal, state, local and other public authorities necessary for the conduct of its current operations, which licenses, certificates, permits, franchises and rights are specified on Schedule 2.15(c).

(D) NO NOTICE OF VIOLATIONS. The Target is in reasonable compliance with all applicable laws, rules and regulations. The Target has not received any notice of violations of any federal, state or local laws, ordinances, rules, regulations or orders relating to its business operations.

(E) UTILITY CONNECTIONS. All public utility connections located on or serving the Real Estate and the Condominium have been completed, installed, activated, paid for and are in operational condition and are in compliance with all appropriate codes, rules and regulations.

(F) TAXES AND UTILITIES. Sellers are not aware of, nor has the Target received, any notice or information of any condition which would result in an increase in the assessments covering the Real Estate or the Condominium or utility rates affecting the Real Estate or the Condominium.

(G) ACCESS. The Target presently has the unencumbered right to use all accesses from the Real Estate and the Condominium to and from public thoroughfares, as such accesses are presently configured and utilized.

(H) RIGHT TO OPERATE. The Target has the legal right to operate all parts of the Real Estate in the manner in which it is currently being operated as a terminal and general corporate office facility for an interstate trucking company.

(I) GOOD TITLE. Except as set forth on Schedule 2.15(i), the lessor of the Real Estate has good and marketable title to each parcel of Real Estate, free and clear of any liens, mortgages, deeds to secure debt, security interests, easement, covenant, or other restriction, except for recorded easements, covenants, and other restrictions which do not impair the current use, occupancy, or value, or the marketability of title, of the property subject thereto. Except as set forth on Schedule 2.15(i), the Target has good and marketable title to the Condominium, free and clear of any liens, mortgages, deeds to secure debt, security interests, easement, covenant, or other restriction, except for recorded easements, covenants, and other restrictions which do not impair the current use, occupancy, or value, or the marketability of title, of the property subject thereto.

(J) NO OTHER LEASES. Except for the Lease and as set forth in Schedule
2.15(j), there are no leases, subleases, licenses, concessions, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Real Estate or the Condominium.

(K) STATUS OF THE LEASE.

(I) the Lease is legal, valid, binding, enforceable, and in full force and effect in accordance with its terms, including those terms that will go into effect as of the Closing;

(II) the Lease will continue to be legal, valid, binding, enforceable, and in full force and effect (assuming no default by the Target subsequent to the Closing) following the consummation of the transactions contemplated hereby;

(III) no party to the Lease is in breach or default, and no event has occurred which, with notice or lapse of time, would constitute a breach or default or permit termination, modification, or acceleration thereunder;

(IV) no party to the Lease has repudiated any provision thereof;

(V) there are no disputes, oral agreements, or forbearance programs in effect as to the Lease; and

(VI) except as noted in Schedule 2.15(i) the Target has not assigned, transferred, conveyed, mortgaged, deeded in trust, or encumbered any interest in the Lease, and the lessor of the Lease has not assigned, transferred, conveyed, mortgaged, deeded in trust, or encumbered any interest in the Real Estate.

2.16 INTELLECTUAL PROPERTY. Set forth on Schedule 2.16 is a complete and accurate list of all intellectual property rights owned by or licensed to the Target, including but not limited to all rights in and to servicemarks, trademarks, tradenames (including the name "Victory Express" and all variations thereof), copyrights, patents and the like whether or not subject to registration (collectively the "TARGET INTELLECTUAL PROPERTY").

(A) There are no other forms of intellectual property rights necessary for the operation of the businesses of the Target as presently conducted other than the Target Intellectual Property. Each item of the Target Intellectual Property owned or used by the Target immediately prior to the Closing hereunder will be owned or available for use by the Target on identical terms and conditions immediately subsequent to the Closing hereunder. The Target has applied to register any trademark it owns with the United States Patent and Trademark Office.

(B) The Target has never interfered with, infringed upon, misappropriated or otherwise come into conflict with any intellectual property rights of third parties, other than as listed in Schedule 2.16(b), and none of the Sellers and the directors and officers (and employees with responsibility for intellectual property matters) of the Target has ever received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or violation (including any claim that the Target must license or refrain from using any intellectual property rights of any third party). No third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any of the Target Intellectual Property. The Target will not interfere with, infringe upon, misappropriate, or otherwise come into conflict with, any intellectual property rights of third parties as a result of the continued operation of its businesses as presently conducted.

(C) With regard to each item of the Target Intellectual Property:

(I) the Target possess all right, title, and interest in and to the item, free and clear of any security interest, license, or other restriction;

(II) the item is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge;

(III) no action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand is pending or threatened which challenges the legality, validity, enforceability, use, or ownership of the item; and

(IV) the Target has never agreed to indemnify any of Sellers or any other third party for or against any interference, infringement, misappropriation, or other conflict with respect to the item.

2.17 ROLLING STOCK AND OTHER TANGIBLE ASSETS. Other than those photocopiers and fax machines and those items listed in Schedule 2.17 that are leased, the Target has good, valid and marketable title to all personal and mixed, tangible and intangible properties and assets all machinery, equipment, and other tangible assets (including but not limited to the Rolling Stock (as herein defined)) used in its business as presently conducted or which it otherwise purports to own, free and clear of all liens, claims, charges and encumbrances whatsoever. Each such tangible asset is free from defects (patent and latent), has been maintained in accordance with normal industry practice, is in good operating condition and repair (subject to normal wear and tear), and is suitable for the purposes for which it presently is used. Schedule 2.17(a) sets forth a list (by make, model, year, license plate/registration number and vehicle identification number) of all power units and trailers used or usable by the Target (the "ROLLING STOCK"). The Rolling Stock is "as is" and has operable engines and drive trains except as noted in Schedule 2.17(a). Except as set forth on Schedule 2.17(a), no item of Rolling Stock is due for major overhaul or replacement during the next fifty thousand (50,000) miles of service. Schedule 2.17(b) sets forth a list (by make, model, year, license plate/registration number and vehicle identification number) of all other motor vehicles and equipment (other than Rolling Stock) used or usable by the Target. Schedule 2.17(c) sets forth a list all other personal property owned by the Target. The location of all the Rolling Stock and other personal property located on Schedule 2.17(a), Schedule 2.17(b) and Schedule 2.17(c) is set forth on such schedules, or if the location of any such Rolling Stock or other personal property is unknown to the Target or in transit such information shall be noted on such schedule.

2.18 CONTRACTS. Schedule 2.18 sets forth all oral or written contracts and other agreements to which the Target is a party, including but not limited to:

(A) any agreement (or group of related agreements) for the lease of personal property to or from any of the Sellers or any third party providing for lease payments in excess of Fifty Thousand Dollars (\$50,000) per annum;

(B) any agreement (or group of related agreements) for the purchase or sale of supplies, products, or other personal property, or for the furnishing or receipt of services, the

- performance of which will extend over a period of more than one year or involve consideration in excess of Ten Thousand Dollars (\$10,000);
- (C) any agreement concerning a partnership or joint venture;
- (D) any agreement (or group of related agreements) under which the Target has created, incurred, assumed, or guaranteed any indebtedness for borrowed money, or any capitalized lease obligation, in excess of Fifty Thousand Dollars (\$50,000) or under which it has imposed a lien on any of its assets, tangible or intangible;
- (E) any agreement concerning confidentiality or noncompetition;
- (F) any agreement with any of the Sellers;
- (G) any agreement for the employment of any individual on a full-time, part-time, consulting, or other basis providing annual compensation in excess of Ten Thousand Dollars (\$10,000) or providing severance benefits or other post-employment benefits of any amounts;
- (H) any agreement under which it has advanced or loaned any amount to any of its directors, officers, and employees other than driver advances issued in the ordinary course of business;
- (I) any agreement under which the consequences of a default or termination could have an adverse effect on the business, financial condition, operations, results of operations, or future prospects of the Target in excess of Ten Thousand Dollars (\$10,000) in earnings before interest, taxes, depreciation and amortization;
- (J) any other agreement (or group of related agreements) the performance of which involves consideration in excess of Ten Thousand Dollars (\$10,000); or

(K) all trucking, carrier, shipper, dedicated service, broker and transport contracts which account for more than Five Hundred Thousand Dollars (\$500,000) in annual revenues. Schaefer will make available to the Buyer prior to the Closing the files containing all other such contracts.

Schaefer has delivered to the Buyer a correct and complete copy of each written agreement set forth on Schedule 2.18 (as amended to date) and a written summary setting forth the terms and conditions of each oral agreement referred to in Schedule 2.18. With respect to each such agreement: (i) the agreement is legal, valid, binding, enforceable, and in full force and effect; (ii) the agreement will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby; (iii) no party is in breach or default, and no event has occurred which with notice or lapse of time would constitute a breach or default, or permit termination, modification, or acceleration, under the agreement; (iv) no party has repudiated any provision of the agreement; and (v) no party is the subject of bankruptcy proceedings, has had a trustee appointed on its behalf or is insolvent.

2.19 EMPLOYEE ARRANGEMENTS, UNION AGREEMENTS AND BENEFIT PLANS AND GOVERNMENT COMPLIANCE.

(a) Schedule 2.19(a) sets forth a complete and accurate list and description of all oral or written employment, consulting or collective bargaining contracts, deferred compensation, change in control agreements, golden parachute agreements, profit-sharing, bonus, option, share purchase or other benefit or compensation commitment, benefit plans, arrangements, policies or plans, including all welfare plans of or pertaining to the present or former employees of the Target, or the Target's predecessors in interest. Except as set forth on Schedule 2.19(a), the Target and its predecessors in interest have reasonably complied with all of their respective obligations, including the payment of all contributions, the filing of all reports, and the payment or accrual of all expenses for the period between the end of the previous plan year and the Closing Date, with respect to such contracts, commitments, arrangements and plans. The plans have been maintained in compliance with all applicable

laws and regulations. The levels of insurance reserves and accrued liabilities with regard to all such plans are reasonable and are sufficient to provide for all incurred but unreported claims and any retroactive premium adjustments.

(B) Except as set forth on Schedule 2.19(b), the Target has never had any oral or written employment, consulting or collective bargaining contracts, deferred compensation, change in control agreements, golden parachute agreements, profit-sharing, bonus, option, share purchase or other benefit or compensation commitment, benefit plans, arrangements or plans, including all welfare plans of or pertaining to the present or former employees of the Target, or the Target's predecessors in interest.

(C) Schedule 2.19(c) sets forth the name of each salaried employee of the Target and such employee's annual salary, position and hire date.

(D) Except as disclosed on Schedule 2.19(d), the Target is reasonably in compliance with all worker compensation laws and requirements of all applicable states.

(E) Except to the extent set forth in Schedule 2.19(e):

(I) The Target is in compliance with all applicable laws and collective bargaining agreements respecting employment (if any) and employment practices, terms and conditions of employment and wages and hours and occupational safety and health;

(II) There is no unfair labor practice, charge or complaint or any other matter against or involving the Target or pending or, to the Target's knowledge, threatened before the National Labor Relations Board or any court of law;

(III) There is no labor strike, dispute, slowdown or stoppage actually pending or, to the Target's knowledge, threatened against the Target;

(IV) To the Target's knowledge, no certification or decertification question or organizational drive exists or has existed within the past twenty-four months respecting the employees of the Target;

(V) No grievance proceeding or arbitration proceeding arising out of or under any collective bargaining agreement is pending against the Target, or, to the knowledge of the Target, threatened; and, to the knowledge of the Target, no basis for any claim therefor exists;

(VI) Except for general labor relation laws, no agreement (including any collective bargaining agreement), arbitration or court decision or governmental order which is binding on the Target in any way limits or restricts the Target from relocating or closing any of its operations;

(VII) The Target has not experienced any organized work stoppage or other labor difficulty since January 1, 1988; and

(VIII) There are no charges, or known administrative proceedings or formal complaints of discrimination (including discrimination based upon sex, age, marital status, race, national origin, sexual preference, handicap or veteran status) pending before the Equal Employment Opportunity Commission or any federal, state or local agency or court against the Company. Except as disclosed in Schedule 2.19(e), since January 1, 1992, there have been no governmental audits of the equal employment opportunity practices of the Target.

2.20 EMPLOYEE BENEFIT PLANS.

(A) Target does not have and has never had an employee pension benefit plan.

(B) Schedule 2.20(b) lists any employee welfare benefit plan within the meaning of Section 3(1) of the Employee Retirement Income Security Act of 1974 ("ERISA") maintained or contributed to by the Target during the last five (5) years and with respect to any group health plan subject to COBRA, maintained or contributed to by the Target during the last five (5) years. "COBRA" means the provisions for the continuation of health care enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, as set forth in Section 4080B of the Code (and any amendments or predecessor or successor provisions) and Sections 601 through 608 of ERISA (and any amendments or predecessor or successor provisions), including any regulations promulgated under the applicable provisions of the Code and ERISA. As of the Closing Date, each of the employee benefit plans set forth in Schedule 2.20(b) and the Retirement Plan (collectively, the "EMPLOYEE BENEFIT PLANS") are in material compliance with, and have been administered in material compliance with, the provisions of ERISA and the Code.

(C) In connection with each Employee Benefit Plan:

(I) The Target has provided to the Buyer true, complete and correct copies of (A) each Employee Benefit Plan (or, in the case of any unwritten Employee Benefit Plan, a description thereof), (B) each trust agreement, group annuity contract, and any other contract relating to any Employee Benefit Plan, (C) the three (3) most recent Forms 990 and the three most recent Annual Reports, including all schedules, exhibits, and audits (Form 5500) filed for each Employee Benefit Plan for which such a filing is required; and there has been no material change or amendment to any of such documents or filings relating to the Employee Benefit Plans as of the Closing Date; (D) the most recent Summary Plan Descriptions and all Summary of Material Modifications prepared subsequent to such Summary Plan Descriptions, (E) the three (3) most recent Summary Annual Reports prepared and distributed for each Employee Benefit Plan for which such document is required, (F) the three most recent actuarial reports for the Retirement Plan, (G) all Notices of Reportable Events filed with the Pension Benefit Guaranty

Corporation, (H) with respect to the Retirement Plans, a copy (or if not formally published, a description) of the established policies and procedures reasonably designed to promote and facilitate overall compliance with the requirements of Section 401(a) of the Code and all corrections made since January 1, 1997, as a result of such policies and procedures, and (I) a copy of all Forms 5330.

(II) Neither the Target nor any fiduciary as defined in Section 3(21) of ERISA has taken any action or failed to take any action which would result in any liability to the Target after the Closing Date for matters prior to the Closing Date with respect to any Employee Benefit Plan, other than the payment of the specified benefits.

(III) There is not any contract, plan or commitment or legal requirement (other than the funding requirement of ERISA with respect to the Retirement Plan), that would require the Target to create any additional employee benefit plan to provide or designed to provide benefits for any its employees or their dependents or beneficiaries or that would require the Target to make any additional contribution to or to pay any expense of the Retirement Plan or to any Employee Benefit Plan for matters occurring prior to the Closing Date.

(IV) There is no action, suit, grievance, arbitration or other manner of litigation, or claim with respect to the assets of any Employee Benefit Plan (other than routine claims for benefits made in the ordinary course of Employee Benefit Plan administration for which administrative review procedures have not been exhausted) pending, threatened or imminent against or with respect to the Employee Benefit Plan, the Target or any other fiduciary (as defined in Section 3(21) of ERISA) of any Employee Benefit Plan (including any action, suit, grievance, arbitration or other manner of litigation, or claim regarding conduct which allegedly interferes with the attainment of rights under any Employee Benefit Plan).

(V) Neither the Target nor any other fiduciary (as defined in Section 3(21) of ERISA) has any knowledge of any facts which would give rise to or could give rise to any action, suit, grievance, arbitration or other manner of litigation, or claim with respect to any Employee Benefit Plan.

(D) Schedule 2.20(e) sets forth the names of claimants, the relationship to the employee and amount and description of all claims made under any policy or plan of health benefits sponsored by the Target, whether or not insured, during the last five years that aggregate Five Thousand Dollars (\$5,000) or more with respect to any claimant.

2.21 NOTES AND ACCOUNTS RECEIVABLE. In the ordinary course of business all notes and accounts receivable of the Target are reflected properly on its books and records, are valid receivables subject to no refunds, adjustments, defenses, restrictions, assignments, disputes, setoffs or counterclaims, are current and collectible, and will be collected in accordance with their terms at their recorded amounts within 120 days of the date incurred without resort to legal process, subject only to the reserve for bad debts set forth on the face of the Baseline Financial Statement (rather than in any notes thereto) as adjusted for the passage of time through the Closing Date in accordance with the past custom and practice of the Target.

2.22 POWERS OF ATTORNEY. There are no outstanding powers of attorney executed on behalf of the Target.

2.23 INSURANCE. Schedule 2.23 sets forth the following information with respect to each insurance policy (including policies providing property, casualty, liability, and workers' compensation coverage and bond and surety arrangements) to which the Target has been a party, a named insured, or otherwise the beneficiary of coverage at any time within the past five (5) years:

(A) the name, address, and telephone number of the agent;

(B) the name of the insurer, the name of the policyholder, and the name of each covered insured;

(C) the policy number and the period of coverage;

(D) the scope (including an indication of whether the coverage was on a claims made, occurrence, or other basis) and amount (including a description of how deductibles and ceilings are calculated and operate) of coverage; and

(E) a description of any retroactive premium adjustments or other loss- sharing arrangements.

With respect to each such insurance policy: (i) the policy is legal, valid, binding, enforceable, and in full force and effect; (ii) the policy will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby (subject to (A) the terms of the policy, (B) the payment of premiums and (C) to no notice of cancellation by the Target subsequent to the Closing); (iii) neither the Target nor any other party to the policy is in breach or default (including with respect to the payment of premiums or the giving of notices), and no event has occurred which, with notice or the lapse of time, would constitute such a breach or default, or permit termination, modification, or acceleration, under the policy; and (iv) no party to the policy has repudiated any provision thereof. The Target has been covered during the past five (5) years by insurance in scope and amount customary and reasonable for the businesses in which it has engaged during the aforementioned period. Schedule 2.23 describes any self-insurance arrangements affecting the Target.

2.24 LITIGATION AND CLAIMS. Schedule 2.24(a) sets forth each instance in which the Target (i) is subject to any outstanding injunction, judgment, order, decree, ruling, claim or charge, or (ii) is a party or is threatened to be made a party to any action, claim, suit, proceeding, hearing, or investigation of, in, or before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction or before any arbitrator. Set forth on Schedule 2.24(b) are copies of all accident registers and loss runs relating to all open matters not totally resolved and closed. Set forth on

Schedule 2.24(c) are copies of the cargo loss log relating to all open matters not totally resolved and closed. Schedule 2.24(d) sets out all facts of which the Target is aware involving any bodily injury, property, vehicular or cargo incident between the Target and a third party occurring since January 1, 1998, where no claim has yet been made or threatened and which is not reflected on either Schedule 2.24(a), Schedule 2.24(b) or Schedule 2.24(c). Schedule 2.24(a), Schedule 2.24(b) and Schedule 2.24(c) each set forth in individual detail all liabilities recorded in the financial statements, including booked reserves and accruals relating to each entry.

2.25 GUARANTIES. The Target is not a guarantor or otherwise is liable for any liability or obligation (including indebtedness) of any other person or entity.

2.26 ENVIRONMENTAL, HEALTH, AND SAFETY MATTERS. ENVIRONMENTAL PROTECTION.

The Target has reasonably obtained all permits, licenses and other authorizations and filed all notices and reports which are required to be obtained or filed by it for the operation of its business under federal, state and local laws relating to environmental matters, health and safety, pollution, or protection of the environment (the "HSE LAWS"). The Target is in compliance in all material respects with all terms and conditions of such required permits, licenses and authorizations. The Target is in compliance in all material respects with all other applicable limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in the HSE Laws or contained in any law, regulation, code, plan, order, decree, judgment, notice or demand letter issued, entered, promulgated or approved thereunder. In addition to the foregoing, the Target specifically warrants that all underground storage tanks ("USTS") presently or previously located on the Real Estate at all times were in compliance in all material respects with the HSE Laws or that any violations have been properly corrected to the satisfaction of the appropriate governmental authority, and further warrants that all USTs presently on the Real Estate are in reasonable compliance with the 1998 UST upgrade requirements. Except as disclosed on Schedule 2.26, there are no past or present events, conditions, circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent continued compliance in all material respects with, or which may give rise to any material common law or statutory liability, or otherwise form the basis of any material claim, action, suit, notice of

violation, proceeding, or hearing pursuant to the HSE Laws, nor has there been any distribution, use, treatment, storage, disposal, transport, handling, emission, discharge, release or threatened release into the environment of any pollutant, contaminant, or hazardous or toxic material or waste with respect to the Target or its business. Except as disclosed on Schedule 2.26, the Target has received no notice of violation or the like or any complaint or other threat of any actions by any party related in any way to the HSE laws. The Real Estate does not contain any asbestos, urea-formaldehyde, lead-based paint, or PCBs in any form. The Buyer will conduct a Phase I Environmental Site Assessment ("ESA") of the Real Estate at the Buyer's expense not later than January 15, 1998. The Buyer may, at its option conduct a Phase II ESA on any item of concern noted in the Phase I ESA. Any material violation of the HSE Laws documented by the Phase II ESA but not reported by the Target on Schedule 2.26, shall be, at the Buyer's option, corrected to the satisfaction of the appropriate governmental authority by or at the cost of the Seller, or corrected by the Buyer with the cost of correction deducted from the purchase price hereunder.

2.27 ABSENCE OF CERTAIN PAYMENTS. Other than for services legitimately and openly performed under applicable law, business discounts customarily granted in the ordinary course of business and nominal non-cash gifts (with a total per donee retail value of less than \$100 in any year), neither the Target, nor, to Schaefer's knowledge, any agent, employee or representative of the Target has made or offered to make to any customer, supplier, government official, insurance carrier, referral source, employee or agent or any other person or entity, any payment, gratuity, gift, service or thing of material value. For purposes of this Section, "material" shall mean a fair market value of One Hundred Dollars (\$100.00) or more, and "person" shall not include the Sellers.

2.28 ANTITRUST MATTERS. The Target is and throughout any applicable statutory period of limitation has been in compliance with all laws, regulations and/or ordinances, whether federal, state or municipal, pertaining or relating in any way to the regulation of competition or trade among or between business entities, including but not limited to, Sections 1 and 2 of the Sherman Act, Section 3 of the Clayton Act, the Robinson-Patman Act, the Lanham Act, Section 5 of the Federal Trade Commission Act and applicable state or municipal antitrust and trade laws,

regulations and/or ordinances. The business and operations of the Target, or any predecessor, affiliate, parent or subsidiary thereof, have been conducted in full and complete compliance with any and all such laws, regulations and/or ordinances.

2.29 SAFETY RATING. Except as noted in Schedule 2.29, the Target holds a Satisfactory safety rating from the United States Department of Transportation and has always held same since such ratings were first issued.

2.30 ORGANIZATIONS AND CLUBS. Set forth on Schedule 2.30 is a listing of all organizations and clubs of which the Target is a member or to which it pays dues or fees on behalf of itself or any person, which person shall be identified in the schedule.

2.31 BANK ACCOUNTS. Schedule 2.31 sets forth a complete and accurate list of each bank or financial institution at which the Target has an account or safe deposit box (giving the address and account numbers) and the names of the persons authorized to draw thereon or to have access thereto.

2.32 MAJOR SUPPLIERS AND CUSTOMERS. Schedule 2.32 sets forth a list of the Target's fifty (50) largest suppliers and fifty (50) largest customers for the year ended December 31, 1997, together with in each case the amount paid or billed during such period. To Schaefer's knowledge, the Target, other than as noted in Schedule 2.32 is not engaged in any material dispute with any of such suppliers or customers. None of the officers or directors of the Target, or any person related to any officer or director of the Target, or any company or other organization in which any officer or director of the Target, or any person related to any officer or director of the Target has a direct or indirect financial interest, has any material financial interest in any supplier or customer of the Target.

2.33 DISCLOSURE. The representations and warranties contained in this Article II do not contain any untrue statement of a material fact nor omit to state any material fact necessary in order to make the statements and information contained in this Article II not misleading.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE BUYER

In order to induce the Sellers to enter into this Agreement and the consummate the transactions contemplated hereby, the Buyer represents and warrants that as of the date hereof and as of the Closing Date, the following representations and warranties are true, complete and accurate, and all such representations and warranties shall be continuing and shall survive the Closing pursuant to Section 7.1 below.

3.1 ORGANIZATION OF THE BUYER. The Buyer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Nevada.

3.2 AUTHORIZATION OF TRANSACTION. The Buyer has full power and authority (including full corporate power and authority) to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement constitutes the valid and legally binding obligation of the Buyer, enforceable in accordance with its terms and conditions. Except as set forth on Schedule 3.2 and compliance with the provisions of the Hart-Scott-Rodino Antitrust Improvements Act, the Buyer need not give any notice to, make any filing with, or obtain any authorization, consent, or approval of any government or governmental agency in order to consummate the transactions contemplated by this Agreement.

3.3 NONCONTRAVENTION. Except as set forth on Schedule 3.3, neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will (a) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court to which the Buyer is subject or any provision of its charter or bylaws or (b) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other

arrangement to which the Buyer is a party or by which it is bound or to which any of its assets is subject.

3.4 **BROKERS' FEES.** The Buyer has no liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement for which any Seller could become liable or obligated.

3.5 **INVESTMENT.** The Buyer is not acquiring the Shares with a view to or for sale in connection with any distribution thereof within the meaning of the Securities Act of 1933.

ARTICLE IV **PRE-CLOSING COVENANTS**

The Parties agree as follows with respect to the period between the execution of this Agreement and the Closing.

4.1 **GENERAL.** Each of the Parties will use his or its best efforts to take all action and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this Agreement (including satisfaction, but not waiver, of the closing conditions set forth in Article VI below).

4.2 **NOTICES AND CONSENTS.** Schaefer will cause the Target to give any notices to third parties, and will cause the Target to use its best efforts to obtain any third party consents, that the Buyer may request in connection with the matters referred to in Section 2.3 above. Each of the Parties will (and Schaefer will cause the Target to) give any notices to, make any filings with, and use its best efforts to obtain any authorizations, consents, and approvals of governments and governmental agencies in connection with the matters referred to in Section 2.3, Section 3.2 and Section 3.3 above. Without limiting the generality of the foregoing, each of the Parties will file (and Schaefer will cause the Target to file) any Notification and Report Forms and related material that he or it may be required to file with

the Federal Trade Commission and the Antitrust Division of the United States Department of Justice under the Hart-Scott-Rodino Act, will use his or its best efforts to obtain (and Schaefer will cause the Target to use its best efforts to obtain) an early termination of the applicable waiting period, and will make (and Schaefer will cause the Target to make) any further filings pursuant thereto that may be necessary, proper, or advisable in connection therewith. Schaefer, without prior consultation with the Buyer, shall not cause or permit the Target to purchase or contract to purchase any equipment or Rolling Stock, regardless of whether such purchase is in the ordinary course of business.

4.3 OPERATION OF BUSINESS. Schaefer will not cause or permit the Target to engage in any practice, take any action, or enter into any transaction outside the ordinary course of business. Without limiting the generality of the foregoing, Schaefer without prior written consent from the Buyer will not cause or permit the Target to (a) declare, set aside, or pay any dividend or make any distribution with respect to its capital stock or redeem, purchase, or otherwise acquire any of its capital stock, (b) enter into a transaction with the Sellers, or (c) otherwise engage in any practice, take any action, or enter into any transaction of the sort described in Section 2.11 above.

4.4 PRESERVATION OF BUSINESS. Schaefer will cause the Target to keep its business and properties substantially intact, including its present operations, Rolling Stock, physical facilities, working conditions, and relationships with lessors, licensors, suppliers, customers, and employees. Schaefer will immediately notify the Buyer upon Schaefer or the Target receiving any indication that a customer or certain customers intends to reduce substantially or cease doing business with the Target. For purposes of this Section, "customer" shall mean a customer who individually accounts for five per cent (5%) of the Target's annual gross revenue and "certain customers" shall mean customers who in the aggregate (whether related or not) account for five per cent (5%) of the Target's annual gross revenue.

4.5 FULL ACCESS. Schaefer will permit, and Schaefer will cause the Target to permit, representatives of the Buyer to have full access at all reasonable times, including permitting the Buyer's independent accountants to conduct an audit of the Target, and in a manner so as not to interfere with

the normal business operations of the Target, to all premises, properties, personnel, books, records (including tax records), contracts, and documents of or pertaining to the Target.

4.6 NOTICE OF DEVELOPMENTS. Each Party will give prompt written notice to the others of any material adverse development causing a breach of any of their respective representations and warranties in Article II and Article III above.

4.7 EXCLUSIVITY. None of the Sellers will (and Schaefer will not cause or permit the Target to) (a) solicit, initiate, or encourage the submission of any proposal or offer from any person or entity relating to the acquisition of any capital stock or other voting securities, or any substantial portion of the assets, of the Target (including any acquisition structured as a merger, consolidation, or share exchange) or (b) participate in any discussions or negotiations regarding, furnish any information with respect to, assist or participate in, or facilitate in any other manner any effort or attempt by any person or entity to do or seek any of the foregoing. None of the Sellers will vote their respective Shares in favor of any such acquisition structured as a merger, consolidation, share exchange or purchase of assets. Schaefer will notify the Buyer immediately if any person or entity makes any proposal, offer, inquiry, or contact with respect to any of the foregoing.

4.8 SURVEY. With respect to the Real Estate, Schaefer will cause the Target to procure in preparation for the Closing a current survey of the Real Estate certified to the Buyer, prepared by a licensed surveyor and conforming to current ALTA Minimum Detail Requirements for Land Title Surveys, disclosing the location of all improvements, easements, party walls, sidewalks, roadways, utility lines, and other matters shown customarily on such surveys, and showing access affirmatively to public streets and roads (the "SURVEY"). There shall be no any survey defect or encroachment from or onto the Leased Property which has not been cured or insured over prior to the Closing.

4.9 SETTLEMENT OF DEBT. Schaefer shall ensure that on or before the Closing that all outstanding debts and liabilities between the Sellers and the Target are settled in cash.

4.10 TRANSFER OF THE BUYER'S PROPERTY TO THE REAL PROPERTY. Schaefer shall cause the Target to allow the Buyer to move certain of its assets to and store and manage them at and from the Real Estate prior to the Closing Date if the Closing Date occurs after January 15, 1998.

ARTICLE V
POST-CLOSING COVENANTS

The Parties agree as follows with respect to the period following the Closing.

5.1 GENERAL. In case at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement, each of the Parties will promptly take without further consideration such further action (including the execution and delivery of such further instruments and documents) as any other Party reasonably may request. Schaefer acknowledges and agrees that from and after the Closing the Buyer will be entitled to possession of all documents, books, records (including tax records), agreements, and financial data of any sort relating to the Target.

5.2 LITIGATION SUPPORT. In the event and for so long as any Party actively is contesting or defending against any action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand in connection with (a) any transaction contemplated under this Agreement or (b) any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction on or prior to the Closing Date involving the Target, each of the other Parties will cooperate with him or it and his or its counsel in the contest or defense, make available their personnel, and provide such testimony and access to their books and records as shall be necessary in connection with the contest or defense, all at the sole cost and expense of the contesting or defending Party (unless the contesting or defending Party is entitled to indemnification therefor under Article VIII below).

5.3 TRANSITION. Schaefer will not take any action that is designed or intended to have the effect of discouraging any lessor, licensor, customer, supplier, or other business associate of the Target from maintaining the same business relationships with the Target after the Closing as it maintained with

the Target prior to the Closing. Schaefer will refer all customer inquiries relating to the businesses of the Target to the Buyer from and after the Closing.

5.4 CONFIDENTIALITY. Schaefer will treat and hold all nonpublic information of the Target as confidential information for a period of three (3) years subsequent to the Closing and refrain from using any of the confidential information except in connection with this Agreement, and deliver promptly to the Buyer or destroy, at the request and option of the Buyer, all tangible embodiments (and all copies) of the confidential information which are in his or its possession. In the event that any of the Sellers is requested or required (by oral question or request for information or documents in any legal proceeding, interrogatory, subpoena, civil investigative demand, or similar process) to disclose any confidential information, that Seller will notify the Buyer promptly of the request or requirement so that the Buyer may seek an appropriate protective order or waive compliance with the provisions of this Section. If, in the absence of a protective order or the receipt of a waiver hereunder, any of the Sellers is, on the advice of counsel, compelled to disclose any confidential information to any tribunal or else stand liable for contempt, that Seller may disclose the confidential information to the tribunal; provided, however, that the disclosing Seller shall use his or its reasonable best efforts to obtain, at the reasonable request of the Buyer, an order or other assurance that confidential treatment will be accorded to such portion of the confidential information required to be disclosed as the Buyer shall designate. The foregoing provisions shall not apply to any confidential information which is generally available to the public immediately prior to the time of disclosure so long as such general availability is not due to a breach by the Sellers with the provisions of this Section.

ARTICLE VI

CONDITIONS TO OBLIGATION TO CLOSE

6.1 CONDITIONS TO OBLIGATION OF THE BUYER. The obligation of the Buyer to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

(A) the representations and warranties set forth in Article II shall be true and correct in all material respects at and as of the Closing Date;

(B) the Sellers shall have performed and complied with all of their covenants hereunder in all material respects through the Closing;

(C) the Target shall have procured all of the third party consents specified in Section 2.3 above and the Survey (except for those consents covered under Section 6.1(f) below);

(D) no action, suit, or proceeding shall be pending or threatened before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction or before any arbitrator wherein an unfavorable injunction, judgment, order, decree, ruling, or charge would (i) prevent consummation of any of the transactions contemplated by this Agreement, (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation, (iii) affect adversely the right of the Buyer to own the Shares and to control the Target, or (iv) affect adversely the right of the Target to own its assets and to operate its businesses (and no such injunction, judgment, order, decree, ruling, or charge shall be in effect);

(E) Schaefer shall have delivered to the Buyer a certificate to the effect that each of the conditions specified above in Section 6.1(a)-(d) is satisfied in all respects;

(F) all applicable waiting periods (and any extensions thereof) under the Hart-Scott-Rodino Antitrust Improvements Act shall have expired or otherwise been terminated and the Parties and the Target shall have received all other authorizations, consents, and approvals of governments and governmental agencies referred to in Section 3.2;

(G) Schaefer shall have executed the Escrow Agreement;

(H) Schaefer shall have entered into a non-competition and consulting agreement with the Target and the Buyer in the form of EXHIBIT 6.1 (H)

hereto (the "NON-COMPETITION AND CONSULTING AGREEMENT");

(I) the Buyer shall have received from counsel for Schaefer, an opinion, dated the Closing Date and in form and substance reasonably satisfactory to the Buyer's counsel, to the effect that:

(I) the Target is a corporation validly existing and in good standing under the laws of the State of Ohio;

(II) this Agreement and the collateral documents to be executed in connection herewith constitute the valid and binding obligations of Schaefer, enforceable in accordance with their terms except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and except that the availability of the remedy of specific performance or other equitable relief is subject to the discretion of the court before which any proceeding therefor may be brought;

(III) the authorized capital stock of the Target consists of Two Hundred Fifty (250) shares of common stock, no par value per share, and, based upon a review of the minute books and stock books of the Target and upon specified certificates of appropriate officers of the Target, there are 134.5 shares of such stock issued and outstanding and there are 15.5 shares held as treasury stock, all of which issued and outstanding shares are owned of record by the Sellers, have been duly authorized, are validly issued and outstanding, and are fully paid and nonassessable;

(IV) insofar as such counsel are aware, and based upon a review of the minute books and stock books of the Target, neither the Target nor the Sellers are a party

to, or bound by, any outstanding option, warrant, agreement (other than this Agreement), preemptive right, proxy, call, commitment or demand or right of any character obligating the Target or the Sellers to sell, issue or otherwise dispose of any capital stock of the Target or any option or rights with respect thereto;

(V) Insofar as such counsel are aware, neither the execution and delivery of this Agreement by Schaefer nor compliance with the terms and provisions hereof by Schaefer will violate any provision of any injunction, order or decree of any governmental agency, authority or court of which such counsel are aware; and

(VI) The Non-Competition and Consulting Agreement hereto constitutes the valid and binding obligation of Schaefer, enforceable in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and except that the availability of the remedy of specific performance or other equitable relief is subject to the discretion of the court before which any proceeding therefor may be brought;

(J) the Buyer shall have received the resignations, effective as of the Closing, of each director and officer of the Target other than those whom the Buyer shall have specified in writing at least five (5) business days prior to the Closing; such resignation to be accompanied by a waiver of any and all claims against the Target (such resignation and waiver to be in form and content reasonably acceptable to the Buyer and its counsel);

(K) there shall not have occurred any material adverse change since December 31, 1996 in the business, properties, assets, liabilities, results of operations, prospects or financial condition of the Target or physical loss or damage to any of the properties or assets (which, if covered by insurance could not be fully replaced within thirty (30) days of such loss or damage without payment by the Target of a deductible in excess of three

(3) per cent of the loss amount) of the Target which materially and adversely affects or impairs

the business now being or to be conducted by the Target, and the Sellers shall have delivered to the Buyer a certificate, signed by the Sellers and dated the Closing Date, to all such effects. For purposes of this Section, a "material adverse change" shall be as determined by the Buyer in its sole discretion;

(L) Schaefer shall have entered into an amendment of the Lease that provides: (i) for the continuation of the present term through December 31, 2007 at the present lease rate; (ii) that upon termination of that present Lease term, the Target shall have an option to extend the Lease for four (4) consecutive terms of five (5) years each, each renewal term subject to adjustment based upon the Consumer Price Index and at such other terms satisfactory to the Buyer; (iii) that the Target shall have a right of first refusal to purchase the Real Estate should Schaefer ever sell the Real Estate; and (iv) that there are no defaults existing under the Lease as of the Closing Date, nor any condition which, with notice or the passage of time, or both, will result in a default under the Lease;

(m) Schaefer shall have delivered to the Buyer: (i) a certified copy of the charter of the Target from the Ohio Secretary of State; (ii) a certificate of good standing from the Ohio Secretary of State (and any other state in which the Target is qualified); and (iii) a certified copy of the Target's bylaws;

(N) the Schedules and Exhibits hereto, certified as true and correct by Schaefer under Section 9.1(b), shall have been delivered to the Buyer and such schedules and exhibits shall be satisfactory in the sole opinion of the Buyer. At Closing, Schaefer shall issue a "bring down" certificate certifying that there have been no material changes in the information contained in the Schedules and Exhibits since the date of the prior certification, or if there have been changes, specifying the changes. The Buyer shall have the right to approve or reject any such changes in its sole discretion, provided that it acts in good faith in doing so;

(O) the Buyer shall have been given an opportunity to review all financial and legal aspects of the Target's business, including an inspection of its facilities and a review of its accounting and tax records, and to conduct interviews of its officers and employees, and shall have discovered no information or circumstances that cause it to believe that the Target may suffer a material liability in the future that has not been adequately disclosed and/or reserved for on the Financial Statements;

(P) all actions to be taken by the Sellers in connection with consummation of the transactions contemplated hereby and all schedules hereto, exhibits hereto, certificates, opinions, instruments, and other documents required to effect the transactions contemplated hereby will be satisfactory in form and substance to the Buyer and its counsel;

(Q) the execution and performance of this Agreement and the transactions contemplated hereby shall have been approved by the Buyer's Board of Directors; and

(R) Schaefer shall have executed a Memorandum of Lease substantially in the form of EXHIBIT 6.1(R).

The Buyer may waive any condition specified in this Section 6.1 if it executes a writing so stating at or prior to the Closing.

6.2 CONDITIONS TO OBLIGATION OF THE SELLERS. The obligation of the Sellers to consummate the transactions to be performed by them in connection with the Closing is subject to satisfaction of the following conditions:

(A) the representations and warranties set forth in Article III above shall be true and correct in all material respects at and as of the Closing Date;

(B) the Buyer shall have performed and complied with all of its covenants hereunder in all material respects through the Closing;

(C) no action, suit, or proceeding shall be pending or threatened before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction or before any arbitrator wherein an unfavorable injunction, judgment, order, decree, ruling, or charge would (i) prevent consummation of any of the transactions contemplated by this Agreement or (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation (and no such injunction, judgment, order, decree, ruling, or charge shall be in effect);

(D) the Buyer shall have delivered to the Sellers a certificate to the effect that each of the conditions specified above in Section 6.2(a)-(c) is satisfied in all respects;

(E) all applicable waiting periods (and any extensions thereof) under the Hart-Scott-Rodino Antitrust Improvements Act shall have expired or otherwise been terminated and the Parties and the Target shall have received all other authorizations, consents, and approvals of governments and governmental agencies referred to in Section 3.2;

(F) the Buyer shall have executed the Escrow Agreement;

(G) the Buyer shall have executed the Non-competition and Consulting Agreement;

(H) the Sellers shall have received from Witt, Gaither and Whitaker, P.C., counsel for the Buyer, an opinion, dated the Closing Date and in form and substance reasonably satisfactory to counsel for Stockholders, to the effect that:

(I) the Buyer is a corporation validly existing and in good standing under the laws of the State of Nevada;

(II) the Buyer has the corporate power to execute and deliver this Agreement and to carry out the terms and conditions hereof;

(III) the execution, delivery and performance of this Agreement by the Buyer has been duly authorized by all necessary corporate action; and

(IV) This Agreement and the collateral documents to be executed in connection herewith constitute the valid and binding obligations of the Buyer, enforceable in accordance with their terms (except as enforcement may be limited by bankruptcy, insolvency or other laws affecting enforcement of creditors' rights generally and except that the availability of the remedy of specific performance or other equitable relief is subject to the discretion of the court before which any proceeding therefor may be brought);

(I) the Buyer shall have delivered to the Sellers a certificate of good standing from the Nevada Secretary of State certifying the good standing of the Buyer;

(J) the Buyer shall have delivered to the Sellers a copy of the resolutions of the Buyer's Board of Directors or duly authorized committee thereof that approve this transaction, said copy being certified by the corporate secretary of the Buyer; and

(K) all actions to be taken by the Buyer in connection with consummation of the transactions contemplated hereby and all certificates, opinions, instruments, and other documents required to effect the transactions contemplated hereby will be reasonably satisfactory in form and substance to the Sellers.

The Sellers may waive any condition specified in this Section 6.2 if they execute a writing so stating at or prior to the Closing.

ARTICLE VII
REMEDIES FOR BREACHES OF THIS AGREEMENT

7.1 SURVIVAL OF REPRESENTATIONS AND WARRANTIES. All of the representations and warranties of the Parties contained in this Agreement shall survive the Closing hereunder (even if the damaged party knew or had reason to know of any misrepresentation or breach of warranty or covenant at the time of Closing) and continue in full force and effect subject to any applicable statutory period of limitations.

7.2 INDEMNIFICATION PROVISIONS FOR BENEFIT OF THE BUYER.

(A) Schaefer agrees to defend, indemnify and hold the Buyer harmless from and against and with respect to any and all loss, damage, liability, deficiency, cost, obligation, or expense resulting from or with respect to (i) any breach of any covenant or warranty or representation or any material inaccuracy or material misrepresentation by him or the Trusts contained in this Agreement or any certificate or document delivered to the Buyer by Schaefer or the Trusts in connection with the transactions contemplated hereby; (ii) the failure of the Sellers, or any of the Sellers, to perform or comply with any covenant, agreement or obligation required by this Agreement to be performed or complied with by the Sellers; and (iii) all undisclosed, unbooked, under accrued or under reserved liabilities, including, but not limited to, assessments, taxes, penalties, interest, claims, losses, fines and judgments. All claims for indemnification shall bear interest at a rate equal to the rate earned on the Escrow Funds from the date of receipt of notice of claim as provided in

Section 7.5 until the date such claim is satisfied.

(B) Notwithstanding anything contained herein, no claim for indemnification shall be made by the Buyer hereunder against Schaefer for any claims under

Section 7.2(a) that does not exceed Twenty Thousand Dollars (\$20,000). And in any event, Schaefer shall have no liability hereunder for any and all claims in excess of Twenty Thousand Dollars (\$20,000) of every type and description until such claims exceed the aggregate sum of

Five Hundred Thousand Dollars (\$500,000), at which time Schaefer shall incur liability for the entire amount of all subsequent claims in excess of Twenty Thousand Dollars (\$20,000). The aggregate sum of Five Hundred Thousand Dollars (\$500,000) will be increased by the difference between the amount of the reserve, accrual or booked amount for any claim and the amount for which such liability is actually settled.

7.3 INDEMNIFICATION PROVISIONS FOR BENEFIT OF THE SELLERS. The Buyer agrees to defend, indemnify and hold the Sellers harmless from and against and with respect to any and all loss, damage, liability, deficiency, cost, obligation, or expense resulting from or with respect to (i) any breach of any covenant or warranty or representation or any material inaccuracy or material misrepresentation by the Buyer contained in this Agreement or any certificate or document delivered by the Buyer to the Sellers in connection with the transactions contemplated hereby; and (ii) the failure of the Buyer to perform or comply with any covenant, agreement or obligation required by this Agreement to be performed or complied with by the Buyer. All claims for indemnification shall bear interest at a rate equal to the rate earned on the Escrow Funds from the date of receipt of notice of claim as provided in Section 7.5 until the date such claim is satisfied.

7.4 MATTERS INVOLVING THIRD PARTIES.

(A) If any third party shall notify any Party (the "INDEMNIFIED PARTY") with respect to any matter (a "THIRD PARTY CLAIM") which may give rise to a claim for indemnification against any other Party (the "INDEMNIFYING PARTY") under this Article VII, then the Indemnified Party shall promptly notify each Indemnifying Party thereof in writing; provided, however, that no delay on the part of the Indemnified Party in notifying any Indemnifying Party shall relieve the Indemnifying Party from any obligation hereunder unless (and then solely to the extent) the Indemnifying Party thereby is prejudiced.

(B) Any Indemnifying Party will have the right to defend the Indemnified Party against the Third Party Claim with counsel of its choice reasonably satisfactory to the Indemnified Party so long as (i) the Indemnifying Party notifies the Indemnified Party in writing within fifteen (15)

days after the Indemnified Party has given notice of the Third Party Claim that the Indemnifying Party will indemnify the Indemnified Party from and against the entirety of any losses the Indemnified Party may suffer resulting from, arising out of, relating to, in the nature of, or caused by the Third Party Claim, (ii) the Indemnifying Party provides the Indemnified Party with evidence reasonably acceptable to the Indemnified Party that the Indemnifying Party will have the financial resources to defend against the Third Party Claim and fulfill its indemnification obligations hereunder,

(iii) the Third Party Claim involves only money damages and does not seek an injunction or other equitable relief, (iv) settlement of, or an adverse judgment with respect to, the Third Party Claim is not, in the good faith judgment of the Indemnified Party, likely to establish a precedential custom or practice materially adverse to the continuing business interests of the Indemnified Party, and (v) the Indemnifying Party conducts the defense of the Third Party Claim actively and diligently.

(C) So long as the Indemnifying Party is conducting the defense of the Third Party Claim in accordance with Section 7.4(b) above, (i) the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in the defense of the Third Party Claim, (ii) the Indemnified Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the prior written consent of the Indemnifying Party (not to be withheld unreasonably), and (iii) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the prior written consent of the Indemnified Party (not to be withheld unreasonably).

(D) In the event any of the conditions in Section 7.4(b) above is or becomes unsatisfied, however, (i) the Indemnified Party may defend against, and consent to the entry of any judgment or enter into any settlement with respect to, the Third Party Claim in any manner it reasonably may deem appropriate (and the Indemnified Party need not consult with, or obtain any consent from, any Indemnifying Party in connection therewith), (ii) the Indemnifying Parties will reimburse the Indemnified Party promptly and periodically for the costs of defending against the Third Party Claim (including reasonable attorneys' fees and expenses), and (iii) the Indemnifying Parties will remain responsible for any adverse consequences the

Indemnified Party may suffer resulting from, arising out of, relating to, in the nature of, or caused by the Third Party Claim to the fullest extent provided in this Article VII.

7.5 NOTICE OF CLAIM. When a Party determines in good faith that it has a claim or potential claim for indemnification pursuant to this Article VII it shall deliver notice thereof to the other Party at the address specified in

Section 12.7. Such notice shall set forth the section or sections under this Agreement pursuant to which such claim is made and the amount or estimate of the claim and shall state, in reasonable detail, the basis for such claim. The Indemnifying Party shall have twenty (20) days after receipt of a notice of claim within which to either pay such claim or notify the Indemnified Party of the Indemnifying Party's disagreement with all or a portion of said claim. If the Indemnified Party has not received notice of disagreement from the Indemnifying Party within the twenty (20) day period, the amount of the claim shall be compensable in full. If the Indemnified Party receives within the twenty (20) day period a notice of disagreement regarding only a portion of a claim, the portion of the claim not subject to disagreement shall be compensable. If the Parties are unable to resolve the validity or the amount of a claim after said twenty (20) day period, then the dispute may be resolved by arbitration to be conducted in Chattanooga, Tennessee, in accordance with the then existing rules of the American Arbitration Association, and the decision rendered by the arbitrator (who shall be selected by mutual consent by the Parties and, if the Parties are unable to agree on an arbitrator, submitted to American Arbitration Association office in Nashville, Tennessee, for resolution) shall be binding upon the Parties. Any judgment upon any arbitration award may be entered in the highest state or federal court having jurisdiction thereof. In the event the Buyer makes any claim against the Escrow Funds, the Buyer shall provide the Escrow Agent with notice in accordance with the Escrow Agreement and the Escrow Agent shall, pending resolution of such claim, withhold payment to the Sellers of that portion of the Escrow Funds that are reasonably necessary to satisfy the claim. Nothing herein shall be deemed to prevent the Buyer from making a claim for indemnification hereunder for potential or contingent claims or demands provided the notice sets forth the specific basis for any such potential or contingent claim or demand to the extent then feasible and the Buyer has reasonable grounds to believe that such a claim or demand may be made.

7.6 OTHER INDEMNIFICATION PROVISIONS. The foregoing indemnification provisions are in addition to, and not in derogation of, any statutory, equitable, or common law remedy (including without limitation any such remedy arising under HSE Laws) any Party may have with respect to the Target or the transactions contemplated by this Agreement. Schaefer hereby agrees that he will not make any claim for indemnification against the Target by reason of the fact that he was a director, officer, employee, or agent of any such entity or was serving at the request of any such entity as a partner, trustee, director, officer, employee, or agent of another entity (whether such claim is for judgments, damages, penalties, fines, costs, amounts paid in settlement, losses, expenses, or otherwise and whether such claim is pursuant to any statute, charter document, bylaw, agreement, or otherwise) with respect to any action, suit, proceeding, complaint, claim, or demand brought by the Buyer against Schaefer (whether such action, suit, proceeding, complaint, claim, or demand is pursuant to this Agreement, applicable law, or otherwise).

ARTICLE VIII

TAX MATTERS

The following provisions shall govern the allocation of responsibility as between the Buyer and Schaefer for certain tax matters following the Closing Date:

8.1 TAX PERIODS ENDING ON OR BEFORE THE CLOSING DATE. The Buyer shall prepare or cause to be prepared and file or cause to be filed all tax returns for the Target for all periods ending on or prior to the Closing Date which are filed after the Closing Date. The Buyer shall permit Schaefer to review and comment on each such tax return described in the preceding sentence prior to filing. Schaefer's obligation to reimburse the Buyer for taxes of the Target with respect to such period to the extent such taxes are not reflected in the reserve for tax liability is set forth in Section 7.2.

8.2 TAX PERIODS BEGINNING BEFORE AND ENDING AFTER THE CLOSING DATE. The Buyer shall prepare or cause to be prepared and file or cause to be filed any tax returns of the Target for tax periods which begin before the Closing Date and end after the Closing Date. Schaefer's obligation to reimburse the Buyer an amount equal to the portion of such taxes which relates to the portion of such

taxable period ending on the Closing Date to the extent such taxes are not reflected in the reserve for tax liability is set forth in Section 7.2. For purposes of this Section, in the case of any taxes that are imposed on a periodic basis and are payable for a taxable period that includes (but does not end on) the Closing Date, the portion of such tax which relates to the portion of such taxable period ending on the Closing Date shall (a) in the case of any taxes other than taxes based upon or related to income or receipts, be deemed to be the amount of such tax for the entire taxable period multiplied by a fraction the numerator of which is the number of days in the taxable period ending on the Closing Date and the denominator of which is the number of days in the entire taxable period, and (b) in the case of any tax based upon or related to income or receipts be deemed equal to the amount which would be payable if the relevant taxable period ended on the Closing Date. Any credits relating to a taxable period that begins before and ends after the Closing Date shall be allocated in the same manner. All determinations necessary to give effect to the foregoing allocations shall be made in a manner consistent with prior practice of the Target.

8.3 COOPERATION ON TAX MATTERS.

(A) The Buyer and Schaefer shall cooperate fully, as and to the extent reasonably requested by the other Party, in connection with the filing of tax returns pursuant to this Section and any audit, litigation or other proceeding with respect to taxes. Such cooperation shall include the retention and (upon the other Party's request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder.

(B) the Buyer and Schaefer further agree, upon request, to use their best efforts to obtain any certificate or other document from any governmental authority or any other person or entity as may be necessary to mitigate, reduce or eliminate any tax that could be imposed (including, but not limited to, with respect to the transactions contemplated hereby).

(C) the Buyer and Schaefer further agree, upon request, to provide the other Party with all information that either party may be required to report pursuant to Section 6043 of the Code and all Treasury Department regulations promulgated thereunder.

8.4 TAX SHARING AGREEMENTS. Schaefer shall cause all tax sharing agreements or similar agreements with respect to or involving the Target shall to be terminated as of the Closing Date and, after the Closing Date, the Target shall not be bound thereby or have any liability thereunder.

8.5 CERTAIN TAXES. All transfer, documentary, sales, use, stamp, registration and other such taxes and fees (including any penalties and interest) incurred in connection with this Agreement, shall be paid by Schaefer when due, and Schaefer will, at his own expense, file all necessary tax returns and other documentation with respect to all such transfer, documentary, sales, use, stamp, registration and other taxes and fees, and, if required by applicable law, the Buyer will, and will cause its affiliates to, join in the execution of any such tax returns and other documentation.

ARTICLE IX

TERMINATION

9.1 TERMINATION OF AGREEMENT. The Parties may terminate this Agreement as provided below:

(A) the Buyer and the Sellers may terminate this Agreement by mutual written consent at any time prior to the Closing;

(B) Notwithstanding any other provision in this Agreement, it is understood that this Agreement has been executed without the Schedules and Exhibits contemplated hereby and that Schaefer shall have until January 9, 1998, unless otherwise extended by the Buyer, to deliver all of such Schedules and Exhibits to the Buyer under the certificate of Schaefer stating that the attachments constitute all the Schedules and Exhibits contemplated in this Agreement for which Schaefer is responsible and that such Schedules

and Exhibits are true and correct to the best of his knowledge, information and belief. Upon receipt of such certificate and schedules, the Buyer shall have a period of fifteen days in which to review and satisfy itself with respect to the content of such schedules (the "REVIEW PERIOD"), and Schaefer will, and Schaefer will cause the Target to, cooperate fully with the Buyer in connection with its review and due diligence with respect to such schedules during the Review Period. If, prior to the expiration of the Review Period, the Buyer finds any matter or items disclosed on such Schedules and Exhibits, or which should have been disclosed and was not so disclosed on such Schedules and Exhibits, which the Buyer determines in good faith to be material and to cause the Buyer not to proceed with the acquisition of the Shares, then Buyer shall give notice in writing to the Sellers on or before the Closing Date of its election to terminate this Agreement and not to purchase the Shares;

(C) the Buyer may terminate this Agreement by giving written notice to the Sellers on or before the Closing Date if the Buyer's continuing business, legal, environmental, and accounting due diligence regarding the Target reveals any fact or facts that would or could reasonably likely result in materially adverse consequences or changes to the business of the Target as presently conducted subsequent to the consummation of the transactions contemplated by this Agreement;

(D) the Buyer may terminate this Agreement by giving written notice to the Sellers at any time prior to the Closing (i) in the event any of the Sellers have breached any material representation, warranty, or covenant contained in this Agreement in any material respect, the Buyer has notified the Sellers of the breach, and the breach has continued without cure for a period of thirty (30) days after the notice of breach or (ii) if the Closing shall not have occurred on or before January 31, 1998, by reason of the failure of any condition precedent under Section 6.1 hereof (unless the failure results primarily from the Buyer itself breaching any representation, warranty, or covenant contained in this Agreement); and

(E) the Sellers may terminate this Agreement by giving written notice to the Buyer at any time prior to the Closing in the event the Buyer has breached any material representation, warranty, or covenant contained in this Agreement in any material respect, any of the Sellers has notified the Buyer of the breach, and the breach has continued without cure for a period of thirty (30) days after the notice of breach.

9.2 EFFECT OF TERMINATION. If any Party terminates this Agreement pursuant to Section 9.1 above, all rights and obligations of the Parties hereunder shall terminate without any liability of any Party to any other Party (except for any liability of any Party then in breach), including any obligation of Schaefer relating to the Non-Compete and Consulting Agreement and the Lease (as amended per Section 6.1(l)).

ARTICLE X
DEFINITIONS, SCHEDULES AND EXHIBITS

10.1 DEFINITIONS.

DEFINED TERM	SECTION WHERE DEFINED
- - - - -	- - - - -
Baseline Financial Statement	Section 2.10
Buyer	Preamble
Closing	Section 1.3
Closing Date	Section 1.3
COBRA	Section 2.20(b)
Condominium	Section 2.15
Employee Benefits Plans	Section 2.20(b)
ERISA	Section 2.20(b)
ESA	Section 2.26
Escrow Agent	Section 1.2
Escrow Agreement	Section 1.2
Escrow Funds	Section 1.2
Financial Statements	Section 2.10
HSE Laws	Section 2.26
Indemnified Party	Section 7.4(a)
Indemnifying Party	Section 7.4(a)
Lease	Section 2.15
Non-Competition Consulting Agreement	Section 6.1(h)
Parties	Preamble

Purchase Price	Section 1.2
Real Estate	Section 2.15
Review Period	Section 9.1(b)
Rolling Stock	Section 2.17
Schaefer	Preamble
Sellers	Preamble
Shares	Section 2.2
Survey	Section 4.8
Target	Recitals
Target Intellectual Property	Section 2.16
Target Shares	Section 2.4
Third Party Claim	Section 7.4(a)
Trusts	Preamble
USTs	Section 2.26

10.2 LIST OF SCHEDULES AND EXHIBITS.

SCHEDULES	DESCRIPTION
- - - - -	- - - - -
Schedule 2.3	Conflicts and Consents
Schedule 2.5	Jurisdictions in which the Target is Qualified
Schedule 2.6	Officers & Directors
Schedule 2.9	Subsidiaries & Affiliates
Schedule 2.11	Events Subsequent to Baseline Financial Statement
Schedule 2.12	Undisclosed Liabilities
Schedule 2.13	Legal Compliance
Schedule 2.14(c)	Income Taxes
Schedule 2.14(d)	Other Taxes
Schedule 2.14(f)	Tax Basis, NOL's, etc.
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Schedule 2.15(b)	Condominium Documents
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Exhibit 6.1(h)
Exhibit 6.1(r)

DESCRIPTION

Sellers' Wire Transfer Instructions
Outstanding Stock of the Target
Escrow Agent's Wire Transfer Instructions
Escrow Agreement
Trust Agreements
Baseline Financial Statement
Lease
Non-Competition Consulting Agreement
Memorandum of Lease

ARTICLE XI **MISCELLANEOUS**

11.1 PRESS RELEASES AND PUBLIC ANNOUNCEMENTS. It is the understanding of the parties that on the date of execution of this Agreement, Schaefer with the Buyer will jointly announce the subject matter of this Agreement to the employees of the Target and the Buyer, issue press releases and make the requisite government notice filings.

11.2 NO THIRD-PARTY BENEFICIARIES. This Agreement shall not confer any rights or remedies upon any person or entity other than the Parties and their respective successors and permitted assigns.

11.3 ENTIRE AGREEMENT. This Agreement (including the documents referred to herein) constitutes the entire agreement among the Parties and supersedes any prior understandings, agreements, or representations by or among the Parties, written or oral, to the extent they related in any way to the subject matter hereof.

11.4 SUCCESSION AND ASSIGNMENT. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective heirs, personal representative, estates, successors and permitted assigns. No Party may assign either this Agreement or any of his or its rights, interests, or obligations hereunder without the prior written approval of the Buyer and The Sellers; provided, however, that the Buyer may (i) assign any or all of its rights and interests in the assets hereunder to one or more of its affiliated companies and (ii) designate one or more of its affiliate companies to perform its obligations hereunder (in any or all of which cases the Buyer nonetheless shall remain responsible for the performance of all of its obligations hereunder).

11.5 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

11.6 HEADINGS. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

11.7 NOTICES. All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given if (and then two business days after) it is sent by registered or certified mail, return receipt requested, postage prepaid, and addressed to the intended recipient as set forth below:

If to the Buyer:

U.S. Xpress Enterprises, Inc.
2931 South Market Street
Chattanooga, TN 37410
Attn: Patrick E. Quinn

Fax: (423) 265-5715

With a Copy to:

Witt, Gaither & Whitaker, P.C.
1100 SunTrust Bank Building
Chattanooga, TN 37402
Attn: Carter J. Lynch, III, Esq.

Fax: (423)266-4138

If to the Sellers:
SCHAEFER:

Richard H. Schaefer
78 Lochinvar Court
Xenia, OH 45385

Fax: (937) 376-0410

With a Copy to:

Fred J. Andary, Esq.
1700 First National Plaza
Dayton, OH 45402

Fax: (937) 228-0331

If to the Trusts:

National City Bank
Attn: Trust Department
6 North Main Street
Dayton, OH 45412

Fax: (937) 226-2451

Any Party may send any notice, request, demand, claim, or other communication hereunder to the intended recipient at the address set forth above using any other means (including personal delivery, expedited courier, messenger service, telecopy or ordinary mail), but no such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the intended recipient. Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Parties notice in the manner herein set forth.

11.8 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Tennessee without giving effect to any choice or conflict of law provision or rule (whether of the State of Tennessee or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Tennessee.

11.9 AMENDMENTS AND WAIVERS. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Buyer and Schaefer. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. The course of conduct or course of dealing of the parties shall not operate to modify or waive the provisions of this Section.

11.10 SEVERABILITY. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. In such event, the offending provision shall be modified to the minimum extent necessary to make it valid and enforceable.

11.11 EXPENSES. Each of the Parties shall bear its own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby.

11.12 CONSTRUCTION. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation. The Parties intend that each representation, warranty, and covenant contained herein shall have independent significance. If any Party has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) which the Party has not breached shall not detract from or mitigate the fact that the Party is in breach of the first representation, warranty, or covenant.

11.13 INCORPORATION OF EXHIBITS, ANNEXES, AND SCHEDULES. The Exhibits, Annexes, and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.

11.14 SPECIFIC PERFORMANCE. Each of the Parties acknowledges and agrees that the other Parties would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the Parties agrees that the other Parties shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having jurisdiction over the Parties and the matter, in addition to any other remedy to which they may be entitled, at law or in equity.

11.15 SUBMISSION TO JURISDICTION. Each of the Parties submits to the jurisdiction of any state or federal court sitting in Chattanooga, Tennessee, in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each Party also agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each of the Parties waives any defense of

inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety, or other security that might be required of any other Party with respect thereto. Each Party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or at equity.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written.

U.S. XPRESS ENTERPRISES, INC.

By: _____
Max L. Fuller

Title: Co-Chairman and Secretary

SELLERS:

RICHARD H. SCHAEFER
Owner of 71.5 shares of Common Stock

RICHARD H. SCHAEFER
IRREVOCABLE WITHDRAWAL TRUST
DATED DECEMBER 24, 1991

By: _____
Position: _____
NATIONAL CITY BANK, F/K/A
THE FIRST NATIONAL BANK,
DAYTON, OHIO, TRUSTEE
Owner of 4 shares of Common Stock

**RICHARD H. SCHAEFER
IRREVOCABLE NON-WITHDRAWAL TRUST
DATED DECEMBER 24, 1991**

By: _____
Position: _____

**NATIONAL CITY BANK, F/K/A
THE FIRST NATIONAL BANK,
DAYTON, OHIO, TRUSTEE**
Owner of 59 shares of Common Stock

EXHIBIT 10.2

\$200,000,000

CREDIT AGREEMENT

DATED AS OF

JANUARY 15, 1998

AMONG

U. S. XPRESS ENTERPRISES, INC.

**WACHOVIA BANK, N.A.,
AS ADMINISTRATIVE AGENT**

**NATIONSBANK, N.A.,
AS SYNDICATION AGENT**

**BANKBOSTON, N.A.,
AS DOCUMENTATION AGENT**

**SUNTRUST BANK, CHATTANOOGA, N.A.,
AS CO-AGENT**

AND

THE BANKS LISTED HEREIN

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CREDIT AGREEMENT

CREDIT AGREEMENT dated as of January 15, 1998 among U.S. XPRESS ENTERPRISES, INC., the BANKS listed on the signature pages hereof, WACHOVIA BANK, N.A., as Administrative Agent, NATIONSBANK, N.A., as Syndication Agent, BANKBOSTON, N.A., as Documentation Agent, and SUNTRUST BANK, CHATTANOOGA, N.A., as Co-Agent.

The parties hereto agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. The terms as defined in this Section 1.01 shall, for all purposes of this Agreement and any amendment hereto (except as herein otherwise expressly provided or unless the context otherwise requires), have the meanings set forth herein:

"Adjusted London Interbank Offered Rate" has the meaning set forth in Section 2.05(c).

"Affiliate" of any relevant Person means (i) any Person that directly, or indirectly through one or more intermediaries, controls the relevant Person (a "Controlling Person"), (ii) any Person (other than the relevant Person or a Subsidiary of the relevant Person) which is controlled by or is under common control with a Controlling Person, or (iii) any Person (other than a Subsidiary of the relevant Person) of which the relevant Person owns, directly or indirectly, 20% or more of the common stock or equivalent equity interests. As used herein, the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Administrative Agent" means Wachovia Bank, N.A., a national banking association organized under the laws of the United States of America, in its capacity as Administrative Agent for the Banks hereunder, and its successors and permitted assigns in such capacity.

"Administrative Agent's Letter Agreement" means that certain letter agreement, dated as of November 17, 1997 between the Borrower and the Administrative Agent relating to the structure of the Loans, and certain fees from time to time payable by the Borrower to the Administrative Agent, together with all amendments and supplements thereto.

"Agreement" means this Credit Agreement, together with all amendments and supplements hereto.

"Applicable Margin" has the meaning set forth in Section 2.05(a).

"Assignee" has the meaning set forth in Section 10.08(c).

"Assignment and Acceptance" means an Assignment and Acceptance executed in accordance with Section 10.08(c) in the form attached hereto as Exhibit D.

"Authority" has the meaning set forth in Section 9.02.

"Bank" means each bank listed on the signature pages hereof as having a Commitment, and its successors and assigns.

"Base Rate" means for any Base Rate Loan for any day, the rate per annum equal to the higher as of such day of (i) the Prime Rate, or (ii) one-half of one percent above the Federal Funds Rate. For purposes of determining the Base Rate for any day, changes in the Prime Rate or the Federal Funds Rate shall be effective on the date of each such change.

"Base Rate Loan" means a Loan which bears or is to bear interest at a rate based upon the Base Rate, and is to be made as a Base Rate Loan pursuant to the applicable Notice of Borrowing, Section 2.02(f), or Article VIII, as applicable.

"Borrower" means U. S. Xpress Enterprises, Inc., a Nevada corporation, and its successors and its permitted assigns.

"Borrowing" means a borrowing hereunder consisting of Loans made to the Borrower at the same time by all of the Banks. A Borrowing is a "Base Rate Borrowing" if such Loans are Base Rate Loans or a "Euro-Dollar Borrowing" if such Loans are Euro-Dollar Loans.

"Borrowing Base" means, as of the last day of any fiscal quarter, an amount equal to the sum of (i) 85% of all Eligible Receivables as of such date of determination plus (ii) 90% of Eligible Revenue Equipment as of such date of determination.

"Borrowing Base Certificate" means a certificate, duly executed by the chief financial officer, chief accounting officer or treasurer of the Borrower, appropriately completed and substantially in the form of Exhibit I hereto.

"Capital Lease" means any lease or rental of real or personal property which, under GAAP, is or will be required to be capitalized on the balance sheet of the Borrower or any Subsidiary, taken at the amount thereof accounted for as indebtedness (net of interest expense) in accordance with such principles.

"Capital Stock" means any nonredeemable capital stock of the Borrower or any Consolidated Subsidiary (to the extent issued to a Person other than the Borrower), whether common or preferred.

"CERCLA" means the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. (S) 9601 et. seq. and its implementing regulations and amendments.

"CERCLIS" means the Comprehensive Environmental Response Compensation and Liability Inventory System established pursuant to CERCLA.

"Change of Law" shall have the meaning set forth in Section 9.02.

"Closing Certificate" has the meaning set forth in Section 4.01(f).

"Closing Date" means January 15, 1998.

"Code" means the Internal Revenue Code of 1986, as amended, or any successor Federal tax code.

"Commitment" means, with respect to each Bank, (i) the amount set forth opposite the name of such Bank on the signature pages hereof, and (ii) as to any Bank which enters into any Assignment and Acceptance (whether as transferor Bank or as Assignee thereunder), the amount of such Bank's Commitment after giving effect to such Assignment and

Acceptance, in each case as such amount may be reduced from time to time pursuant to Sections 2.07 and 2.08.

"Commitment Share" means, for any Bank, the percentage that such Bank's Commitment bears to the aggregate Commitments of all the Banks hereunder, as set forth opposite the name of such Bank on the signature pages hereof, and as such percentage may be adjusted from time to time pursuant to Section 10.08(c).

"Compliance Certificate" has the meaning set forth in Section 6.01(c).

"Consolidated Current Assets" and "Consolidated Current Liabilities" mean, at any time, all assets or liabilities, respectively, of the Borrower and its Consolidated Subsidiaries that, in accordance with GAAP, should be classified as current assets or current liabilities, respectively, on a consolidated balance sheet of the Borrower and its Consolidated Subsidiaries.

"Consolidated Debt" means at any date the Debt of the Borrower and its Consolidated Subsidiaries, determined on a consolidated basis as of such date.

"Consolidated EBILT" means the sum of the following, calculated on a consolidated basis in accordance with GAAP for the Borrower and the Consolidated Subsidiaries, for the Fiscal Quarter just ended and the 3 immediately preceding Fiscal Quarters: (i) Consolidated Net Income; plus (ii) income tax expenses included in Consolidated Net Income; plus (iii) all payment obligations of the Borrower and the Consolidated Subsidiaries under all operating leases and operating rental agreements (other than between or among the Borrower and the Consolidated Subsidiaries); plus (iv) Consolidated Interest Expense.

"Consolidated EBILTDA" means the sum of the following, calculated on a consolidated basis in accordance with GAAP for the Borrower and the Consolidated Subsidiaries, for the Fiscal Quarter just ended and the 3 immediately preceding Fiscal Quarters: (i) Consolidated Net Income; plus (ii) income tax expenses included in Consolidated Net Income; plus (iii) all payment obligations of the Borrower and the Consolidated Subsidiaries under all operating leases and operating rental agreements (other than between or among the Borrower and the Consolidated Subsidiaries); plus (iv) Consolidated Interest Expense; plus (v) depreciation and

amortization expense. In computing Consolidated EBILTDA, any of the foregoing items realized or accrued for such period and prior to the date of any acquisition permitted by Section 6.25 by the Person so acquired or attributable to the assets so acquired shall be included in Consolidated EBILTDA, but only to the extent that such items of such Person or attributable to such assets would have been available to the Borrower or such Subsidiary had the Borrower or such Subsidiary acquired such Person or such assets at the beginning of such period.

"Consolidated Fixed Charges" for any period means the sum of (i) Consolidated Interest Expense for such period, and (ii) all payment obligations of the Borrower and its Consolidated Subsidiaries for such period under all operating leases and rental agreements, specifically including payment obligations of the Borrower under the Synthetic Lease Documents, the Lease and the other Operative Documents.

"Consolidated Interest Expense" for any period means interest, whether expensed or capitalized, in respect of Debt of the Borrower or any of its Consolidated Subsidiaries outstanding during such period.

"Consolidated Liabilities" means the sum of (i) all liabilities that, in accordance with GAAP, should be classified as liabilities on a consolidated balance sheet of Borrower and its Consolidated Subsidiaries, and (ii) to the extent not included in clause (i) of this definition, all Redeemable Preferred Stock.

"Consolidated Net Income" means, for any period, the Net Income of the Borrower and its Consolidated Subsidiaries determined on a consolidated basis, but excluding (i) extraordinary items and (ii) any equity interests of the Borrower or any Subsidiary in the unremitted earnings of any Person that is not a Subsidiary.

"Consolidated Net Worth" means, at any time, the shareholders' equity of the Borrower and its Consolidated Subsidiaries, as set forth or reflected on the most recent consolidated balance sheet of the Borrower and its Consolidated Subsidiaries prepared in accordance with GAAP, but excluding any Redeemable Preferred Stock of the Borrower or any of its Consolidated Subsidiaries. Shareholders' equity generally would include, but not be limited to (i) the par or stated value of all outstanding Capital Stock, (ii) capital surplus, (iii) retained earnings, and (iv) various deductions such as (A) purchases of treasury stock, (B) valuation allowances, (C)

receivables due from an employee stock ownership plan, (D) employee stock ownership plan debt guarantees, and (E) translation adjustments for foreign currency transactions.

"Consolidated Operating Profits" means, for any period, the Operating Profits of the Borrower and its Consolidated Subsidiaries.

"Consolidated Subsidiary" means at any date any Subsidiary or other entity the accounts of which, in accordance with GAAP, would be consolidated with those of the Borrower in its consolidated financial statements as of such date.

"Consolidated Total Adjusted Debt" means, at any time, all Consolidated Debt, plus all amounts outstanding under the Synthetic Lease Documents, plus an amount equal to the present value (using a discount rate of 10%) of all other operating leases of the Borrower and its Consolidated Subsidiaries, less any obligations of the Borrower and its Consolidated Subsidiaries with respect to interest rate protection agreements, foreign currency exchange agreements or other hedging arrangements (valued as the termination value thereof computed in accordance with a method approved by the International Swap Dealers Association and agreed to by such Person in the applicable hedging agreement, if any).

"Consolidated Total Assets" means, at any time, the total assets of the Borrower and its Consolidated Subsidiaries, determined on a consolidated basis, as set forth or reflected on the most recent consolidated balance sheet of the Borrower and its Consolidated Subsidiaries, prepared in accordance with GAAP.

"Controlled Group" means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Borrower, are treated as a single employer under Section 414 of the Code.

"Debt" of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all obligations of such Person to reimburse any bank or other Person in respect

of amounts payable under a banker's acceptance, (vi) all Redeemable Preferred Stock of such Person (in the event such Person is a corporation), (vii) all obligations of such Person to reimburse any bank or other Person in respect of amounts paid or to be paid or to be paid under a letter of credit or similar instrument, (viii) all Debt of others secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person, (ix) all obligations of such Person with respect to interest rate protection agreements, foreign currency exchange agreements or other hedging arrangements (valued as the termination value thereof computed in accordance with a method approved by the International Swap Dealers Association and agreed to by such Person in the applicable hedging agreement, if any) and (x) all Debt of others Guaranteed by such Person, and, as to the Borrower, shall also include all obligations under the Synthetic Lease Documents.

"Default" means any condition or event which constitutes an Event of Default or which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

"Default Rate" means, with respect to any Loan, on any day, the sum of 2% plus the then highest interest rate (including the Applicable Margin) which may be applicable to any Loans hereunder (irrespective of whether any such type of Loans are actually outstanding hereunder).

"Depreciation" means for any period the sum of all depreciation expenses of the Borrower and its Consolidated Subsidiaries for such period, as determined in accordance with GAAP.

"Dividends" means for any period the sum of all dividends and other distributions paid or declared during such period in respect of any Capital Stock and Redeemable Preferred Stock (other than dividends paid or payable in the form of additional Capital Stock).

"Dollars" or "\$" means dollars in lawful currency of the United States of America.

"Domestic Business Day" means any day except a Saturday, Sunday or other day on which commercial banks in Georgia are authorized by law to close.

"Eligible Account Debtor" means, as at any date of determination thereof, any account debtor other than:

(a) the Borrower or any of its Subsidiaries or Affiliates; and

(b) any account debtor that is the subject of any bankruptcy or insolvency proceeding of any kind other than any such account debtor which has been approved by the Required Banks.

"Eligible Receivables" means, at any date of determination thereof, the aggregate of all Receivables at such date due to the Borrower or one of its Subsidiaries other than the following (determined without duplication):

(i) any Receivable due from an account debtor which to the Borrower's knowledge is organized under the laws of a jurisdiction outside the United States of America or Canada unless such Receivable is supported by a letter of credit (including standby letters of credit) or a bank guaranty in an amount equal to the amount of such Receivable issued by a financial institution satisfactory to the Administrative Agent and containing terms and provisions satisfactory to the Administrative Agent;

(ii) any Receivable that does not comply with all applicable legal requirements, including, without limitation, all laws, rules, regulations and orders of any governmental or judicial authority having jurisdiction with respect thereto;

(iii) any Receivable that remains unpaid for more than 90 days from the original invoice date specified at the time of the original issuance of the invoice therefor;

(iv) any Receivable arising outside the ordinary course of business of the Borrower or any of its Subsidiaries;

(v) any Receivable the terms of payment of which have been extended or rewritten (other than to correct a manifest administrative error) in a manner more favorable to such account debtor after the time of the original issuance of the invoice therefor;

(vi) any Receivable due from an account debtor that is not an Eligible Account Debtor;

(vii) any Receivable subject to a Lien to any Person other than a Lien in favor of the Administrative Agent;

(viii) any Receivable which fails to represent a bona fide transaction or with respect to which further acts (other than the completion of the shipment or delivery process) are required on the part of the Borrower or any of its Subsidiaries, as appropriate, to make such Receivable payable; and

(ix) any Receivable the goods giving rise to which were subject at the time of sale, to a Lien to any person other than a Lien in favor of the Administrative Agent.

"Eligible Revenue Equipment" means, as at any date of determination thereof, the recorded book value at such date of all Revenue Equipment owned by the Borrower or any of its Subsidiaries and located in any jurisdiction in the United States of America excluding in any event any Revenue Equipment subject to a Lien to any Person other than a Lien in favor of the Administrative Agent.

"Environmental Authority" means any foreign, federal, state, local or regional government that exercises any form of jurisdiction or authority under any Environmental Requirement.

"Environmental Authorizations" means all licenses, permits, orders, approvals, notices, registrations or other legal prerequisites for conducting the business of the Borrower or any Subsidiary required by any Environmental Requirement.

"Environmental Judgments and Orders" means all judgments, decrees or orders arising from or in any way associated with any Environmental Requirements, whether or not entered upon consent, or written agreements with an Environmental Authority or other entity arising from or in any way associated with any Environmental Requirement, whether or not incorporated in a judgment, decree or order.

"Environmental Liabilities" means any liabilities, whether accrued, contingent or otherwise, arising from and in any way associated with any Environmental Requirements.

"Environmental Notices" means notice from any Environmental Authority or by any other person or entity, of possible or alleged noncompliance with or liability under any Environmental Requirement, including without limitation any complaints, citations, demands or requests from any Environmental Authority or from any other person or entity for correction of any violation of any Environmental Requirement or

any investigations concerning any violation of any Environmental Requirement.

"Environmental Proceedings" means any judicial or administrative proceedings arising from or in any way associated with any Environmental Requirement.

"Environmental Releases" means releases as defined in CERCLA or under any applicable state or local environmental law or regulation.

"Environmental Requirements" means any legal requirement relating to health, safety or the environment and applicable to the Borrower, any Subsidiary or the Properties, including but not limited to any such requirement under CERCLA or similar state legislation and all federal, state and local laws, ordinances, regulations, orders, writs, decrees and common law.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor law. Any reference to any provision of ERISA shall also be deemed to be a reference to any successor provision or provisions thereof.

"Euro-Dollar Business Day" means any Domestic Business Day on which dealings in Dollar deposits are carried out in the London interbank market.

"Euro-Dollar Loan" means a Loan which bears or is to bear interest at a rate based upon the Adjusted London Interbank Offered Rate, and to be made as a Euro-Dollar Loan pursuant to the applicable Notice of Borrowing.

"Euro-Dollar Reserve Percentage" has the meaning set forth in Section 2.05(c).

"Event of Default" has the meaning set forth in Section 7.01.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upward, if necessary, to the next higher 1/100th of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Domestic Business Day next succeeding such day, provided that (i) if the day for which such rate is to be determined is not a

Domestic Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Domestic Business Day as so published on the next succeeding Domestic Business Day, and (ii) if such rate is not so published for any day, the Federal Funds Rate for such day shall be the average rate charged to the Administrative Agent on such day on such transactions, as determined by the Administrative Agent.

"Fiscal Quarter" means any fiscal quarter of the Borrower.

"Fiscal Year" means any fiscal year of the Borrower.

"GAAP" means generally accepted accounting principles applied on a basis consistent with those which, in accordance with Section 1.02, are to be used in making the calculations for purposes of determining compliance with the terms of this Agreement.

"Guarantee" by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to secure, purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to provide collateral security, to take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"Guaranty Agreement" means a guaranty agreement, substantially in the form of Exhibit J, guaranteeing the repayment in full of all obligations of the Borrower under the Loan Documents and executed and delivered by all of the Borrower's Subsidiaries.

"Hazardous Materials" includes, without limitation, (a) solid or hazardous waste, as defined in the Resource Conservation and Recovery Act of

1980, 42 U.S.C. (S) 6901 et seq.

and its implementing regulations and amendments, or in any applicable state or local law or regulation, (b) "hazardous substance", "pollutant", or "contaminant" as defined in CERCLA, or in any applicable state or local law or regulation, (c) gasoline, or any other petroleum product or by-product, including, crude oil or any fraction thereof, (d) toxic substances, as defined in the Toxic Substances Control Act of 1976, or in any applicable state or local law or regulation and (e) insecticides, fungicides, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable state or local law or regulation, as each such Act, statute or regulation may be amended from time to time.

"Interest Period" means: (1) with respect to each Euro-Dollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the first, second, third or sixth month thereafter, as the Borrower may elect in the applicable Notice of Borrowing;

provided that:

(a) any Interest Period (subject to paragraph (c) below) which would otherwise end on a day which is not a Euro-Dollar Business Day shall be extended to the next succeeding Euro-Dollar Business Day unless such Euro- Dollar Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Euro-Dollar Business Day;

(b) any Interest Period which begins on the last Euro-Dollar Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the appropriate subsequent calendar month) shall, subject to paragraph (c) below, end on the last Euro-Dollar Business Day of the appropriate subsequent calendar month; and

(c) no Interest Period may be selected which begins before the Termination Date and would otherwise end after the Termination Date.

(2) with respect to each Base Rate Borrowing, the period commencing on the date of such Borrowing and ending 30 days thereafter; provided that:

(a) any Interest Period (subject to paragraph (b) below) which would otherwise end on a day which is not a

Domestic Business Day shall be extended to the next succeeding Domestic Business Day; and

(b) any Interest Period which would otherwise end after the Termination Date shall end on the Termination Date.

"Investment" means any investment in any Person, whether by means of purchase or acquisition of obligations or securities of such Person, capital contribution to such Person, loan or advance to such Person, making of a time deposit with such Person, Guarantee or assumption of any obligation of such Person or otherwise.

"Investment Agreement" means the Investment and Participation Agreement between the Borrower and Wachovia Capital Markets, Inc., pursuant to which the Borrower has financed (through a tax ownership operating lease arrangement) the acquisition and construction of its corporate headquarters facility in Chattanooga, Tennessee, and may (subject to certain conditions) finance the acquisition and/or construction of up to 3 terminal facilities.

"Lending Office" means, as to each Bank, its office located at its address set forth on the signature pages hereof (or identified on the signature pages hereof as its Lending Office) or such other office as such Bank may hereafter designate as its Lending Office by notice to the Borrower and the Administrative Agent.

"Letter of Credit" shall mean a commercial letter of credit issued by the Administrative Agent for the account of the Borrower pursuant to Article III.

"Letter of Credit Fee" shall have the meaning ascribed to it in Section 3.08.

"Letter of Credit Obligations" shall mean, at any particular time, the sum of (a) the Reimbursement Obligations at such time, (b) the aggregate maximum amount available for drawing under the Letters of Credit at such time and (c) the aggregate maximum amount available for drawing under Letters of Credit the issuance of which has been authorized by the Administrative Agent but which have not yet been issued.

"Letter of Credit Application Agreement" shall mean, with respect to a Letter of Credit, such form of application

therefor (whether in a single or several documents) as the Administrative Agent may employ in the ordinary course of business for its own account, whether or not providing for collateral security, with such modifications thereto as may be agreed upon by the Administrative Agent and the Borrower and are not materially adverse to the interests of the Banks; provided, however, that in the event of any conflict between the terms of any Letter of Credit Application Agreement and this Agreement, the terms of this Agreement shall control.

"Lien" means, with respect to any asset, any mortgage, deed to secure debt, deed of trust, lien, pledge, charge, security interest, security title, preferential arrangement which has the practical effect of constituting a security interest or encumbrance, or encumbrance or servitude of any kind in respect of such asset to secure or assure payment of a Debt or a Guarantee, whether by consensual agreement or by operation of statute or other law, or by any agreement, contingent or otherwise, to provide any of the foregoing. For the purposes of this Agreement, the Borrower or any Subsidiary shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"Loan" means a Base Rate Loan or Euro-Dollar Loan.

"Loan Documents" means this Agreement, the Notes, the Guaranty Agreement, the Contribution Agreement, any other document evidencing, relating to or securing the Loans or the Letters of Credit, and any other document or instrument delivered from time to time in connection with this Agreement, the Notes, the Loans or the Letters of Credit, as such documents and instruments may be amended or supplemented from time to time.

"London Interbank Offered Rate" has the meaning set forth in Section 2.05(c).

"Margin Stock" means "margin stock" as defined in Regulations G, T, U or X.

"Material Adverse Effect" means, with respect to any event, act, condition or occurrence of whatever nature (including any adverse determination in any litigation, arbitration, or governmental investigation or proceeding), whether singly or in conjunction with any other event or

events, act or acts, condition or conditions, occurrence or occurrences, whether or not related, a material adverse change in, or a material adverse effect upon, any of (a) the financial condition, operations, business, properties or prospects of the Borrower and its Consolidated Subsidiaries taken as a whole, (b) the rights and remedies of the Administrative Agent or the Banks under the Loan Documents, or the ability of the Borrower to perform its obligations under the Loan Documents to which it is a party, as applicable, or (c) the legality, validity or enforceability of any Loan Document.

"Moody's" means Moody's Investor Service, Inc.

"Multiemployer Plan" shall have the meaning set forth in Section 4001(a)(3) of ERISA.

"Net Income" means, as applied to any Person for any period, the aggregate amount of net income of such Person, after taxes, for such period, as determined in accordance with GAAP.

"Net Proceeds of Capital Stock" means any proceeds received by the Borrower or a Consolidated Subsidiary in respect of the issuance of Capital Stock, after deducting therefrom all reasonable and customary costs and expenses incurred by the Borrower or such Consolidated Subsidiary directly in connection with the issuance of such Capital Stock, including without limitation any underwriter's discounts and commissions.

"Notes" means each of the Revolving Loan Notes, or any or all of them, as the context shall require.

"Notice of Borrowing" has the meaning set forth in Section 2.02.

"Officer's Certificate" has the meaning set forth in Section 4.01(g).

"Operating Profits" means, as applied to any Person for any period, the operating income of such Person for such period, as determined in accordance with GAAP.

"Participant" has the meaning set forth in Section 10.08(b).

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"Performance Pricing Determination Date" has the meaning set forth in Section 2.05(a).

"Person" means an individual, a corporation, a partnership, an unincorporated association, a trust or any other entity or organization, including, but not limited to, a government or political subdivision or an agency or instrumentality thereof.

"Plan" means at any time an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and is either (i) maintained by a member of the Controlled Group for employees of any member of the Controlled Group or (ii) maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding 5 plan years made contributions.

"Prime Rate" refers to that interest rate so denominated and set by Wachovia from time to time as an interest rate basis for borrowings. The Prime Rate is but one of several interest rate bases used by Wachovia. Wachovia lends at interest rates above and below the Prime Rate.

"Properties" means all real property owned, leased or otherwise used or occupied by the Borrower or any Subsidiary, wherever located.

"Receivable" means, as at any date of determination thereof, the unpaid portion of the obligation, as stated in the respective invoice, or, in the case of any such obligation of which no invoice has been issued, as certified in a Borrowing Base Certificate, of a customer of the Borrower or any of its Subsidiaries in respect of goods sold or services rendered in the ordinary course, in each case which amount has been earned by performance under the terms of the related contract and recognized as revenue on the books of the Borrower or such Subsidiary.

"Redeemable Preferred Stock" of any Person means any preferred stock issued by such Person which is at any time prior to the Termination Date either
(i) mandatorily redeemable

(by sinking fund or similar payments or otherwise) or (ii) redeemable at the option of the holder thereof.

"Refunding Loan" means a new Revolving Loan made on the day on which an outstanding Euro-Dollar Loan is maturing or a Base Rate Borrowing is being converted to a Euro-Dollar Borrowing, if and to the extent that the proceeds thereof are used entirely for the purpose of paying such maturing Loan or Loan being converted, excluding any difference between the amount of such maturing Loan or Loan being converted and any greater amount being borrowed on such day and actually either being made available to the Borrower pursuant to Section 2.02(c) or remitted to the Administrative Agent as provided in Section 2.12, in each case as contemplated in Section 2.02(d).

"Regulation G" means Regulation G of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"Regulation T" means Regulation T of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"Regulation U" means Regulation U of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"Regulation X" means Regulation X of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"Reimbursement Obligations" means the reimbursement or repayment obligations of the Borrower to the Administrative Agent pursuant to Section 3.05 with respect to Letters of Credit.

"Reported Net Income" means, for any period, the Net Income of the Borrower and its Consolidated Subsidiaries determined on a consolidated basis.

"Required Banks" means at any time Banks having at least 66 2/3% of the aggregate amount of the Commitments or, if the Commitments are no longer in effect, Banks holding at least

66 2/3% of the aggregate outstanding principal amount of the Revolving Loans and the Letters of Credit.

"Restricted Payment" means (i) any Dividend, or (ii) any payment on account of the purchase, redemption, retirement or acquisition of (a) any shares of the Borrower's Capital Stock (except shares acquired upon the conversion thereof into other shares of its Capital Stock) or (b) any option, warrant or other right to acquire shares of the Borrower's Capital Stock.

"Revenue Equipment" means tractors and trailers used in the ordinary course of business and tagged and permitted to be used in the ordinary course of business.

"Revolving Loans" means Base Rate Loans or Euro-Dollar Loans made pursuant to the terms and conditions set forth in Section 2.01.

"Revolving Loan Notes" means the promissory notes of the Borrower, substantially in the form of Exhibit A, evidencing the obligation of the Borrower to repay Revolving Loans, together with all amendments, consolidations, modifications, renewals and supplements thereto.

"S&P" means Standard & Poor's Ratings Group, a division of McGraw- Hill, Inc.

"Subsidiary" means any corporation or other entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by the Borrower.

"Synthetic Lease Documents" means the Investment Agreement, the "Lease" and the other "Operative Documents" (as those terms are defined in Schedule 1.02 to the Investment Agreement).

"Taxes" has the meaning set forth in Section 2.11(c).

"Termination Date" means whichever is applicable of (i) January 14, 2001,(ii) such later date to which it is extended by the Banks pursuant to Section 2.04(b), in their sole and absolute discretion,(iii)the date the Commitments are terminated pursuant to Section 7.01 following the occurrence of an Event of Default, or (iv) the date the Borrower terminates the Commitments entirely pursuant to Section 2.08.

"Third Parties" means all lessees, sublessees, licensees and other users of the Properties, excluding those users of the Properties in the ordinary course of the Borrower's business and on a temporary basis.

"Transferee" has the meaning set forth in Section 10.08(d).

"Unfunded Vested Liabilities" means, with respect to any Plan at any time, the amount (if any) by which (i) the present value of all vested nonforfeitable benefits under such Plan exceeds (ii) the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or the Plan under Title IV of ERISA.

"Unused Commitment" means at any date, (a) with respect to all Banks, an amount equal to the aggregate Commitments less the sum of (i) the aggregate outstanding principal amount of the Revolving Loans and (ii) the aggregate outstanding Letter of Credit Obligations, and (b) with respect to any Bank, an amount equal to the aggregate Unused Commitment determined in clause (a) above multiplied by such Bank's Commitment Share .

"Wachovia" means Wachovia Bank, N.A., a national banking association, and its successors.

"Wholly Owned Subsidiary" means any Subsidiary all of the shares of capital stock or other ownership interests of which (except directors' qualifying shares) are at the time directly or indirectly owned by the Borrower.

SECTION 1.02. Accounting Terms and Determinations. Unless otherwise specified herein, all terms of an accounting character used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP, applied on a basis consistent (except for changes concurred in by the Borrower's independent public accountants or otherwise required by a change in GAAP) with the most recent audited consolidated financial statements of the Borrower and its Consolidated Subsidiaries delivered to the Banks unless with respect to any such change concurred in by the Borrower's independent public accountants or required by GAAP, in determining compliance with

any of the provisions of this Agreement or any of the other Loan Documents: (i) the Borrower shall have objected to determining such compliance on such basis at the time of delivery of such financial statements, or (ii) the Required Banks shall so object in writing within 30 days after the delivery of such financial statements, in either of which events such calculations shall be made on a basis consistent with those used in the preparation of the latest financial statements as to which such objection shall not have been made (which, if objection is made in respect of the first financial statements delivered under Section 6.01, shall mean the financial statements referred to in Section 5.04).

SECTION 1.03. References. Unless otherwise indicated, references in this Agreement to "Articles", "Exhibits", "Schedules", "Sections" and other Subdivisions are references to articles, exhibits, schedules, sections and other subdivisions hereof.

SECTION 1.04. Use of Defined Terms. All terms defined in this Agreement shall have the same defined meanings when used in any of the other Loan Documents, unless otherwise defined therein or unless the context shall require otherwise.

SECTION 1.05. Terminology. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and the plural shall include the singular. Titles of Articles and Sections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement.

ARTICLE II

THE REVOLVING CREDIT FACILITY

SECTION 2.01. Commitments to Lend Revolving Loans. Each Bank severally agrees, on the terms and conditions set forth herein, to make Revolving Loans to the Borrower from time to time before the Termination Date; provided that, immediately after each such Revolving Loan is made,

(i) the aggregate outstanding principal amount of Revolving Loans and Letter of Credit Obligations of such Bank shall not exceed the amount of its Commitment, and

(ii) the aggregate outstanding principal amount of all Revolving Loans and all Letter of Credit Obligations shall not exceed the lesser of (A) the aggregate amount of the Commitments, and (B) the Borrowing Base.

Each Euro-Dollar Borrowing under this Section shall be in an aggregate principal amount of \$3,000,000 or any larger integral multiple of \$1,000,000, and each Base Rate Borrowing under this Section shall be in an aggregate principal amount of \$3,000,000 or any larger integral multiple of \$1,000,000 (except that any such Borrowing may be in the aggregate amount of the Unused Commitments) and shall be made from the several Banks ratably in proportion to their respective Commitments. Within the foregoing limits, the Borrower may borrow under this Section, repay or, to the extent permitted by Section 2.09, prepay Revolving Loans and reborrow under this Section at any time before the Termination Date.

SECTION 2.02. Method of Borrowing Revolving Loans.

(a) The Borrower shall give the Administrative Agent notice (a "Notice of Borrowing"), which shall be substantially in the form of Exhibit E, prior to 11:00 A.M. (Atlanta, Georgia time) on the Domestic Business Day of each Base Rate Borrowing, and at least 3 Euro-Dollar Business Days before each Euro-Dollar Borrowing, specifying:

(i) the date of such Borrowing, which shall be a Domestic Business Day in the case of a Base Rate Borrowing or a Euro-Dollar Business Day in the case of a Euro-Dollar Borrowing,

(ii) the aggregate amount of such Borrowing,

(iii) whether the Revolving Loans comprising such Borrowing are to be Base Rate Loans or Euro-Dollar Loans, and

(iv) in the case of a Euro-Dollar Borrowing, the duration of the Interest Period applicable thereto, subject to the provisions of the definition of Interest Period.

(b) Upon receipt of a Notice of Borrowing, the Administrative Agent shall promptly notify each Bank of the contents thereof and of such Bank's ratable share of such Borrowing and such Notice of Borrowing, once received by the Administrative Agent, shall thereafter be irrevocable by the Borrower.

(c) Not later than 1:00 P.M. (Atlanta, Georgia time) on the date of each Borrowing, each Bank shall (except as provided in paragraph (d) of this Section) make available its ratable share of such Borrowing, in Federal or other funds immediately available in Atlanta, Georgia, to the Administrative Agent at its address determined pursuant to Section 10.01. Unless the Administrative Agent determines that any applicable condition specified in Article III has not been satisfied, the Administrative Agent will make the funds so received from the Banks available to the Borrower at the Administrative Agent's aforesaid address. Unless the Administrative Agent receives notice from a Bank, at the Administrative Agent's address referred to in or specified pursuant to Section

10.01 (i) no later than 4:00 P.M. (local time at such address) on the Domestic Business Day before the date of a Euro-Dollar Borrowing or (ii) no later than 1:00 P.M. (Atlanta, Georgia time) on the date of a Base Rate Borrowing, stating that such Bank will not make a Revolving Loan in connection with such Borrowing, the Administrative Agent shall be entitled to assume that such Bank will make a Revolving Loan in connection with such Borrowing and, in reliance on such assumption, the Administrative Agent may (but shall not be obligated to) make available such Bank's ratable share of such Borrowing to the Borrower for the account of such Bank. If the Administrative Agent makes such Bank's ratable share available to the Borrower and such Bank does not in fact make its ratable share of such Borrowing available on such date, the Administrative Agent shall be entitled to recover such Bank's ratable share from such Bank or the Borrower (and for such purpose shall be entitled to charge such amount to any account of the Borrower maintained with the Administrative Agent), together with interest thereon for each day during the period from the date of such Borrowing until such sum shall be paid in full at a rate per annum equal to the rate at which the Administrative Agent determines that it obtained (or could have obtained) overnight Federal funds to cover such amount for each such day during such period, provided that (i) any such payment by the Borrower of such Bank's ratable share and interest thereon shall be without prejudice to any rights that the Borrower may have against such Bank and (ii) until such Bank has paid its ratable share of such Borrowing, together with interest pursuant to the foregoing, it will have no interest in or rights with respect to such Borrowing for any purpose hereunder. If the Administrative Agent does not exercise its option to advance funds for the account of such Bank, it shall forthwith notify the Borrower of such decision.

(d) If any Bank makes a new Revolving Loan hereunder on a day on which the Borrower is to repay all or any part of an outstanding Revolving Loan from such Bank, such Bank shall apply the proceeds of its new Revolving Loan to make such repayment as a Refunding Loan and only an amount equal to the difference (if any) between the amount being borrowed and the amount of such Refunding Loan shall be made available by such Bank to the Administrative Agent as provided in paragraph (c) of this Section, or remitted by the Borrower to the Administrative Agent as provided in Section 2.11, as the case may be.

(e) Notwithstanding anything to the contrary contained in this Agreement, no Euro-Dollar Borrowing may be made if there shall have occurred a Default or an Event of Default, which Default or Event of Default shall not have been cured or waived, and all Refunding Loans shall be made as Base Rate Loans (but shall bear interest at the Default Rate, if applicable).

(f) In the event that a Notice of Borrowing fails to specify whether the Revolving Loans comprising such Borrowing are to be Base Rate Loans or Euro- Dollar Loans, such Revolving Loans shall be made as Base Rate Loans. If the Borrower is otherwise entitled under this Agreement to repay any Revolving Loans maturing at the end of an Interest Period applicable thereto with the proceeds of a new Borrowing, and the Borrower fails to repay such Revolving Loans and fails to give a Notice of Borrowing in connection with such new Borrowing, a new Borrowing shall be deemed to be made on the date such Revolving Loans mature in an amount equal to the principal amount of the Revolving Loans so maturing, and the Revolving Loans comprising such new Borrowing shall be Base Rate Loans.

(g) Notwithstanding anything to the contrary contained herein, there shall not be more than eight (8) Euro-Dollar Borrowings outstanding at any given time.

SECTION 2.03. Notes. (a) The Revolving Loans of each Bank shall be evidenced by a single Revolving Loan Note payable to the order of such Bank for the account of its Lending Office in an amount equal to the original principal amount of such Bank's Commitment.

(b) Upon receipt of each Bank's Notes pursuant to Section 4.01, the Administrative Agent shall deliver such Notes to such Bank. Each Bank shall record, and prior to any

transfer of its Notes shall endorse on the schedules forming a part thereof appropriate notations to evidence, the date, amount and maturity of, and effective interest rate for, each Loan made by it, the date and amount of each payment of principal made by the Borrower with respect thereto, and such schedules of each such Bank's Notes shall constitute rebuttable presumptive evidence of the respective principal amounts owing and unpaid on such Bank's Notes; provided that the failure of any Bank to make, or any error in making, any such recordation or endorsement shall not affect the obligation of the Borrower hereunder or under the Notes or the ability of any Bank to assign its Notes. Each Bank is hereby irrevocably authorized by the Borrower so to endorse its Notes and to attach to and make a part of any Note a continuation of any such schedule as and when required.

SECTION 2.04. Maturity of Loans. (a) Each Loan included in any Borrowing shall mature, and the principal amount thereof shall be due and payable, on the last day of the Interest Period applicable to such Borrowing.

(b) Notwithstanding the foregoing, the outstanding principal amount of the Loans, if any, together with all accrued but unpaid interest thereon, if any, shall be due and payable on January 14, 2001, unless the Termination Date is otherwise extended by the Banks, in their sole and absolute discretion. Upon the written request of the Borrower, which request shall be delivered to the Administrative Agent at least 60 days prior to each Extension Date (as such term is hereinafter defined), the Banks shall have the option (without any obligation whatsoever so to do) of extending the Termination Date for additional one-year periods on each of January 15, 1999 and January 15, 2000 (each, an "Extension Date"). In the event that a Bank does not notify the Borrower and the Administrative Agent at least 15 days prior to the relevant Extension Date of its agreement to extend the Termination Date for such an additional one-year period, such Bank shall be deemed a "Terminating Bank" and shall have no obligations hereunder after the relevant Termination Date; provided, that the Termination Date shall not be extended with respect to any of the Banks unless the Required Banks are willing to extend the Termination Date and (x) the remaining Banks shall be entitled to purchase, effective on the Termination Date (prior to its extension hereunder), ratable assignments (without any obligation so to do) from such Terminating Bank (in the form of an Assignment and Acceptance) in accordance with their respective percentage of the remaining Aggregate Commitments; provided, that, such Banks shall be

provided such opportunity (which opportunity shall allow such Banks at least five Domestic Business Days in which to make a decision) prior to the Borrower finding another bank pursuant to the immediately succeeding clause (y); and, provided, further, that, should any of the remaining Banks elect not to purchase such an assignment, then, such other remaining Banks shall be entitled to purchase, effective on the Termination Date (prior to its extension hereunder), an assignment from any Terminating Bank which includes the ratable interest that was otherwise available to such non-purchasing remaining Bank or Banks, as the case may be, (y) the Borrower shall find another bank, acceptable to the Administrative Agent, willing to accept an assignment from such Terminating Bank (in the form of an Assignment and Acceptance), effective on the Termination Date (prior to its extension hereunder), or (z) the Borrower shall reduce the aggregate Commitments in an amount equal to the Commitment of any such Terminating Bank.

SECTION 2.05. Interest Rates. (a) "Applicable Margin" means:

- (i) for the period commencing on the Closing Date to and including the first Performance Pricing Determination Date, (x) for any Base Rate Loan, 0.00%, and (y) for any Euro-Dollar Loan, 0.75%; and
- (ii) from and after the first Performance Pricing Determination Date, (x) for any Base Rate Loan, 0.00%, (y) for each Euro-Dollar Loan, the percentage determined on each Performance Pricing Determination Date by reference to the table set forth below as to the ratio of Consolidated Total Adjusted Debt to Consolidated EBITDA for the quarterly or annual period ending immediately prior to such Performance Pricing Determination Date.

Ratio -----	Applicable Margin -----
less than and equal to 1.50 to 1.00	0.55%
greater than 1.50 to 1.00 but less than and equal to 2.00	0.625%
greater than 2.00 to 1.00 but less than and equal to 2.50 to 1.00	0.75%
greater than 2.50 to 1.00 but less than and equal to 2.75 to 1.00	0.875%

provided that on any Performance Pricing Determination Date on which the Borrower's ratio of (a) Consolidated EBILT to (b) Consolidated Fixed Charges is greater than or equal to 2.25 to 1.00, the Applicable Margin shall be 0.100% less than that set forth in the table above.

In determining interest for purposes of this Section 2.05 and fees for purposes of Section 2.06, the Borrower and the Banks shall refer to the Borrower's most recent consolidated quarterly and annual (as the case may be) financial statements delivered pursuant to Section 6.01(a) or (b), as the case may be. If such financial statements require a change in interest pursuant to this Section 2.05 or fees pursuant to Section 2.06, the Borrower shall deliver to the Administrative Agent, along with such financial statements, a notice to that effect, which notice shall set forth in reasonable detail the calculations supporting the required change. The "Performance Pricing Determination Date" is the date which is the last date on which such financial statements are permitted to be delivered pursuant to Section 6.01(a) or (b), as applicable. Any such required change in interest and fees shall become effective on such Performance Pricing Determination Date, and shall be in effect until the next Performance Pricing Determination Date, provided that: (i) changes in interest shall only be effective for Interest Periods commencing on or after the Performance Pricing Determination Date; and (ii) no fees or interest shall be decreased pursuant to this Section 2.05 or Section 2.06 if a Default is in existence on the Performance Pricing Determination Date.

(b) Each Base Rate Loan shall bear interest on the outstanding principal amount thereof, for each day from the date such Loan is made until it becomes due, at a rate per annum equal to the Base Rate for such day plus the Applicable Margin. Such interest shall be payable for each Interest Period on the last day thereof. Any overdue principal of and, to the extent permitted by applicable law, overdue interest on any Base Rate Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to the Default Rate.

(c) Each Euro-Dollar Loan shall bear interest on the outstanding principal amount thereof, for the Interest Period applicable thereto, at a rate per annum equal to the sum of the Applicable Margin plus the applicable Adjusted London Interbank

Offered Rate for such Interest Period. Such interest shall be payable for each Interest Period on the last day thereof and, if such Interest Period is longer than 3 months, at intervals of 3 months after the first day thereof. Any overdue principal of and, to the extent permitted by law, overdue interest on any Euro- Dollar Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to the Default Rate.

The "Adjusted London Interbank Offered Rate" applicable to any Interest Period means a rate per annum equal to the quotient obtained (rounded upwards, if necessary, to the next higher 1/100th of 1%) by dividing (i) the applicable London Interbank Offered Rate for such Interest Period by (ii) 1.00 minus the Euro-Dollar Reserve Percentage.

The "London Interbank Offered Rate" applicable to any Euro-Dollar Loan means for the Interest Period of such Euro-Dollar Loan, the rate per annum determined on the basis of the offered rate for deposits in Dollars of amounts equal or comparable to the principal amount of such Euro-Dollar Loan offered for a term comparable to such Interest Period, which rates appear on the Telerate Page 3750 effective as of 11:00 A.M., London time, 2 Euro-Dollar Business Days prior to the first day of such Interest Period, provided that if no such offered rates appear on such page, the "London Interbank Offered Rate" for such Interest Period will be the arithmetic average (rounded upward, if necessary, to the next higher 1/100th of 1%) of rates quoted by not less than 2 major banks in New York City, selected by the Administrative Agent, at approximately 10:00 A.M., New York City time, 2 Euro-Dollar Business Days prior to the first day of such Interest Period, for deposits in Dollars offered by leading European banks for a period comparable to such Interest Period in an amount comparable to the principal amount of such Euro-Dollar Loan.

"Euro-Dollar Reserve Percentage" means for any day that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement for a member bank of the Federal Reserve System in respect of "Eurocurrency liabilities" (or in respect of any other category of liabilities which includes deposits by reference to which the interest rate on Euro-Dollar Loans is determined or any category of extensions of credit or other assets which includes loans by a non-United States office of any Bank to United States residents). The Adjusted London Interbank Offered Rate shall be adjusted automatically on and

as of the effective date of any change in the Euro-Dollar Reserve Percentage.

(d) The Administrative Agent shall determine each interest rate applicable to the Loans hereunder. The Administrative Agent shall give prompt notice to the Borrower and the Banks by telecopier of each rate of interest so determined, and its determination thereof shall be conclusive in the absence of manifest error.

(e) After the occurrence and during the continuance of an Event of Default, the principal amount of the Loans (and, to the extent permitted by applicable law, all accrued interest thereon) may, at the election of the Required Banks, bear interest at the Default Rate.

SECTION 2.06. Fees. (a) The Borrower shall pay to the Administrative

Agent, for the ratable account of each Bank, a commitment fee, calculated in the manner provided in the last paragraph of Section 2.05(a)(ii), on the average daily amount of such Bank's Unused Commitment, at a rate per annum equal to: (i) for the period commencing on the Closing Date to and including the first Performance Pricing Determination Date, 0.225%; and (ii) from and after the first Performance Pricing Determination Date, the percentage determined on each Performance Pricing Determination Date by reference to the table set forth below as to the ratio of Consolidated Total Adjusted Debt to Consolidated EBILTDA for the quarterly or annual period ending immediately prior to such Performance Pricing Determination Date:

Ratio -----	Commitment Fee -----
less than and equal to 1.50 to 1.00	0.15%
greater than 1.50 to 1.00 but less than and equal to 2.00	0.1875%
greater than 2.00 to 1.00 but less than and equal to 2.50 to 1.00	0.225%
greater than 2.50 to 1.00	0.25%

Such commitment fees shall accrue from and including the Closing Date to but excluding the Termination Date and shall be

payable on each March 31, June 30, September 30 and December 31 and on the Termination Date.

(b) The Borrower shall pay to the Administrative Agent, for the account and sole benefit of the Administrative Agent, such fees and other amounts at such times as set forth in the Administrative Agent's Letter Agreement.

SECTION 2.07. Optional Termination or Reduction of Commitments. The Borrower may, upon at least 3 Domestic Business Days' notice to the Administrative Agent, terminate at any time, or proportionately reduce the Unused Commitments from time to time by an aggregate amount of at least \$10,000,000 or any larger integral multiple of \$1,000,000. If the Commitments are terminated in their entirety, all accrued fees (as provided under Section 2.06) shall be due and payable on the effective date of such termination.

SECTION 2.08. Termination of Commitments. The Commitments shall terminate on the Termination Date and any Loans then outstanding (together with accrued interest thereon) shall be due and payable on such date.

SECTION 2.09. Optional Prepayments. (a) The Borrower may, upon at least 1 Domestic Business Days' notice to the Administrative Agent, prepay any Base Rate Borrowing in whole at any time, or from time to time in part in amounts aggregating at least \$3,000,000, by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment. Each such optional prepayment shall be applied to prepay ratably the Base Rate Loans of the several Banks included in such Base Rate Borrowing.

(b) Subject to any payments required pursuant to the terms of Article IX for such Euro-Dollar Loan, upon 3 Domestic Business Days' prior written notice, the Borrower may prepay in minimum amounts of \$3,000,000 with additional increments of \$1,000,000 (or any lesser amount equal to the outstanding balance of such Loan) all or any portion of the principal amount of any Euro-Dollar Loan prior to the maturity thereof.

(c) Upon receipt of a notice of prepayment pursuant to this Section 2.09, the Administrative Agent shall promptly notify each Bank of the contents thereof and of such Bank's ratable share of such prepayment and such notice, once received by the Administrative Agent, shall thereafter be irrevocable by the Borrower.

SECTION 2.10. Mandatory Prepayments. On each date on which (w) the Commitments are reduced pursuant to Section 2.07 or Section 2.08, or (x) the aggregate amount of all outstanding Revolving Loans and Letter of Credit Obligations exceeds the Borrowing Base, the Borrower shall repay or prepay such principal amount of the outstanding Loans, if any (together with interest accrued thereon and any amount due under Section 9.05(a)), as may be necessary so that after such payment the aggregate unpaid principal amount of the Loans does not exceed (y) the aggregate amount of the Commitments as then reduced, or (z) the Borrowing Base as then in effect. Each such payment or prepayment shall be applied ratably to the Loans of the Banks outstanding on the date of payment or prepayment in the following order of priority: (i) first, to Base Rate Loans; and (ii) secondly to Euro-Dollar Loans.

SECTION 2.11. General Provisions as to Payments.

(a) The Borrower shall make each payment of principal of, and interest on, the Loans and of fees hereunder, not later than 11:00 A.M. (Atlanta, Georgia time) on the date when due, in Federal or other funds immediately available in Atlanta, Georgia, to the Administrative Agent at its address referred to in

Section 10.01. The Administrative Agent will promptly distribute to each Bank its ratable share of each such payment received by the Administrative Agent for the account of the Banks.

(b) Whenever any payment of principal of, or interest on, the Base Rate Loans or of fees hereunder shall be due on a day which is not a Domestic Business Day, the date for payment thereof shall be extended to the next succeeding Domestic Business Day. Whenever any payment of principal of or interest on, the Euro-Dollar Loans shall be due on a day which is not a Euro-Dollar Business Day, the date for payment thereof shall be extended to the next succeeding Euro-Dollar Business Day unless such Euro-Dollar Business Day falls in another calendar month, in which case the date for payment thereof shall be the next preceding Euro-Dollar Business Day.

(c) All payments of principal, interest and fees and all other amounts to be made by the Borrower pursuant to this Agreement with respect to any Loan or fee relating thereto shall be paid without set-off, counterclaim, or deduction, including but not limited to any deduction for, (and shall be free from), any tax, imposts, levies, duties, deductions, or withholdings of any nature now or at anytime hereafter imposed by any governmental authority or by any taxing authority thereof or therein excluding in the case of each Bank, taxes

imposed on or measured by its net income, and franchise taxes imposed on it, by the jurisdiction under the laws of which such Bank is organized or any political subdivision thereof and, in the case of each Bank, taxes imposed on its income, and franchise taxes imposed on it, by the jurisdiction of such Bank's applicable Lending Office or any political subdivision thereof (all such non-excluded taxes, imposts, levies, duties, deductions or withholdings of any nature being "Taxes"). In the event that the Borrower is required by applicable law to make any such withholding or deduction of Taxes with respect to any Loan or fee or other amount, the Borrower shall pay such deduction or withholding to the applicable taxing authority, shall promptly furnish to any Bank in respect of which such deduction or withholding is made all receipts and other documents evidencing such payment and shall pay to such Bank additional amounts as may be necessary in order that the amount received by such Bank after the required withholding or other payment shall equal the amount such Bank would have received had no such withholding or other payment been made. If no withholding or deduction of Taxes are payable in respect to any Loan or fee relating thereto, the Borrower shall furnish any Bank, at such Bank's request, a certificate from each applicable taxing authority or an opinion of counsel acceptable to such Bank, in either case stating that such payments are exempt from or not subject to withholding or deduction of Taxes. If the Borrower fails to provide such original or certified copy of a receipt evidencing payment of Taxes or such certificate(s) or opinion of counsel, the Borrower hereby agrees to compensate such Bank for, and indemnify them with respect to, the tax consequences of the Borrower's failure to provide evidence of tax payments or tax exemption.

Each Bank which is not organized under the laws of the United States or any state thereof agrees, as soon as practicable after receipt by it of a request by the Borrower to do so, to file all appropriate forms and take other appropriate action to obtain a certificate or other appropriate document from the appropriate governmental authority in the jurisdiction imposing the relevant Taxes, establishing that it is entitled to receive payments of principal and interest under this Agreement and the Notes without deduction and free from withholding of any Taxes imposed by such jurisdiction; provided that if it is unable, for any reason, to establish such exemption, or to file such forms and, in any event, during such period of time as such request for exemption is pending, the Borrower shall nonetheless remain obligated under the terms of the immediately preceding paragraph.

In the event any Bank receives a refund of any Taxes paid by the Borrower pursuant to this Section 2.11(c), it will pay to the Borrower the amount of such refund promptly upon receipt thereof; provided that if at any time thereafter it is required to return such refund, the Borrower shall promptly repay to it the amount of such refund.

Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower and the Banks contained in this Section 2.11(c) shall be applicable with respect to any Participant, Assignee or other Transferee, and any calculations required by such provisions (i) shall be made based upon the circumstances of such Participant, Assignee or other Transferee, and (ii) constitute a continuing agreement and shall survive the termination of this Agreement and the payment in full or cancellation of the Notes.

SECTION 2.12. Computation of Interest and Fees. Interest on Base Rate Loans shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day). Interest on Euro-Dollar Loans shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed, calculated as to each Interest Period from and including the first day thereof to but excluding the last day thereof. Commitment fees and any other fees payable hereunder shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day).

ARTICLE III

LETTER OF CREDIT FACILITY

SECTION 3.01. Obligation to Issue. Subject to the terms and conditions of this Agreement, and in reliance upon the representations and warranties of the Borrower herein set forth, the Administrative Agent shall issue for the account of Borrower, one or more Letters of Credit denominated in Dollars, in accordance with this Article III, from time to time during the period commencing on the Closing Date and ending on the Domestic Business Day prior to the Termination Date.

SECTION 3.02. Types and Amounts. The Administrative Agent shall have no obligation to issue any Letter of Credit at any time:

- (a) if the aggregate maximum amount then available for drawing under Letters of Credit, after giving effect to the issuance of the requested Letter of Credit, shall exceed any limit imposed by law or regulation upon the Administrative Agent;
- (b) if, after giving effect to the issuance of the requested Letter of Credit, (i) the aggregate Letter of Credit Obligations would exceed \$10,000,000, or (ii) the sum of the aggregate Letter of Credit Obligations, plus the aggregate principal amount of the Loans outstanding at such time, would exceed the Borrowing Base;
- (c) which has an expiration date (i) more than 360 days after the date of issuance or (ii) after the Termination Date.

SECTION 3.03. Conditions. In addition to being subject to the satisfaction of the conditions contained in Article IV, the obligation of the Administrative Agent to issue any Letter of Credit is subject to the satisfaction in full of the following conditions:

- (a) the Borrower shall have delivered to the Administrative Agent at such times and in such manner as the Administrative Agent may prescribe, a Letter of Credit Application Agreement and such other documents and materials as may be required pursuant to the terms thereof all satisfactory in form and substance to the Administrative Agent and the terms of the proposed Letter of Credit shall be satisfactory in form and substance to the Administrative Agent;
- (b) as of the date of issuance no order, judgment or decree of any court, arbitrator or Authority shall purport by its terms to enjoin or restrain the Administrative Agent from issuing the Letter of Credit and no law, rule or regulation applicable to the Administrative Agent and no request or directive (whether or not having the force of law) from any Authority with jurisdiction over the Administrative Agent shall prohibit or request that the Agent refrain from the issuance of letters of credit generally or the issuance of that Letter of Credit;
- (c) the Unused Commitment shall not be less than the amount of the requested Letter of Credit; and

(d) the expiration date of the Letter of Credit shall not extend beyond the Termination Date.

SECTION 3.04. Issuance of Letters of Credit.

(a) At least two Domestic Business Days before the effective date for any Letter of Credit, the Borrower shall give the Administrative Agent a written notice containing the original signature of an authorized officer or employee of the Borrower. Such notice shall be irrevocable and shall specify the original face amount of the Letter of Credit requested (which original face amount shall not be less than \$100,000), the effective date (which day shall be a Domestic Business Day) of issuance of such requested Letter of Credit, the date on which such requested Letter of Credit is to expire, the amount of then outstanding Letter of Credit Obligations, the purpose for which such Letter of Credit is to be issued, whether such Letter of Credit may be drawn in single or partial draws and the person for whose benefit the requested Letter of Credit is to be issued.

(b) Issuance; Notice of Issuance. If the original face amount of the requested Letter of Credit is less than or equal to the Unused Commitment at such time and the applicable conditions set forth in this Agreement are satisfied, the Administrative Agent shall issue the requested Letter of Credit. The Administrative Agent shall give each Bank written or telex notice in substantially the form of Exhibit K, or telephonic notice confirmed promptly thereafter in writing, of the issuance of a Letter of Credit and shall deliver to each Bank in connection with such notice a copy of the Letter of Credit issued by the Administrative Agent.

(c) No Extension or Amendment. The Administrative Agent shall not extend or amend any Letter of Credit if the issuance of a new Letter of Credit having the same terms as such Letter of Credit as so amended or extended would be prohibited by Section 3.02 or Section 3.03.

SECTION 3.05. Reimbursement Obligations; Duties of the Issuing Bank.

(a) Reimbursement. Notwithstanding any provisions to the contrary in any Letter of Credit Application Agreement:

(i) the Borrower shall reimburse the Administrative Agent for drawings under a Letter of Credit issued by it no later than the earlier of (A) the time

specified in such Letter of Credit Application Agreement, or (B) 1 Domestic Business Day after the payment by the Administrative Agent;

(ii) any Reimbursement Obligation with respect to any Letter of Credit shall bear interest from the date of the relevant drawing under the pertinent Letter of Credit until the date of payment in full thereof at a rate per annum equal to (A) prior to the date that is 3 Domestic Business Days after the date of the related payment by the Administrative Agent, the Base Rate and (B) thereafter, the Default Rate; and

(iii) in order to implement the foregoing, upon the occurrence of a draw under any Letter of Credit, unless the Administrative Agent is reimbursed in accordance with subsection (i) above, the Borrower irrevocably authorizes the Administrative Agent to treat such nonpayment as a Notice of Borrowing in the amount of such Reimbursement Obligation and to make Loans to Borrower in such amount regardless of whether the conditions precedent to the making of Loans hereunder have been met. The Borrower further authorizes the Administrative Agent to credit the proceeds of such Loan so as to immediately eliminate the liability of the Borrower for Reimbursement Obligations under such Letter of Credit.

(b) Duties of the Administrative Agent. Any action taken or omitted to be taken by the Administrative Agent in connection with any Letter of Credit, if taken or omitted in the absence of willful misconduct or gross negligence, shall not put the Administrative Agent under any resulting liability to any Bank, or assuming that the Administrative Agent has complied with the procedures specified in Section 3.04 and such Bank has not given a notice contemplated by

Section 3.06(a) that continues in full force and effect, relieve that Bank of its obligations hereunder to the Administrative Agent. In determining whether to pay under any Letter of Credit, the Administrative Agent shall have no obligation relative to the Banks other than to confirm that any documents required to have been delivered under such Letter of Credit appear to comply on their face, with the requirements of such Letter of Credit.

SECTION 3.06. Participations.

(a) Purchase of Participations. Immediately upon issuance by the Administrative Agent of any Letter of Credit in accordance with the procedures set forth in Section 3.04, each Bank shall be deemed to have irrevocably and unconditionally purchased and received from the Administrative Agent, without recourse or warranty, an undivided interest and participation, to the extent of such Bank's Commitment Share, in such Letter of Credit (or guaranty pertaining thereto); provided, that a Letter of Credit shall not be entitled to the benefits of this Section 3.06 if the Administrative Agent shall have received written notice from any Bank on or before the Domestic Business Day immediately prior to the date of the Administrative Agent's issuance of such Letter of Credit that one or more of the conditions contained in Section 3.03 or Article IV is not then satisfied, and, in the event the Administrative Agent receives such a notice, it shall have no further obligation to issue any Letter of Credit until such notice is withdrawn by that Bank or until the Required Banks have effectively waived such condition in accordance with the provisions of this Agreement.

(b) Sharing of Letter of Credit Payments. In the event that the Administrative Agent makes any payment under any Letter of Credit for which the Borrower shall not have repaid such amount to the Administrative Agent pursuant to Section 3.07 or which cannot be paid by a Loan pursuant to subsection (iii) of Section 3.05, the Administrative Agent shall promptly notify each Bank of such failure, and each Bank shall promptly and unconditionally pay to the Administrative Agent such Bank's Commitment Share of the amount of such payment in Dollars and in same day funds. If the Administrative Agent so notifies such Bank prior to 10:00 A.M. (Atlanta, Georgia time) on any Domestic Business Day, such Bank shall make available to the Administrative Agent its Commitment Share of the amount of such payment on such Domestic Business Day in same day funds. If and to the extent such Bank shall not have so made its Commitment Share of the amount of such payment available to the Administrative Agent, such Bank agrees to pay to the Administrative Agent forthwith on demand such amount together with interest thereon, for each day from the date such payment was first due until the date such amount is paid to the Administrative Agent at a rate per annum equal to the rate at which the Administrative Agent determines that it obtained (or could have obtained) overnight federal funds to cover such amount for each such day during such period. The failure of any Bank to make available to the Administrative Agent its

Commitment Share of any such payment shall neither relieve nor increase the obligation of any other Bank hereunder to make available to the Administrative Agent its Commitment Share of any payment on the date such payment is to be made.

(c) Sharing of Reimbursement Obligation Payments. Whenever the Administrative Agent receives a payment on account of a Reimbursement Obligation, including any interest thereon, as to which the Administrative Agent has received any payments from the Banks pursuant to this Section 3.06, it shall promptly pay to each Bank which has funded its participating interest therein, in Dollars and in the kind of funds so received, an amount equal to such Bank's Commitment Share thereof. Each such payment shall be made by the Administrative Agent on the Domestic Business Day on which the funds are paid to such Person, if received prior to 10:00 am. (Atlanta, Georgia time) on such Domestic Business Day, and otherwise on the next succeeding Domestic Business Day.

(d) Documentation. Upon the request of any Bank, the Administrative Agent shall furnish to such Bank copies of any Letter of Credit, Letter of Credit Application Agreement and other documentation relating to Letters of Credit issued pursuant to this Agreement.

(e) Obligations Irrevocable. The obligations of the Banks to make payments to the Administrative Agent with respect to a Letter of Credit shall be irrevocable, not subject to any qualification or exception whatsoever and shall be made in accordance with, but not subject to, the terms and conditions of this Agreement under all circumstances (assuming that the Administrative Agent has issued such Letter of Credit in accordance with Section 3.04 and such Bank has not given a notice contemplated by Section 3.06(a) that continues in full force and effect), including, without limitation, any of the following circumstances:

(i) any lack of validity or enforceability of this Agreement or any of the other Loan Documents;

(ii) the existence of any claim, set-off, defense or other right which the Borrower may have at any time against a beneficiary named in a Letter of Credit or any transferee of any Letter of Credit (or any Person for whom any such transferee may be acting), the Administrative Agent, any Bank or any other Person, whether in connection with this Agreement, any Letter of

Credit, the transactions contemplated herein or any unrelated transactions;

(iii) any draft, certificate or any other document presented under the Letter of Credit proves to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(iv) the surrender or impairment of any security for the performance or observance of any of the terms of any of the Loan Documents;

(v) payment by the Administrative Agent under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(vi) payment by the Administrative Agent under any Letter of Credit against presentation of any draft or certificate that does not comply with the terms of such Letter of Credit, except payment resulting from the gross negligence or willful misconduct of the Administrative Agent; or

(vii) any other circumstances or happenings whatsoever, whether or not similar to any of the foregoing, except circumstances or happenings resulting from the gross negligence or willful misconduct of the Administrative Agent.

SECTION 3.07. Payment of Reimbursement Obligations.

(a) Payments to Issuing Bank. The Borrower agrees to pay to the Administrative Agent the amount of all Reimbursement Obligations, interest and other amounts payable to the Administrative Agent under or in connection with any Letter of Credit issued for such Borrower's account immediately when due, irrespective of:

(i) any lack of validity or enforceability of this Agreement or any of the other Loan Documents;

(ii) the existence of any claim, set-off, defense or other right which the Borrower may have at any time against a beneficiary named in a Letter of Credit or any transferee of any Letter of Credit (or any Person for whom any such transferee may be acting), the

Administrative Agent, any Bank or any other Person, whether in connection with this Agreement, any Letter of Credit, the transactions contemplated herein or any unrelated transactions;

(iii) any draft, certificate or any other document presented under the Letter of Credit proves to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(iv) the surrender or impairment of any security for the performance or observance of any of the terms of any of the Loan Documents;

(v) payment by the Administrative Agent under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(vi) payment by the Administrative Agent under any Letter of Credit against presentation of any draft or certificate that does not comply with the terms of such Letter of Credit, except payment resulting from the gross negligence or willful misconduct of the Administrative Agent; or

(vii) any other circumstances or happenings whatsoever, whether or not similar to any of the foregoing, except circumstances or happenings resulting from the gross negligence or willful misconduct of the Administrative Agent.

(b) Recovery or Avoidance of Payments. In the event any payment by or on behalf of the Borrower received by the Administrative Agent with respect to a Letter of Credit and distributed by the Administrative Agent to the Banks on account of their participations is thereafter set aside, avoided or recovered from the Administrative Agent in connection with any receivership, liquidation or bankruptcy proceeding, each Bank that received such distribution shall, upon demand by such Administrative Agent, contribute such Bank's Commitment Share of the amount set aside, avoided or recovered together with interest at the rate required to be paid by the Administrative Agent upon the amount required to be repaid by it.

SECTION 3.08. Compensation for Letters of Credit.

(a) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent with respect to each Letter of Credit issued hereunder a per annum letter of credit fee ("Letter of Credit Fee") equal to the Applicable Margin for Euro- Dollar Loans from time to time as set forth in Section 2.05(a)(ii) on the average daily maximum amount available to be drawn under such Letter of Credit, accruing from the date of issuance to the date of expiration, and payable on each March 31, June 30, September 30 and December 31 and on the Termination Date. Letter of Credit Fees payable hereunder shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day). The Administrative Agent shall promptly remit such Letter of Credit Fees, when paid, to the Banks in accordance with their Commitment Shares thereof.

(b) Administrative Agent Charges. The Borrower shall pay to the Administrative Agent, solely for its own account on the date of issuance of each Letter of Credit, an issuance fee for each Letter of Credit equal to .125% of the face amount of the Letter of Credit, as well as the standard charges assessed by the Administrative Agent in connection with the issuance, administration, amendment and payment or cancellation of Letters of Credit issued hereunder, which charges shall be those typically charged by the Administrative Agent to its customers generally having credit and other characteristics similar to the Borrower, as determined in good faith by the Administrative Agent.

SECTION 3.09. Indemnification; Exoneration.

(a) Indemnification. In addition to amounts payable as elsewhere provided in this Article III, the Borrower shall protect, indemnify, pay and save the Administrative Agent and each Bank harmless from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable attorneys' fees) which the Administrative Agent, or any Bank may incur or be subject to as a consequence of the issuance of any Letter of Credit for the Borrower's account other than as a result of its gross negligence or willful misconduct, as determined by a court of competent jurisdiction.

(b) Assumption of Risk by Borrower. As between the Borrower, the Administrative Agent and the Banks, the Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit issued for such Borrower's account by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, the Administrative Agent and the Banks shall not be responsible for (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of the Letters of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged, (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason, (iii) failure of the beneficiary of a Letter of Credit to comply duly with conditions required in order to draw upon such Letter of Credit, (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher, for errors in interpretation of technical terms, (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any Letter of Credit or of the proceeds thereof, (vii) the misapplication by the beneficiary of a Letter of Credit of the proceeds of any drawing under such Letter of Credit; and (viii) any consequences arising from causes beyond the control of the Administrative Agent and the Banks.

(c) Exoneration. In furtherance and extension and not in limitation of the specific provisions hereinabove set forth, any action taken or omitted by the Administrative Agent under or in connection with the Letters of Credit or any related certificates if taken or omitted in good faith and with reasonable care, shall not put the Administrative Agent or any Bank under any resulting liability to the Borrower or relieve the Borrower of any of its obligations hereunder to any such Person.

SECTION 3.10. Credit Yield Protection; Capital Adequacy. If the adoption after the date hereof of any applicable law, statute, rule, regulation, ordinance, writ, injunction, decree, order, judgment, guideline or decision of any Authority ("Governmental Rule"), any change after the date hereof in any interpretation or administration of any applicable Governmental Rule by any Person charged with its

interpretation or administration or compliance by the Administrative Agent or any Bank (or its Lending Office) with any request or directive (whether or not having the force of law) of any such Person:

(a) shall subject the Administrative Agent or any Bank (or its Lending Office) to any tax (other than overall net income taxation), duty or other charge with respect to any amount drawn on any Letter of Credit or its obligation to make any payment under the Letters of Credit, or to maintain the Letters of Credit, or shall change the basis of taxation (other than overall net income taxation) of payments to the Administrative Agent or any Bank (or its Lending Office) of any amounts due under this Agreement or any amount drawn on the Letters of Credit; or

(b) shall impose, modify or deem applicable any reserve (including, without limitation, any imposed by the Board of Governors of the Federal Reserve System or any Person regulating insurance activities or insurance companies), special deposit or similar requirements against assets of, deposits with or for the account of, credit extended by, letters of credit issued or maintained by, or collateral subject to a lien in favor of the Administrative Agent or any Bank (or its Lending Office) any other condition affecting any amount drawn on the Letters of Credit, or its obligation to make any payment under the Letters of Credit, as the case may be, or to maintain the Letters of Credit; then the remaining provisions of this Section 3.10 shall apply. If the result of any of the foregoing (without regard to whether the Administrative Agent or any Bank shall have sold participations in its respective obligations under this Agreement) is to increase the cost to or to impose a cost on the Administrative Agent or any Bank (or its Lending Office) of making or maintaining any amounts payable hereunder, of maintaining the Letters of Credit, or to reduce the amount of any sum received or receivable by the Administrative Agent or any Bank (or its Lending Office) under any Letter of Credit, then:

(i) the Administrative Agent or such Bank shall promptly deliver to the Borrower a certificate stating the change which has occurred or the reserve requirements or other conditions which have been imposed on the Administrative Agent or such Bank (or its

Lending Office) or the request, direction or requirement with which it has complied, together with the date hereof; and

(ii) the Borrower shall pay to the Administrative Agent or such Bank within 30 days of written request (which request shall state the amount of increased cost, reduction or payment and the way in which such amount has been calculated), such amount or amounts as will compensate the Administrative Agent or such Bank for the additional cost, reduction of return or payment incurred by the Administrative Agent or such other Bank and, at the option of the Borrower at any time while the Administrative Agent or such Bank is requesting such additional amount or amounts, upon the giving of notice to the Bank and payment to such Bank of all amounts owing to such Bank hereunder, the Borrower may require such Bank to enter into an Assignment and Assumption Agreement pursuant to which such Bank shall transfer all of its rights and interests hereunder and under the other Loan Documents to a third party selected by the Borrower and consented to by the Administrative Agent. If such written request is given within 30 days after the event which results in such increased cost, reduction of return or reduction of payments, such amounts will be calculated from the date of such event; otherwise, such amounts will be calculated as of the date on which the Administrative Agent or such Bank makes the aforesaid written request. The written request of the Administrative Agent or such Bank as to the additional amounts payable pursuant to this paragraph delivered to the Borrower shall be conclusive evidence of the amount thereof in the absence of manifest error.

(c) If any Bank shall have determined that after the date hereof the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof, or compliance by any Bank (or its Lending Office) with any request or directive regarding capital adequacy (whether or not having the force of law) of any Authority, has or would have the effect of reducing the rate of return on such Bank's capital as a consequence of its obligations hereunder to a level below that which

such Bank could have achieved but for such adoption, change or compliance (taking into consideration such Bank's policies with respect to capital adequacy) by an amount deemed by such Bank to be material, then from time to time, within 30 days after demand by such Bank, the Borrower shall pay to such Bank such additional amount or amounts as will compensate such Bank for such reduction.

(d) Each Bank will promptly notify the Borrower and the Administrative Agent of any event of which it has knowledge, occurring after the date hereof, which will entitle such Bank to compensation pursuant to this Section and will designate a different Lending Office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the judgment of such Bank, be otherwise disadvantageous to such Bank. A certificate of any Bank claiming compensation under this

Section and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such amount, such Bank may use any reasonable averaging and attribution methods.

(e) The provisions of this Section 3.10 shall be applicable with respect to any Participant, Assignee or other Transferee, and any calculations required by such provisions shall be made based upon the circumstances of such Participant, Assignee or other Transferee.

ARTICLE IV

CONDITIONS TO BORROWINGS

SECTION 4.01. Conditions to First Borrowing. The obligation of each Bank to make a Loan on the occasion of the first Borrowing (or the obligation of the Administrative Agent to issue the first Letter of Credit, whichever occurs first) is subject to the satisfaction of the conditions set forth in Section 4.02 and receipt by the Administrative Agent of the following (as to the documents described in paragraphs (a),(c), (d)and (e) below, in sufficient number of counterparts for delivery of a counterpart to each Bank and retention of one counterpart by the Administrative Agent):

(a) from each of the parties hereto of either (i) a duly executed counterpart of this Agreement signed by such party or (ii) a facsimile transmission of such executed

counterpart, with the original to be sent to the Administrative Agent by overnight courier);

(b) a duly executed Revolving Loan Note for the account of each Bank complying with the provisions of Section 2.03;

(c) the Guaranty Agreement, duly executed and delivered by each Subsidiary of the Borrower;

(d) an opinion letter (together with any opinions of local counsel relied on therein) of Miller & Martin, counsel for the Borrower, dated as of the Closing Date, substantially in the form of Exhibit B and covering such additional matters relating to the transactions contemplated hereby as the Administrative Agent or any Bank may reasonably request;

(e) an opinion of Jones, Day, Reavis & Pogue, special counsel for the Agent, dated as of the Closing Date, substantially in the form of Exhibit C and covering such additional matters relating to the transactions contemplated hereby as the Agent may reasonably request;

(f) a certificate (the "Closing Certificate") substantially in the form of Exhibit G), dated as of the earlier of the date of the first Borrowing or the date of the issuance of the first Letter of Credit, signed by a principal financial officer of the Borrower, to the effect that (i) no Default has occurred and is continuing on such date and (ii) the representations and warranties of the Borrower contained in Article V are true on and as of such date;

(g) all documents which the Administrative Agent or any Bank may reasonably request relating to the existence of the Borrower, the corporate authority for and the validity of this Agreement and the Notes, and any other matters relevant hereto, all in form and substance satisfactory to the Administrative Agent, including, without limitation, a certificate of the Borrower and of each Subsidiary substantially in the form of Exhibit H (the "Officer's Certificate"), signed by the Secretary or an Assistant Secretary of the Borrower or the Subsidiary, as the case may be, certifying as to the names, true signatures and incumbency of the officer or officers of the Borrower or the Subsidiary authorized to execute and deliver the Loan Documents, and certified copies of the

following items: (i) the Borrower's and each Subsidiary's Certificate of Incorporation, (ii) the Borrower's and each Subsidiary's Bylaws, (iii) a certificate of the Secretary of State of the State of Nevada as to the good standing of the Borrower as a Nevada corporation, and a certificate of the Secretary of State of the State of incorporation of each Subsidiary as to the good standing of such Subsidiary, and (iv) the action taken by the Board of Directors of the Borrower authorizing the Borrower's execution, delivery and performance of this Agreement, the Notes and the other Loan Documents to which the Borrower is a party, and the action taken by the Board of Directors of each Subsidiary authorizing such Subsidiary's execution, delivery and performance of the Guaranty and the Contribution Agreement;

(h) a Notice of Borrowing;

(i) a Borrowing Base Certificate, dated as of the Closing Date;

(j) the Contribution Agreement, in form and substance as set forth on

Exhibit L, duly executed and delivered, from each Subsidiary of the

Borrower and the Borrower;

(k) evidence satisfactory to the Agent that arrangements have been made by the Borrower for the payment in full, with the initial proceeds of the Loans, and the termination of (x) the indebtedness outstanding under the Credit Agreement dated as of November 21, 1995, among the Borrower and certain banks, and (y) the \$10,000,000 Term Loan outstanding from Wachovia to the Borrower; and

(l) receipt of any necessary fees.

In addition, if the Borrower desires funding of a Euro-Dollar Loan on the Closing Date, the Administrative Agent shall have received, the requisite number of days prior to the Closing Date, a funding indemnification letter satisfactory to it, pursuant to which (i) the Administrative Agent and the Borrower shall have agreed upon the interest rate, amount of Borrowing and Interest Period for such Euro-Dollar Loan, and (ii) the Borrower shall indemnify the Banks from any loss or expense arising from the failure to close on the anticipated Closing Date identified in such letter or the failure to borrow such Euro-Dollar Loan on such date.

SECTION 4.02. Conditions to All Borrowings. The obligation of each Bank to make a Revolving Loan on the occasion of each Borrowing (and, with respect to clauses (b), (c), and (d) below, the obligations of the Administrative Agent to issue each Letter of Credit) is subject to the satisfaction of the following conditions :

(a) receipt by the Administrative Agent of a Notice of Borrowing;

(b) the fact that, immediately before and after such Borrowing or Letter of Credit issuance, no Default or Event of Default shall have occurred and be continuing;

(c) the fact that the representations and warranties of the Borrower contained in Article V of this Agreement shall be true on and as of the date of such Borrowing or Letter of Credit issuance; and

(d) the fact that, immediately after such Borrowing or Letter of Credit issuance, as appropriate, the conditions set forth in clauses (i) and (ii) of Section 2.01 shall have been satisfied.

Each Borrowing hereunder shall be deemed to be a representation and warranty by the Borrower on the date of such Borrowing as to the truth and accuracy of the facts specified in paragraphs (b), (c) and (d) of this Section.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants that:

SECTION 5.01. Corporate Existence and Power. The Borrower is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, is duly qualified to transact business in every jurisdiction where, by the nature of its business, such qualification is necessary except where the failure to be so qualified could not have a Material Adverse Effect, and has all corporate powers and all governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted.

SECTION 5.02. Corporate and Governmental Authorization; No Contravention. The execution, delivery and performance by the Borrower of this Agreement, the Notes and the other Loan Documents (i) are within the Borrower's corporate powers, (ii) have been duly authorized by all necessary corporate action, (iii) require no action by or in respect of or filing with, any governmental body, agency or official, (iv) do not contravene, or constitute a default under, any provision of applicable law or regulation or of the certificate of incorporation or by-laws of the Borrower or of any agreement, judgment, injunction, order, decree or other instrument binding upon the Borrower or any of its Subsidiaries, and (v) do not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Subsidiaries.

SECTION 5.03. Binding Effect. This Agreement constitutes a valid and binding agreement of the Borrower enforceable in accordance with its terms, and the Notes, the Guaranty Agreements, and the other Loan Documents, when executed and delivered in accordance with this Agreement, will constitute valid and binding obligations of the Borrower or a Subsidiary, as the case may be, enforceable in accordance with their respective terms, provided that the enforceability hereof and thereof is subject in each case to general principles of equity and to bankruptcy, insolvency and similar laws affecting the enforcement of creditors' rights generally.

SECTION 5.04. Financial Information. (a) The consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of March 31, 1997 and the related consolidated statements of income, shareholders' equity and cash flows for the Fiscal Year then ended, reported on by Arthur Andersen, LLP, copies of which have been delivered to each of the Banks, and the unaudited consolidated financial statements of the Borrower for the interim period ended September 30, 1997, copies of which have been delivered to each of the Banks, fairly present, in conformity with GAAP, the consolidated financial position of the Borrower and its Consolidated Subsidiaries as of such dates and their consolidated results of operations and cash flows for such periods stated.

(b) Since March 31, 1997 there has been no event, act, condition or occurrence having a Material Adverse Effect.

SECTION 5.05. No Litigation. There is no action, suit or proceeding pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower or any of its

Subsidiaries before any court or arbitrator or any governmental body, agency or official which would be reasonably likely to have a Material Adverse Effect or which in any manner draws into question the validity of or could impair the ability of the Borrower or any Subsidiary to perform its obligations under this Agreement, the Notes or any of the other Loan Documents.

SECTION 5.06. Compliance with ERISA. (a) The Borrower and each member of the Controlled Group have fulfilled their obligations under the minimum funding standards of ERISA and the Code with respect to each Plan and are in compliance in all material respects with the presently applicable provisions of ERISA and the Code, and have not incurred any liability to the PBGC or a Plan under Title IV of ERISA.

(b) Neither the Borrower nor any member of the Controlled Group has incurred any withdrawal liability with respect to any Multiemployer Plan under Title IV of ERISA, and no such liability is expected to be incurred.

SECTION 5.07. Compliance with Laws; Payment of Taxes. The Borrower and its Subsidiaries are in material compliance with all applicable laws, regulations and similar requirements of governmental authorities, except where such compliance is being contested in good faith through appropriate proceedings. There have been filed on behalf of the Borrower and its Subsidiaries, or proper extensions have been obtained for, all Federal, state and local income, excise, property and other tax returns which are required to be filed by them and all taxes due pursuant to such returns or pursuant to any assessment received by or on behalf of the Borrower or any Subsidiary have been paid. The charges, accruals and reserves on the books of the Borrower and its Subsidiaries in respect of taxes or other governmental charges are, in the opinion of the Borrower, adequate. United States income tax returns of the Borrower and its Subsidiaries have been examined and closed through the Fiscal Year ended March 31, 1992.

SECTION 5.08. Subsidiaries. Each of the Borrower's Subsidiaries is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, is duly qualified to transact business in every jurisdiction where, by the nature of its business, such qualification is necessary except where the failure to be so qualified could not have a Material Adverse Effect, and has all corporate powers and all governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted. The Borrower has no Subsidiaries except for those

Subsidiaries listed on Schedule 5.08, which accurately sets forth each such Subsidiary's complete name and jurisdiction of incorporation.

SECTION 5.09. Investment Company Act. Neither the Borrower nor any of its Subsidiaries is an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

SECTION 5.10. Public Utility Holding Company Act. Neither the Borrower nor any of its Subsidiaries is a "holding company", or a "subsidiary company" of a "holding company", or an "affiliate" of a "holding company" or of a "subsidiary company" of a "holding company", as such terms are defined in the Public Utility Holding Company Act of 1935, as amended.

SECTION 5.11. Ownership of Property; Liens. Each of the Borrower and its Consolidated Subsidiaries has title to its properties sufficient for the conduct of its business, and none of such property is subject to any Lien except as permitted in Section 6.18.

SECTION 5.12. No Default. Neither the Borrower nor any of its Consolidated Subsidiaries is in default under or with respect to any agreement, instrument or undertaking to which it is a party or by which it or any of its property is bound which could have or cause a Material Adverse Effect. No Default or Event of Default has occurred and is continuing under any such agreement, instrument, or undertaking.

SECTION 5.13. Full Disclosure. All information heretofore furnished by the Borrower to the Administrative Agent or any Bank for purposes of or in connection with this Agreement or any transaction contemplated hereby is, and all such information hereafter furnished by the Borrower to the Administrative Agent or any Bank will be, true, accurate and complete in every material respect or based on reasonable estimates on the date as of which such information is stated or certified. The Borrower has disclosed to the Banks in writing any and all facts which could have or cause a Material Adverse Effect.

SECTION 5.14. Environmental Matters. (a) Neither the Borrower nor any Subsidiary is subject to any Environmental Liability which could have or cause a Material Adverse Effect and neither the Borrower nor any Subsidiary has been designated as a potentially responsible party under CERCLA or under any state statute similar to CERCLA. None of the Properties has

been identified on any current or proposed (i) National Priorities List under 40 C.F.R. (S) 300, (ii) CERCLIS list or (iii) any list arising from a state statute similar to CERCLA.

(b) No Hazardous Materials have been or are being used, produced, manufactured, processed, treated, recycled, generated, stored, disposed of, managed or otherwise handled at, or shipped or transported to or from the Properties or are otherwise present at, on, in or under the Properties, or, to the best of the knowledge of the Borrower, at or from any adjacent site or facility, except for Hazardous Materials used, produced, manufactured, processed, treated, recycled, generated, stored, disposed of, managed, or otherwise handled or shipped or transported to or from the Properties in the ordinary course of business and in compliance with all applicable Environmental Requirements.

(c) The Borrower, and each of its Subsidiaries and Affiliates, has procured all Environmental Authorizations necessary for the conduct of its business, and is in compliance with all Environmental Requirements in connection with the operation of the Properties and the Borrower's, and each of its Subsidiary's and Affiliate's, respective businesses.

SECTION 5.15. Capital Stock. All Capital Stock, debentures, bonds, notes and all other securities of the Borrower and its Subsidiaries presently issued and outstanding are validly and properly issued in accordance with all applicable laws, including, but not limited to, the "Blue Sky" laws of all applicable states and the federal securities laws. The issued shares of Capital Stock of the Borrower's Wholly Owned Subsidiaries are owned by the Borrower free and clear of any Lien or adverse claim. At least a majority of the issued shares of capital stock of each of the Borrower's other Subsidiaries (other than Wholly Owned Subsidiaries) is owned by the Borrower free and clear of any Lien or adverse claim.

SECTION 5.16. Margin Stock. Neither the Borrower nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of purchasing or carrying any Margin Stock, and no part of the proceeds of any Loan will be used to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock, or be used for any purpose which violates, or which is inconsistent with, the provisions of Regulation G, T, U or X.

SECTION 5.17. Insolvency. After giving effect to the execution and delivery of the Loan Documents and the making of the Loans under this Agreement:

(i) neither the Borrower nor any Subsidiary will (x) be "insolvent," within the meaning of such term as used in O.C.G.A. (S) 18-2-22 or as defined in (S) 101 of the "Bankruptcy Code", or Section 2 of either the "UFTA" or the "UFCA", or as defined or used in any "Other Applicable Law" (as those terms are defined below), or (y) be unable to pay its debts generally as such debts become due within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA or Section 6 of the UFCA, or (z) have an unreasonably small capital to engage in any business or transaction, whether current or contemplated, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA or Section 5 of the UFCA; and (ii) the obligations of the Borrower and each Subsidiary under the Loan Documents and with respect to the Loans will not be rendered avoidable under any Other Applicable Law. For purposes of this Section 4.17, "Bankruptcy Code" means Title 11 of the United States Code, "UFTA" means the Uniform Fraudulent Transfer Act, "UFCA" means the Uniform Fraudulent Conveyance Act, and "Other Applicable Law" means any other applicable law pertaining to fraudulent transfers or acts voidable by creditors, in each case as such law may be amended from time to time.

SECTION 5.18. Insurance. The Borrower and each of its Subsidiaries has (either in the name of the Borrower or in such Subsidiary's own name), with financially sound and reputable insurance companies, insurance in at least such amounts and against at least such risks (including on all its property, and public liability and worker's compensation) as are usually insured against in the same general area by companies of established repute engaged in the same or similar business.

ARTICLE VI

COVENANTS

The Borrower agrees that, so long as any Bank has any Commitment hereunder or any amount payable hereunder or under any Note remains unpaid:

SECTION 6.01. Information. The Borrower will deliver to each of the **Banks**:

(a) as soon as available and in any event within 90 days after the end of each Fiscal Year, a consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such Fiscal Year and the related consolidated statements of income, shareholders' equity and cash flows for such Fiscal Year, setting forth in each case in comparative form the figures for the previous fiscal year, all certified by Arthur Andersen, LLP, or other independent public accountants of nationally recognized standing, with such certification to be free of exceptions and qualifications not reasonably acceptable to the Required Banks;

(b) as soon as available and in any event within 45 days after the end of each of the first 3 Fiscal Quarters of each Fiscal Year, a consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such Fiscal Quarter and the related statement of income and statement of cash flows for such Fiscal Quarter and for the portion of the Fiscal Year ended at the end of such Fiscal Quarter, setting forth in each case in comparative form the figures for the corresponding Fiscal Quarter and the corresponding portion of the previous Fiscal Year, all certified (subject to normal year-end adjustments) as to fairness of presentation, GAAP and consistency by the chief financial officer or the chief accounting officer of the Borrower;

(c) simultaneously with the delivery of each set of financial statements referred to in paragraphs (a) and (b) above, a certificate, substantially in the form of Exhibit F (a "Compliance Certificate"), of the chief financial officer or the chief accounting officer of the Borrower (i) setting forth in reasonable detail the calculations required to establish whether the Borrower was in compliance with the requirements of Sections 6.05, 6.15 through 6.16, 6.18, 6.20 through 6.23, and 6.25, on the date of such financial statements and (ii) stating whether any Default exists on the date of such certificate and, if any Default then exists, setting forth the details thereof and the action which the Borrower is taking or proposes to take with respect thereto;

(d) simultaneously with the delivery of each set of annual financial statements referred to in paragraph (a) above, a statement of the firm of independent public accountants which reported on such statements to the effect that nothing has come to their attention to cause

them to believe that any Default existed on the date of such financial statements;

(e) within 5 Domestic Business Days after the Borrower becomes aware of the occurrence of any Default, a certificate of the chief financial officer or the chief accounting officer of the Borrower setting forth the details thereof and the action which the Borrower is taking or proposes to take with respect thereto;

(f) promptly upon the mailing thereof to the shareholders of the Borrower generally, copies of all financial statements, reports and proxy statements so mailed;

(g) promptly upon the filing thereof, copies of all registration statements (other than the exhibits thereto and any registration statements on Form S-8 or its equivalent) and annual, quarterly or monthly reports which the Borrower shall have filed with the Securities and Exchange Commission;

(h) if and when any member of the Controlled Group (i) gives or is required to give notice to the PBGC of any "reportable event" (as defined in Section 4043 of ERISA) with respect to any Plan which might constitute grounds for a termination of such Plan under Title IV of ERISA, or knows that the plan administrator of any Plan has given or is required to give notice of any such reportable event, a copy of the notice of such reportable event given or required to be given to the PBGC; (ii) receives notice of complete or partial withdrawal liability under Title IV of ERISA, a copy of such notice; or (iii) receives notice from the PBGC under Title IV of ERISA of an intent to terminate or appoint a trustee to administer any Plan, a copy of such notice;

(i) within 20 days after the end of each calendar month, a Borrowing Base Certificate computed as of the last day of such calendar month ; and

(j) from time to time such additional information regarding the financial position or business of the Borrower and its Subsidiaries as the Administrative Agent, at the request of any Bank, may reasonably request.

SECTION 6.02. Inspection of Property, Books and Records. The Borrower will (i) keep, and cause each Subsidiary

to keep, proper books of record and account in which full, true and correct entries in conformity with GAAP shall be made of all dealings and transactions in relation to its business and activities; and (ii) permit, and cause each Subsidiary to permit, representatives of any Bank at such Bank's expense prior to the occurrence of a Default and at the Borrower's expense after the occurrence of a Default to visit and inspect any of their respective properties, to examine and make abstracts from any of their respective books and records and to discuss their respective affairs, finances and accounts with their respective officers, employees and independent public accountants. The Borrower agrees to cooperate and assist in such visits and inspections, in each case at such reasonable times and as often as may reasonably be desired.

SECTION 6.03. Maintenance of Existence. The Borrower shall, and shall cause each Subsidiary to, maintain its corporate existence and carry on its business in substantially the same manner and in substantially the same fields as such business is now carried on and maintained.

SECTION 6.04. Dissolution. Neither the Borrower nor any of its Subsidiaries shall suffer or permit dissolution or liquidation either in whole or in part or redeem or retire any shares of its own stock or that of any Subsidiary, except through corporate reorganization to the extent permitted by
Section 6.05.

SECTION 6.05. Consolidations, Mergers and Sales of Assets. The Borrower will not, nor will it permit any Subsidiary to, consolidate or merge with or into, or sell, lease or otherwise transfer all or any substantial part of its assets to, any other Person, or discontinue or eliminate any business line or segment, provided that (a) the Borrower may merge with another Person if (i) such Person was organized under the laws of the United States of America or one of its states, (ii) the Borrower is the corporation surviving such merger and (iii) immediately after giving effect to such merger, no Default shall have occurred and be continuing, (b) Subsidiaries of the Borrower may merge with one another, and (c) the foregoing limitation on the sale, lease or other transfer of assets and on the discontinuation or elimination of a business line or segment shall not prohibit, during any Fiscal Quarter, a transfer of assets or the discontinuance or elimination of a business line or segment (in a single transaction or in a series of related transactions) unless the aggregate assets to be so transferred or utilized in a business line or segment to be so discontinued, when combined with all

other assets transferred, and all other assets utilized in all other business lines or segments discontinued, during such Fiscal Quarter and the immediately preceding 3 Fiscal Quarters, either (x) constituted more than 10% of Consolidated Total Assets at the end of the most recent Fiscal Year immediately preceding such Fiscal Quarter, or (y) contributed more than 10% of Consolidated Operating Profits during the 4 Fiscal Quarters immediately preceding such Fiscal Quarter.

SECTION 6.06. Use of Proceeds. No portion of the proceeds of the Loans will be used by the Borrower or any Subsidiary (i) in connection with, whether directly or indirectly, any tender offer for, or other acquisition of, stock of any corporation with a view towards obtaining control of such other corporation, unless such tender offer or other acquisition is to be made on a negotiated basis and with the approval (where the Person being acquired is a publicly traded company) of the Board of Directors of the Person to be acquired, and the provisions of Section 6.17 would not be violated, (ii) directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of purchasing or carrying any Margin Stock, or (iii) for any purpose in violation of any applicable law or regulation.

SECTION 6.07. Compliance with Laws; Payment of Taxes. The Borrower will, and will cause each of its Subsidiaries and each member of the Controlled Group to, be in material compliance with applicable laws (including but not limited to ERISA), regulations and similar requirements of governmental authorities (including but not limited to PBGC), except where the necessity of such compliance is being contested in good faith through appropriate proceedings diligently pursued. The Borrower will, and will cause each of its Subsidiaries to, pay promptly when due all taxes, assessments, governmental charges, claims for labor, supplies, rent and other obligations which: (A) if unpaid, might become a lien against the property of the Borrower or any Subsidiary, except liabilities being contested in good faith and against which, if requested by the Administrative Agent, the Borrower will set up reserves in accordance with GAAP; and (B) when combined with all other such taxes, assessments, governmental charges, claims for labor, supplies, rent and other obligations not paid promptly when due during the current Fiscal Quarter and the immediately preceding three Fiscal Quarters is greater than \$500,000.

SECTION 6.08. Insurance. The Borrower will maintain, and will cause each of its Subsidiaries to maintain (either in the name of the Borrower or in such Subsidiary's own name),

with financially sound and reputable insurance companies, insurance on all its property in at least such amounts and against at least such risks (including on all its property, and public liability and worker's compensation) as are usually insured against in the same general area by companies of established repute engaged in the same or similar business.

SECTION 6.09. Change in Fiscal Year. The Borrower will not change its Fiscal Year without the consent of the Required Banks.

SECTION 6.10. Maintenance of Property. The Borrower shall, and shall cause each Subsidiary to, maintain all of its properties and assets in good condition, repair and working order, ordinary wear and tear excepted.

SECTION 6.11. Environmental Notices. The Borrower shall furnish to the Banks and the Administrative Agent prompt written notice of all Environmental Liabilities, pending, threatened in writing or anticipated (if material) Environmental Proceedings, Environmental Notices, Environmental Judgments and Orders, and Environmental Releases at, on, in, under or in any way affecting the Properties or, to the extent the Borrower is aware, any adjacent property, and all facts, events, or conditions that could lead to any of the foregoing.

SECTION 6.12. Environmental Matters. The Borrower and its Subsidiaries will not, and will not permit any Third Party to, use, produce, manufacture, process, treat, recycle, generate, store, dispose of, manage at, or otherwise handle, or ship or transport to or from the Properties any Hazardous Materials except for Hazardous Materials used, produced, manufactured, processed, treated, recycled, generated, stored, disposed, managed, or otherwise handled in the ordinary course of business in compliance with all applicable Environmental Requirements.

SECTION 6.13. Environmental Release. The Borrower agrees that upon the occurrence of an Environmental Release at or on any of the Properties it will act immediately to investigate the extent of, and to take appropriate remedial action to eliminate, such Environmental Release, whether or not ordered or otherwise directed to do so by any Environmental Authority.

SECTION 6.14. Transactions with Affiliates. Neither the Borrower nor any of its Subsidiaries shall enter into, or be a party to, any transaction with any Affiliate of the

Borrower or such Subsidiary (which Affiliate is not the Borrower or a Wholly Owned Subsidiary), except as permitted by law and in the ordinary course of business and pursuant to reasonable terms which are fully disclosed in public documents which have been delivered to the Banks, and are no less favorable to Borrower or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person which is not an Affiliate.

SECTION 6.15. Restricted Payments. The Borrower will not declare or make any Restricted Payment unless, after giving effect thereto, the aggregate of all Restricted Payments declared or made since the Closing Date does not exceed an amount equal to the sum of (i)\$1,000,000 plus (ii) 25% of cumulative Consolidated Net Income since the Closing Date, and no Default shall be in existence or be created thereby.

SECTION 6.16. Loans or Advances. Neither the Borrower nor any of its Subsidiaries shall make loans or advances to any Person except as permitted by

Section 6.17 and except: (i) loans or advances to employees not exceeding \$2,000,000 in the aggregate principal amount outstanding at any time, in each case made in the ordinary course of business and consistent with practices existing on the Closing Date; and (ii) deposits required by government agencies or public utilities; and (iii) loans and advances to Wholly Owned Subsidiaries; and (iv) advances to drivers made in the ordinary course of business and consistent with practices existing on the Closing Date; provided that after giving effect to the making of any loans, advances or deposits permitted by this Section, no Default shall be in existence or be created thereby.

SECTION 6.17. Investments. Neither the Borrower nor any of its Subsidiaries shall make Investments in any Person except as permitted by Section 6.16 and except Investments in (i) direct obligations of the United States Government maturing within one year, (ii) certificates of deposit issued by a commercial bank whose credit is satisfactory to the Administrative Agent, (iii) commercial paper rated A1 or the equivalent thereof by S&P or P1 or the equivalent thereof by Moody's and in either case maturing within 6 months after the date of acquisition,(iv) tender bonds the payment of the principal of and interest on which is fully supported by a letter of credit issued by a United States bank whose long-term certificates of deposit are rated at least AA or the equivalent thereof by S&P and Aa or the equivalent thereof by Moody's, and/or (v) acquisitions of the stock of a Person permitted by

Section 6.25; provided, however, immediately after giving effect to the making of any Investment, no Default shall have occurred and be continuing.

SECTION 6.18. Liens. Neither the Borrower nor any Consolidated Subsidiary will create, assume or suffer to exist any Lien on any asset now owned or hereafter acquired by it, except:

(a) Liens existing on the date of this Agreement securing Debt outstanding on the date of this Agreement in an aggregate principal amount not exceeding \$34,000,000;

(b) any Lien on any specific fixed asset securing Debt incurred or assumed for the purpose of financing all or any part of the cost of acquiring or constructing such asset, provided that, such Lien attaches to such asset within 30 days of the acquisition or completion of construction thereof;

(c) Liens on Revenue Equipment;

(d) Liens securing Debt owing by any Subsidiary to the Borrower;

(e) any Lien arising out of the refinancing, extension, renewal or refunding of any Debt secured by any Lien permitted by any of the foregoing paragraphs of this Section, provided that (i) such Debt is not secured by any additional assets, and (ii) the amount of such Debt secured by any such Lien is not increased; and

(f) Liens incidental to the conduct of its business or the ownership of its assets which (i) do not secure Debt and (ii) do not in the aggregate materially detract from the value of its assets or materially impair the use thereof in the operation of its business.

SECTION 6.19. Restrictions on Ability of Subsidiaries to Pay Dividends. The Borrower shall not permit any Subsidiary to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any such Subsidiary to (i) pay any dividends or make any other distributions on its Capital Stock or any other interest or (ii) make or repay any loans or advances to the Borrower or the parent of such Subsidiary.

SECTION 6.20. Limitation on Debt. Neither the Borrower nor any Subsidiary will create, assume or suffer to exist any Debt, except:

(a) Debt hereunder and under the Notes;

(b) Debt owing to the Borrower or another Wholly Owned Subsidiary; and

(b) other Debt, provided that the aggregate amount of all such Debt outstanding at any one time shall not exceed \$75,000,000.

SECTION 6.21. Ratio of Consolidated Total Adjusted Debt to Consolidated EBILTDA. The ratio of Consolidated Total Adjusted Debt to Consolidated EBILTDA will not at any time exceed 3.00 to 1.00.

SECTION 6.22. Ratio of Consolidated EBILT to Consolidated Fixed Charges. The ratio of (a) Consolidated EBILT to (b) Consolidated Fixed Charges will at all times exceed 1.25 to 1.00.

SECTION 6.23. Minimum Consolidated Net Worth. Consolidated Net Worth will at no time be less than 90% of the Consolidated Net Worth reflected on the balance sheet of the Borrower as at September 30, 1997, plus the sum of (i) 50% of the cumulative Reported Net Income of the Borrower and its Consolidated Subsidiaries during any period after September 30, 1997 (taken as one accounting period), calculated quarterly at the end of each Fiscal Quarter but excluding from such calculations of Reported Net Income for purposes of this clause (i), any Fiscal Quarter in which the Reported Net Income of the Borrower and its Consolidated Subsidiaries is negative, and (ii) 100% of the cumulative Net Proceeds of Capital Stock received during any period after the Closing Date, calculated quarterly at the end of each Fiscal Quarter.

SECTION 6.24. Limitation on Negative Pledge Clauses. The Borrower will not, nor will it permit any Subsidiary to, enter into any agreement with any Person other than the Banks pursuant to this Agreement or any other Loan Document which prohibits or limits the ability of the Borrower or any Subsidiary to create, incur, assume or suffer to exist any Lien upon any of its properties, assets, or revenues, whether now owned or hereafter acquired.

SECTION 6.25. Limitation on Acquisitions. The Borrower will not, nor will it permit any Subsidiary to, agree to or effect any asset acquisition or stock acquisition (other than the acquisition of assets in the ordinary course of business consistent with past practices and other than the acquisition of 100% of the capital stock of Victory Express, Inc. pursuant to the terms of that certain Stock Purchase Agreement between the Borrower and certain Sellers dated December 16, 1997), except that the Borrower and its Subsidiaries may acquire the stock or assets of any Person provided that:

- (a) the aggregate total consideration for all such acquisitions made during calendar year 1998 (other than the acquisition of 100% of the capital stock of Victory Express, Inc.) shall not exceed \$50,000,000, and thereafter the aggregate total consideration for all such acquisitions made in any Fiscal Year shall not exceed \$75,000,000;
- (b) if a stock acquisition, the Person acquired is in the same line of business as the Borrower, 100% of such Person's stock is acquired, and the acquisition is made on a negotiated basis with the approval (where the Person being acquired is a publicly traded company) of the Board of Directors of the Person acquired;
- (c) if an asset acquisition, the assets acquired are useful in the then business of the Borrower;
- (d) no Default or Event of Default has occurred or is continuing or would exist after giving effect thereto;
- (e) the Borrower has provided the Administrative Agent with prior written notice of such acquisition;
- (f) the Borrower has demonstrated to the Administrative Agent, based on a pro forma Compliance Certificate, compliance with Sections 6.21, 6.22, and 6.23 on a pro forma basis immediately prior to and after giving effect to each such acquisition on the assumption that such acquisition occurred twelve months previously; and
- (g) the Borrower has received the approval of the Required Banks for any acquisition or series of related acquisitions where the aggregate total consideration for any such acquisition or series of acquisitions during

calendar year 1998 exceeds \$25,000,000 or in any Fiscal Year thereafter exceeds \$50,000,000.

SECTION 6.26. Creation of Subsidiaries. The Borrower will not, nor will it permit any Subsidiary to, create any Subsidiary except for the creation of a Wholly Owned Subsidiary of the Borrower or of a Wholly Owned Subsidiary, provided that (i) such Subsidiary is organized under the laws of a jurisdiction within the United States of America, (ii) such Subsidiary executes at the time of its creation the Guaranty Agreement, (iii) an opinion of counsel, acceptable to the Administrative Agent, is delivered to the Banks confirming the due organization of such Subsidiary, the enforceability of the Guaranty Agreement against such Subsidiary, and such other matters as the Administrative Agent may reasonably request, and (iv) no Default exists immediately prior to or after the creation of the Subsidiary.

ARTICLE VII

DEFAULTS

SECTION 7.01. Events of Default. If one or more of the following events ("Events of Default") shall have occurred and be continuing:

- (a) the Borrower shall fail to pay when due any principal of any Loan or any Reimbursement Obligations with respect to any Letter of Credit or shall fail to pay any interest on any Loan within 5 Domestic Business Days after such interest shall become due, or shall fail to pay any fee or other amount payable hereunder within 5 Domestic Business Days after such fee or other amount becomes due; or
- (b) the Borrower shall fail to observe or perform any covenant contained in Sections 6.01(e), 6.02(ii), 6.03 through 6.06, inclusive, or Sections 6.15 through 6.25, inclusive; or
- (c) the Borrower shall fail to observe or perform any covenant or agreement contained or incorporated by reference in this Agreement (other than those covered by paragraph (a) or (b) above) and such failure shall not have been cured within 30 days after the earlier to occur of (i) written notice thereof has been given to the Borrower by the Administrative Agent at the request of any

Bank or (ii) the Borrower otherwise becomes aware of any such failure; or

(d) any representation, warranty, certification or statement made by the Borrower in Article V of this Agreement or by the Borrower or any Subsidiary in any certificate, financial statement or other document delivered pursuant to this Agreement shall prove to have been incorrect or misleading in any material respect when made (or deemed made); or

(e) the Borrower or any Subsidiary shall fail to make any payment in respect of Debt in an aggregate amount in excess of \$1,000,000 outstanding (other than the Notes) when due or within any applicable grace period; or

(f) any event or condition shall occur which results in the acceleration of the maturity of Debt in an aggregate amount in excess of \$1,000,000 outstanding of the Borrower or any Subsidiary (including, without limitation, any required mandatory prepayment or "put" of such Debt to the Borrower or any Subsidiary) or enables (or, with the giving of notice or lapse of time or both, would enable) the holders of such Debt or commitment or any Person acting on such holders' behalf to accelerate the maturity thereof or terminate any such commitment (including, without limitation, any required mandatory prepayment or "put" of such Debt to the Borrower or any Subsidiary); or

(g) the Borrower or any Subsidiary shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally, or shall admit in writing its inability, to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; or

(h) an involuntary case or other proceeding shall be commenced against the Borrower or any Subsidiary seeking

liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days; or an order for relief shall be entered against the Borrower or any Subsidiary under the federal bankruptcy laws as now or hereafter in effect; or

(i) the Borrower or any member of the Controlled Group shall fail to pay when due any material amount which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans shall be filed under Title IV of ERISA by the Borrower, any member of the Controlled Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any such Plan or Plans or a proceeding shall be instituted by a fiduciary of any such Plan or Plans to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any such Plan or Plans must be terminated; or

(j) one or more judgments or orders for the payment of money in an aggregate amount in excess of \$500,000 shall be rendered against the Borrower or any Subsidiary and such judgment or order shall continue unsatisfied and unstayed for a period of 30 days; or

(k) a federal tax lien shall be filed against the Borrower or any Subsidiary under Section 6323 of the Code or a lien of the PBGC shall be filed against the Borrower or any Subsidiary under Section 4068 of ERISA and in either case such lien shall remain undischarged for a period of 25 days after the date of filing; or

(l) (i) any Person or two or more Persons acting in concert shall have acquired beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934) of outstanding shares of the voting stock of the Borrower

representing 20% or more of the votes eligible to be cast for the election of the Borrower's Board of Directors; or (ii) as of any date a majority of the Board of Directors of the Borrower consists of individuals who were not either (A) directors of the Borrower as of the corresponding date of the previous year, (B) selected or nominated to become directors by the Board of Directors of the Borrower of which a majority consisted of individuals described in clause (A), or (C) selected or nominated to become directors by the Board of Directors of the Borrower of which a majority consisted of individuals described in clause (A) and individuals described in clause (B); or

(m) the occurrence of any event, act, occurrence, or condition which the Required Banks determine either does or has a reasonable probability of causing a Material Adverse Effect.

then, and in every such event, (i) the Administrative Agent shall, if requested by the Required Banks, by notice to the Borrower terminate the Commitments and they shall thereupon terminate, and (ii) the Administrative Agent shall, if requested by the Required Banks, by notice to the Borrower declare the Notes (together with accrued interest thereon), and all other amounts payable hereunder and under the other Loan Documents, to be, and the Notes (together with accrued interest thereon), and all other amounts payable hereunder and under the other Loan Documents shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower together with interest at the Default Rate accruing on the principal amount thereof from and after the date of such Event of Default; provided that if any Event of Default specified in paragraph

(g) or (h) above occurs with respect to the Borrower, without any notice to the Borrower or any other act by the Administrative Agent or the Banks, the Commitments shall thereupon terminate and the Notes (together with accrued interest thereon) and all other amounts payable hereunder and under the other Loan Documents shall automatically and without notice become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower together with interest thereon at the Default Rate accruing on the principal amount thereof from and after the date of such Event of Default. In addition, upon the occurrence of an Event of Default, to the extent of any existing Letter of Credit Obligations, the Administrative Agent may immediately advance the principal amount thereof and set aside the amounts so advanced as a collateral reserve for

payment of the Reimbursement Obligations relating to Letters of Credit which are subsequently funded. After all Letters of Credit have been cancelled and all Reimbursement Obligations have been satisfied, and the Administrative Agent has been reimbursed all amounts funded by it with respect thereto, any balance remaining in said collateral reserve may be applied to other amounts owed by the Borrower hereunder, and, if none, shall be remitted to Borrower. Notwithstanding the foregoing, the Administrative Agent shall have available to it all other remedies at law or equity, and shall exercise any one or all of them at the request of the Required Banks.

SECTION 7.02. Notice of Default. The Administrative Agent shall give notice to the Borrower of any Default under Section 7.01(c) promptly upon being requested to do so by any Bank and shall thereupon notify all the Banks thereof.

ARTICLE VIII

THE ADMINISTRATIVE AGENT

SECTION 8.01. Appointment; Powers and Immunities. (a) Each Bank hereby irrevocably appoints and authorizes the Administrative Agent to act as its Administrative Agent hereunder and under the other Loan Documents with such powers as are specifically delegated to the Administrative Agent by the terms hereof and thereof, together with such other powers as are reasonably incidental thereto. The Administrative Agent: (a) shall have no duties or responsibilities except as expressly set forth in this Agreement and the other Loan Documents, and shall not by reason of this Agreement or any other Loan Document be a trustee for any Bank; (b) shall not be responsible to the Banks for any recitals, statements, representations or warranties contained in this Agreement or any other Loan Document, or in any certificate or other document referred to or provided for in, or received by any Bank under, this Agreement or any other Loan Document, or for the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or any other document referred to or provided for herein or therein or for any failure by the Borrower to perform any of its obligations hereunder or thereunder; (c) shall not be required to initiate or conduct any litigation or collection proceedings hereunder or under any other Loan Document except to the extent requested by the Required Banks, and then only on terms and conditions satisfactory to the Administrative Agent, and (d) shall not be responsible for any action taken or omitted to be

taken by it hereunder or under any other Loan Document or any other document or instrument referred to or provided for herein or therein or in connection herewith or therewith, except for its own gross negligence or wilful misconduct. The Administrative Agent may employ Agents and attorneys-in-fact and shall not be responsible for the negligence or misconduct of any such Agents or attorneys- in-fact selected by it with reasonable care. The provisions of this Article VIII are solely for the benefit of the Administrative Agent and the Banks, and the Borrower shall not have any rights as a third party beneficiary of any of the provisions hereof. In performing its functions and duties under this Agreement and under the other Loan Documents, the Administrative Agent shall act solely as Administrative Agent of the Banks and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for the Borrower. The duties of the Administrative Agent shall be ministerial and administrative in nature, and the Administrative Agent shall not have by reason of this Agreement or any other Loan Document a fiduciary relationship in respect of any Bank.

(b) Each Bank hereby designates NationsBank, N.A. as Syndication Agent, BankBoston, N.A. as Documentation Agent, and SunTrust Bank, Chattanooga, N.A. as Co-Agent. Each of the Syndication Agent, Documentation Agent and Co- Agent, in such capacities, shall have no duties or obligations whatsoever under this Agreement or any other Loan Document or any other document or any matter related hereto and thereto, but shall nevertheless be entitled to all the indemnities and other protection afforded to the Administrative Agent under this Article VIII.

SECTION 8.02. Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon any certification, notice or other communication (including any thereof by telephone, telecopier, telegram or cable) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants or other experts selected by the Administrative Agent. As to any matters not expressly provided for by this Agreement or any other Loan Document, the Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder and thereunder in accordance with instructions signed by the Required Banks, and such instructions of the Required Banks in any action taken or

failure to act pursuant thereto shall be binding on all of the Banks.

SECTION 8.03. Defaults. The Administrative Agent shall not be deemed to have knowledge of the occurrence of a Default or an Event of Default (other than the nonpayment of principal of or interest on the Loans) unless the Administrative Agent has received notice from a Bank or the Borrower specifying such Default or Event of Default and stating that such notice is a "Notice of Default". In the event that the Administrative Agent receives such a notice of the occurrence of a Default or an Event of Default, the Administrative Agent shall give prompt notice thereof to the Banks. The Administrative Agent shall give each Bank prompt notice of each nonpayment of principal of or interest on the Loans whether or not such Bank has received any notice of the occurrence of such nonpayment. The Administrative Agent shall (subject to Section 10.06) take such action hereunder with respect to such Default or Event of Default as shall be directed by the Required Banks, provided that, unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Banks.

SECTION 8.04. Rights of Administrative Agent and its Affiliates as a Bank. With respect to the Loans made by the Administrative Agent and any

Affiliate of the Administrative Agent, Wachovia in its capacity as a Bank hereunder and any Affiliate of the Administrative Agent or such Affiliate in its capacity as a Bank hereunder shall have the same rights and powers hereunder as any other Bank and may exercise the same as though Wachovia were not acting as the Administrative Agent, and the term "Bank" or "Banks" shall, unless the context otherwise indicates, include Wachovia in its individual capacity and any Affiliate of the Administrative Agent in its individual capacity. The Administrative Agent and any Affiliate of the Administrative Agent may (without having to account therefor to any Bank) accept deposits from, lend money to and generally engage in any kind of banking, trust or other business with the Borrower (and any of the Borrower's Affiliates) as if Wachovia were not acting as the Administrative Agent, and the Administrative Agent and any Affiliate of the Administrative Agent may accept fees and other consideration from the Borrower (in addition to any agency fees and arrangement fees heretofore agreed to between the Borrower and the Administrative Agent) for services in connection with

this Agreement or any other Loan Document or otherwise without having to account for the same to the Banks.

SECTION 8.05. Indemnification. Each Bank severally agrees to indemnify the Administrative Agent, to the extent the Administrative Agent shall not have been reimbursed by the Borrower, ratably in accordance with its Commitment, for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including, without limitation, counsel fees and disbursements) or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against the Administrative Agent in any way relating to or arising out of this Agreement or any other Loan Document or any other documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby (excluding, unless an Event of Default has occurred and is continuing, the normal administrative costs and expenses incident to the performance of its agency duties hereunder) or the enforcement of any of the terms hereof or thereof or any such other documents; provided that no Bank shall be liable for any of the foregoing to the extent they arise from the gross negligence or wilful misconduct of the Administrative Agent. If any indemnity furnished to the Administrative Agent for any purpose shall, in the opinion of the Administrative Agent, be insufficient or become impaired, the Administrative Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished.

SECTION 8.06 Consequential Damages. THE ADMINISTRATIVE AGENT SHALL NOT BE RESPONSIBLE OR LIABLE TO ANY BANK, THE BORROWER OR ANY OTHER PERSON OR ENTITY FOR ANY PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED AS A RESULT OF THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

SECTION 8.07. Payee of Note Treated as Owner. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes hereof unless and until a written notice of the assignment or transfer thereof shall have been filed with the Administrative Agent and the provisions of Section 10.08(c) have been satisfied. Any requests, authority or consent of any Person who at the time of making such request or giving such authority or consent is the holder of any Note shall be conclusive and binding on any subsequent holder, transferee or assignee of that Note or of any Note or Notes issued in exchange therefor or replacement thereof.

SECTION 8.08. Nonreliance on Administrative Agent and Other Banks. Each Bank agrees that it has, independently and without reliance on the Administrative Agent or any other Bank, and based on such documents and information as it has deemed appropriate, made its own credit analysis of the Borrower and decision to enter into this Agreement and that it will, independently and without reliance upon the Administrative 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 analysis and decisions in taking or not taking action under this Agreement or any of the other Loan Documents. The Administrative Agent shall not be required to keep itself (or any Bank) informed as to the performance or observance by the Borrower of this Agreement or any of the other Loan Documents or any other document referred to or provided for herein or therein or to inspect the properties or books of the Borrower or any other Person. Except for notices, reports and other documents and information expressly required to be furnished to the Banks by the Administrative Agent hereunder or under the other Loan Documents, the Administrative Agent shall not have any duty or responsibility to provide any Bank with any credit or other information concerning the affairs, financial condition or business of the Borrower or any other Person (or any of their Affiliates) which may come into the possession of the Administrative Agent.

SECTION 8.09. Failure to Act. Except for action expressly required of the Administrative Agent hereunder or under the other Loan Documents, the Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder and thereunder unless it shall receive further assurances to its satisfaction by the Banks of their indemnification obligations under Section 8.05 against any and all liability and expense which may be incurred by the Administrative Agent by reason of taking, continuing to take, or failing to take any such action.

SECTION 8.10. Resignation or Removal of Administrative Agent. Subject to the appointment and acceptance of a successor Administrative Agent as provided below, the Administrative Agent may resign at any time by giving notice thereof to the Banks and the Borrower and the Administrative Agent may be removed at any time with or without cause by the Required Banks. Upon any such resignation or removal, the Required Banks shall have the right to appoint a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Banks and shall have accepted such appointment within 30 days after the

retiring Administrative Agent's notice of resignation or the Required Banks' removal of the retiring Administrative Agent, then the retiring Administrative Agent may, on behalf of the Banks, appoint a successor Administrative Agent. Any successor Administrative Agent shall be a bank which has a combined capital and surplus of at least \$500,000,000. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. After any retiring Administrative Agent's resignation or removal hereunder as Administrative Agent, the provisions of this Article VIII shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Administrative Agent hereunder.

ARTICLE IX

CHANGE IN CIRCUMSTANCES; COMPENSATION

SECTION 9.01. Basis for Determining Interest Rate Inadequate or Unfair. If on or prior to the first day of any Interest Period:

(a) the Administrative Agent determines that deposits in Dollars (in the applicable amounts) are not being offered in the relevant market for such Interest Period, or

(b) the Required Banks advise the Administrative Agent that the London Interbank Offered Rate as determined by the Administrative Agent will not adequately and fairly reflect the cost to such Banks of funding the Euro- Dollar Loans for such Interest Period,

the Administrative Agent shall forthwith give notice thereof to the Borrower and the Banks, whereupon until the Administrative Agent notifies the Borrower that the circumstances giving rise to such suspension no longer exist, the obligations of the Banks to make the Euro-Dollar Loans specified in such notice shall be suspended. Unless the Borrower notifies the Administrative Agent at least 2 Domestic Business Days before the date of any Borrowing of such Euro- Dollar Loans for which a Notice of Borrowing has previously been given that it elects

not to borrow on such date, such Borrowing shall instead be made as a Base Rate Borrowing.

SECTION 9.02. Illegality. If, after the date hereof, the adoption of any applicable law, rule or regulation, or any change therein or any existing or future law, rule or regulation, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof (any such agency being referred to as an "Authority" and any such event being referred to as a "Change of Law"), or compliance by any Bank (or its Lending Office) with any request or directive (whether or not having the force of law) of any Authority shall make it unlawful or impossible for any Bank (or its Lending Office) to make, maintain or fund its Euro-Dollar Loans and such Bank shall so notify the Administrative Agent, the Administrative Agent shall forthwith give notice thereof to the other Banks and the Borrower, whereupon until such Bank notifies the Borrower and the Administrative Agent that the circumstances giving rise to such suspension no longer exist, the obligation of such Bank to make Euro-Dollar Loans shall be suspended. Before giving any notice to the Administrative Agent pursuant to this Section, such Bank shall designate a different Lending Office if such designation will avoid the need for giving such notice and will not, in the judgment of such Bank, be otherwise disadvantageous to such Bank. If such Bank shall determine that it may not lawfully continue to maintain and fund any of its outstanding Euro-Dollar Loans to maturity and shall so specify in such notice, the Borrower shall immediately prepay in full the then outstanding principal amount of each Euro-Dollar Loan of such Bank, together with accrued interest thereon and any amount due such Bank pursuant to

Section 9.05(a). Concurrently with prepaying each such Euro-Dollar Loan, the Borrower shall borrow a Base Rate Loan in an equal principal amount from such Bank (on which interest and principal shall be payable contemporaneously with the related Euro-Dollar Loans of the other Banks), and such Bank shall make such a Base Rate Loan.

SECTION 9.03. Increased Cost and Reduced Return.

(a) If after the date hereof, a Change of Law or compliance by any Bank (or its Lending Office) with any request or directive (whether or not having the force of law) of any Authority:

(i) shall impose, modify or deem applicable any reserve, special deposit or similar requirement

(including, without limitation, any such requirement imposed by the Board of Governors of the Federal Reserve System, but excluding with respect to any Euro-Dollar Loan any such requirement included in an applicable Euro-Dollar Reserve Percentage) against assets of, deposits with or for the account of, or credit extended by, any Bank (or its Lending Office); or

(ii) shall impose on any Bank (or its Lending Office) or on the United States market for certificates of deposit or the London interbank market any other condition affecting its Euro-Dollar Loans, its Notes or its obligation to make Euro-Dollar Loans;

and the result of any of the foregoing is to increase the cost to such Bank (or its Lending Office) of making or maintaining any Loan, or to reduce the amount of any sum received or receivable by such Bank (or its Lending Office) under this Agreement or under its Notes with respect thereto, by an amount deemed by such Bank to be material, then,

(iii) the Administrative Agent or such Bank shall promptly deliver to the Borrower a certificate stating the change which has occurred or the reserve requirements or other conditions which have been imposed on the Administrative Agent or such Bank (or its Lending Office) or the request, direction or requirement with which it has complied, together with the date hereof; and

(iv) the Borrower shall pay to the Administrative Agent or such Bank within 30 days of written request (which request shall state the amount of increased cost, reduction or payment and the way in which such amount has been calculated), such amount or amounts as will compensate the Administrative Agent or such Bank for the additional cost, reduction of return or payment incurred by the Administrative Agent or such other Bank and, at the option of the Borrower at any time while the Administrative Agent or such Bank is requesting such additional amount or amounts, upon the giving of notice to the Bank and payment to such Bank of all amounts owing to such Bank hereunder, the Borrower may require such Bank to enter into an Assignment and Assumption Agreement pursuant to which such Bank

shall transfer all of its rights and interests hereunder and under the other Loan Documents to a third party selected by the Borrower and consented to by the Administrative Agent. If such written request is given within 30 days after the event which results in such increased cost, reduction of return or reduction of payments, such amounts will be calculated from the date of such event; otherwise, such amounts will be calculated as of the date on which the Administrative Agent or such Bank makes the aforesaid written request. The written request of the Administrative Agent or such Bank as to the additional amounts payable pursuant to this paragraph delivered to the Borrower shall be conclusive evidence of the amount thereof in the absence of manifest error.

(b) If any Bank shall have determined that after the date hereof the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof, or compliance by any Bank (or its Lending Office) with any request or directive regarding capital adequacy (whether or not having the force of law) of any Authority, has or would have the effect of reducing the rate of return on such Bank's capital as a consequence of its obligations hereunder to a level below that which such Bank could have achieved but for such adoption, change or compliance (taking into consideration such Bank's policies with respect to capital adequacy) by an amount deemed by such Bank to be material, then from time to time, within 30 days after demand by such Bank, the Borrower shall pay to such Bank such additional amount or amounts as will compensate such Bank for such reduction.

(c) Each Bank will promptly notify the Borrower and the Administrative Agent of any event of which it has knowledge, occurring after the date hereof, which will entitle such Bank to compensation pursuant to this Section and will designate a different Lending Office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the judgment of such Bank, be otherwise disadvantageous to such Bank. A certificate of any Bank claiming compensation under this Section and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such

amount, such Bank may use any reasonable averaging and attribution methods.

(d) The provisions of this Section 9.03 shall be applicable with respect to any Participant, Assignee or other Transferee, and any calculations required by such provisions shall be made based upon the circumstances of such Participant, Assignee or other Transferee.

SECTION 9.04. Base Rate Loans Substituted for Affected Euro-Dollar Loans. If (i) the obligation of any Bank to make or maintain Euro-Dollar Loans has been suspended pursuant to Section 9.02 or (ii) any Bank has demanded compensation under Section 9.03, and the Borrower shall, by at least 5 Euro- Dollar Business Days' prior notice to such Bank through the Administrative Agent, have elected that the provisions of this Section shall apply to such Bank, then, unless and until such Bank notifies the Borrower that the circumstances giving rise to such suspension or demand for compensation no longer apply:

(a) all Loans which would otherwise be made by such Bank as Euro- Dollar Loans shall be made instead as Base Rate Loans (in all cases interest and principal on such Loans shall be payable contemporaneously with the related Euro-Dollar Loans of the other Banks), and

(b) after each of its Euro-Dollar Loans has been repaid, all payments of principal which would otherwise be applied to repay such Euro-Dollar Loans shall be applied to repay its Base Rate Loans instead.

SECTION 9.05. Compensation. Upon the request of any Bank, delivered to the Borrower and the Administrative Agent, the Borrower shall pay to such Bank such amount or amounts as shall compensate such Bank for any loss, cost or expense incurred by such Bank as a result of:

(a) any payment or prepayment (pursuant to Section 2.10, 2.11, 7.01, 9.02 or otherwise) of a Euro-Dollar Loan on a date other than the last day of an Interest Period for such Loan; or

(b) any failure by the Borrower to prepay a Euro-Dollar Loan on the date for such prepayment specified in the relevant notice of prepayment hereunder; or

(c) any failure by the Borrower to borrow a Euro-Dollar Loan on the date for the Euro-Dollar Borrowing specified in the applicable Notice of Borrowing delivered pursuant to Section 2.02;

such compensation to include, without limitation, an amount equal to the excess, if any, of (x) the amount of interest which would have accrued on the amount so paid or prepaid or not prepaid or borrowed for the period from the date of such payment, prepayment or failure to prepay or borrow to the last day of the then current Interest Period for such Euro-Dollar Loan (or, in the case of a failure to prepay or borrow, the Interest Period for such Euro-Dollar Loan which would have commenced on the date of such failure to prepay or borrow) at the applicable rate of interest for such Euro-Dollar Loan provided for herein over

(y) the amount of interest (as reasonably determined by such Bank) such Bank would have paid on deposits in Dollars of comparable amounts having terms comparable to such period placed with it by leading banks in the London interbank market.

ARTICLE X

MISCELLANEOUS

SECTION 10.01. Notices. All notices, requests and other communications to any party hereunder shall be in writing (including telecopier or similar writing) and shall be given to such party at its address or telecopier number set forth on the signature pages hereof or such other address or telecopier number as such party may hereafter specify for the purpose by notice to each other party. Each such notice, request or other communication shall be effective (i) if given by telecopier, when such telecopy is transmitted to the telecopier number specified in this Section and the confirmation is received, (ii) if given by mail, 72 hours after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid or (iii) if given by any other means, when delivered at the address specified in this Section; provided that notices to the Administrative Agent under Article II or Article IX shall not be effective until received.

SECTION 10.02. No Waivers. No failure or delay by the Administrative Agent or any Bank in exercising any right, power or privilege hereunder or under any Note or other Loan Document shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further

exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 10.03. Expenses; Documentary Taxes. The Borrower shall pay

(i) all out-of-pocket expenses of the Administrative Agent, including fees and disbursements of special counsel for the Banks and the Administrative Agent, in connection with the preparation of this Agreement and the other Loan Documents, any waiver or consent hereunder or thereunder or any amendment hereof or thereof or any Default or alleged Default hereunder or thereunder and (ii) if a Default occurs, all out-of-pocket expenses incurred by the Administrative Agent and the Banks, including fees and disbursements of counsel, in connection with such Default and collection and other enforcement proceedings resulting therefrom, including out-of-pocket expenses incurred in enforcing this Agreement and the other Loan Documents. The Borrower shall indemnify the Administrative Agent and each Bank against any transfer taxes, documentary taxes, assessments or charges made by any Authority by reason of the execution and delivery of this Agreement or the other Loan Documents.

SECTION 10.04. Indemnification. The Borrower shall indemnify the Administrative Agent, the Banks and each Affiliate thereof and their respective directors, officers, employees and agents from, and hold each of them harmless against, any and all losses, liabilities, claims or damages to which any of them may become subject, insofar as such losses, liabilities, claims or damages arise out of, result from, or are in any way directly or indirectly related to (a) this Agreement or any other Loan Document or the transactions contemplated thereby, or (b) any actual or proposed use by the Borrower of the proceeds of any extension of credit by any Bank hereunder, or (c) any breach by the Borrower of this Agreement or any other Loan Document, or (d) any investigation, litigation (including, without limitation, any actions taken by the Administrative Agent or any of the Banks to enforce this Agreement or any of the other Loan Documents) or other proceeding (including, without limitation, any threatened investigation or proceeding) relating to the foregoing, and the Borrower shall reimburse the Administrative Agent and each Bank, and each Affiliate thereof and their respective directors, officers, employees and agents, upon demand for any expenses (including, without limitation, legal fees) incurred in connection with any such investigation or proceeding; but excluding any such losses, liabilities, claims, damages or

expenses incurred by reason of the gross negligence or wilful misconduct of the Person to be indemnified.

SECTION 10.05. Setoff; Sharing of Setoffs. (a) The Borrower hereby grants to the Administrative Agent and each Bank a lien for all indebtedness and obligations owing to them from the Borrower upon all deposits or deposit accounts, of any kind, or any interest in any deposits or deposit accounts thereof, now or hereafter pledged, mortgaged, transferred or assigned to the Administrative Agent or any such Bank or otherwise in the possession or control of the Administrative Agent or any such Bank for any purpose for the account or benefit of the Borrower and including any balance of any deposit account or of any credit of the Borrower with the Administrative Agent or any such Bank, whether now existing or hereafter established hereby authorizing the Administrative Agent and each Bank at any time or times with or without prior notice to apply such balances or any part thereof to such of the indebtedness and obligations owing by the Borrower to the Banks and/or the Administrative Agent then past due and in such amounts as they may elect, and whether or not the collateral, if any, or the responsibility of other Persons primarily, secondarily or otherwise liable may be deemed adequate. For the purposes of this paragraph, all remittances and property shall be deemed to be in the possession of the Administrative Agent or any such Bank as soon as the same may be put in transit to it by mail or carrier or by other bailee.

(b) Each Bank agrees that if it shall, by exercising any right of setoff or counterclaim or resort to collateral security or otherwise, receive payment of a proportion of the aggregate amount of principal and interest owing with respect to the Note held by it which is greater than the proportion received by any other Bank in respect of the aggregate amount of all principal and interest owing with respect to the Note held by such other Bank, the Bank receiving such proportionately greater payment shall purchase such participations in the Notes held by the other Banks owing to such other Banks, and such other adjustments shall be made, as may be required so that all such payments of principal and interest with respect to the Notes held by the Banks owing to such other Banks shall be shared by the Banks pro rata; provided that

(i) nothing in this Section shall impair the right of any Bank to exercise any right of setoff or counterclaim it may have and to apply the amount subject to such exercise to the payment of indebtedness of the Borrower other than its indebtedness under the Notes, and (ii) if all or any portion of such payment received by the purchasing Bank is

thereafter recovered from such purchasing Bank, such purchase from each other Bank shall be rescinded and such other Bank shall repay to the purchasing Bank the purchase price of such participation to the extent of such recovery together with an amount equal to such other Bank's ratable share (according to the proportion of (x) the amount of such other Bank's required repayment to (y) the total amount so recovered from the purchasing Bank) of any interest or other amount paid or payable by the purchasing Bank in respect of the total amount so recovered. The Borrower agrees, to the fullest extent it may effectively do so under applicable law, that any holder of a participation in a Note, whether or not acquired pursuant to the foregoing arrangements, may exercise rights of setoff or counterclaim and other rights with respect to such participation as fully as if such holder of a participation were a direct creditor of the Borrower in the amount of such participation.

SECTION 10.06. Amendments and Waivers. (a) Any provision of this Agreement, the Notes or any other Loan Documents may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Borrower and the Required Banks (and, if the rights or duties of the Administrative Agent are affected thereby, by the Administrative Agent); provided that, no such amendment or waiver shall, unless signed by all Banks,

(i) change the Commitment of any Bank or subject any Bank to any additional obligation, (ii) change the principal of or lower the rate of interest on any Loan or lower any fees (other than fees payable to the Administrative Agent) hereunder, (iii) change the date fixed for any payment of principal of or interest on any Loan or any fees hereunder, including any mandatory prepayments as required under Section 2.10, (iv) change the amount of principal, interest or fees due on any date fixed for the payment thereof, including any mandatory prepayments as required under Section 2.10, (v) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Notes, or the percentage of Banks, which shall be required for the Banks or any of them to take any action under this Section or any other provision of this Agreement,

(vi) change the manner of application of any payments made under this Agreement or the Notes, (vii) release or substitute all or any substantial part of the collateral (if any) held as security for the Loans, (viii) release any Guarantee given to support payment of the Loans, or (ix) extend the expiration date of any Letter of Credit beyond the Termination Date.

(b) The Borrower will not solicit, request or negotiate for or with respect to any proposed waiver or amendment of any of the provisions of this Agreement unless each Bank shall be informed thereof by the Borrower and shall be afforded an opportunity of considering the same and shall be supplied by the Borrower with sufficient information to enable it to make an informed decision with respect thereto. Executed or true and correct copies of any waiver or consent effected pursuant to the provisions of this Agreement shall be delivered by the Borrower to each Bank forthwith following the date on which the same shall have been executed and delivered by the requisite percentage of Banks. The Borrower will not, directly or indirectly, pay or cause to be paid any remuneration, whether by way of supplemental or additional interest, fee or otherwise, to any Bank (in its capacity as such) as consideration for or as an inducement to the entering into by such Bank of any waiver or amendment of any of the terms and provisions of this Agreement unless such remuneration is concurrently paid, on the same terms, ratably to all such Banks.

SECTION 10.07. No Margin Stock Collateral. Each of the Banks represents to the Administrative Agent and each of the other Banks that it in good faith is not, directly or indirectly (by negative pledge or otherwise), relying upon any Margin Stock as collateral in the extension or maintenance of the credit provided for in this Agreement.

SECTION 10.08. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that the Borrower may not assign or otherwise transfer any of its rights under this Agreement.

(b) Any Bank may at any time sell to one or more Persons (each a "Participant") participating interests in any Loan owing to such Bank, any Note held by such Bank, any Commitment hereunder or any other interest of such Bank hereunder. In the event of any such sale by a Bank of a participating interest to a Participant, such Bank's obligations 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 Note for all purposes under this Agreement, and the Borrower and the Administrative Agent shall continue to deal solely and directly with such Bank in connection with such Bank's rights and obligations under this Agreement. In no event shall a Bank

that sells a participation be obligated to the Participant to take or refrain from taking any action hereunder except that such Bank may agree that it will not (except as provided below), without the consent of the Participant, agree to (i) the change of any date fixed for the payment of principal of or interest on the related loan or loans, (ii) the change of the amount of any principal, interest or fees due on any date fixed for the payment thereof with respect to the related loan or loans, (iii) the change of the principal of the related loan or loans, (iv) any change in the rate at which either interest is payable thereon or (if the Participant is entitled to any part thereof) fee is payable hereunder from the rate at which the Participant is entitled to receive interest or fee (as the case may be) in respect of such participation, (v) the release or substitution of all or any substantial part of the collateral (if any) held as security for the Loans, or (vi) the release of any Guarantee given to support payment of the Loans. Each Bank selling a participating interest in any Loan, Note, Commitment or other interest under this Agreement shall, within 10 Domestic Business Days of such sale, provide the Borrower and the Administrative Agent with written notification stating that such sale has occurred and identifying the Participant and the interest purchased by such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Article IX with respect to its participation in Loans outstanding from time to time.

(c) Any Bank may at any time assign to one or more banks or financial institutions (each an "Assignee") all or a proportionate part of its rights and obligations under this Agreement, the Notes and the other Loan Documents, and such Assignee shall assume all such rights and obligations, pursuant to an Assignment and Acceptance, executed by such Assignee, such transferor Bank and the Administrative Agent (and, in the case of an Assignee that is not then a Bank, subject to clause (iii) below, by the Borrower); provided that (i) no interest may be sold by a Bank pursuant to this paragraph (c) unless the Assignee shall agree to assume ratably equivalent portions of the transferor Bank's Commitment, (ii) if a Bank is assigning only a portion of its Commitment, then, the amount of the Commitment being assigned (determined as of the effective date of the assignment) shall be in an amount not less than \$5,000,000, (iii) except during the continuance of a Default, no interest may be sold by a Bank pursuant to this paragraph (c) to any Assignee that is not then a Bank (or an Affiliate of a Bank) without the consent of the Borrower and the Administrative Agent, which consent shall not be unreasonably withheld, and (iv) a Bank may not have more than two Assignees

that are not then Banks at any one time. Upon (A) execution of the Assignment and Acceptance by such transferor Bank, such Assignee, the Administrative Agent and (if applicable) the Borrower, (B) delivery of an executed copy of the Assignment and Acceptance to the Borrower and the Administrative Agent, (C) payment by such Assignee to such transferor Bank of an amount equal to the purchase price agreed between such transferor Bank and such Assignee, and (D) payment of a processing and recordation fee of \$2,500 to the Administrative Agent, such Assignee 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 a Commitment as set forth in such instrument of assumption, and the transferor Bank shall be released from its obligations hereunder to a corresponding extent, and no further consent or action by the Borrower, the Banks or the Administrative Agent shall be required. Upon the consummation of any transfer to an Assignee pursuant to this paragraph (c), the transferor Bank, the Administrative Agent and the Borrower shall make appropriate arrangements so that, if required, a new Note is issued to each of such Assignee and such transferor Bank.

(d) Subject to the provisions of Section 10.09, the Borrower authorizes each Bank to disclose to any Participant, Assignee or other transferee (each a "Transferee") and any prospective Transferee any and all financial information in such Bank's possession concerning the Borrower which has been delivered to such Bank by the Borrower pursuant to this Agreement or which has been delivered to such Bank by the Borrower in connection with such Bank's credit evaluation prior to entering into this Agreement.

(e) No Transferee shall be entitled to receive any greater payment under Section 9.03 than the transferor Bank would have been entitled to receive with respect to the rights transferred, unless such transfer is made with the Borrower's prior written consent or by reason of the provisions of Section 9.02 or 9.03 requiring such Bank to designate a different Lending Office under certain circumstances or at a time when the circumstances giving rise to such greater payment did not exist.

(f) Anything in this Section 10.08 to the contrary notwithstanding, any Bank may assign and pledge all or any portion of the Loans and/or obligations owing to it to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of

Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank, provided that any payment in respect of such assigned Loans and/or obligations made by the Borrower to the assigning and/or pledging Bank in accordance with the terms of this Agreement shall satisfy the Borrower's obligations hereunder in respect of such assigned Loans and/or obligations to the extent of such payment. No such assignment shall release the assigning and/or pledging Bank from its obligations hereunder.

SECTION 10.09. Confidentiality. Each Bank agrees to exercise commercially reasonable efforts to keep any information delivered or made available by the Borrower to it which is clearly indicated to be confidential information, confidential from anyone other than persons employed or retained by such Bank who are or are expected to become engaged in evaluating, approving, structuring or administering the Loans; provided that nothing herein shall prevent any Bank from disclosing such information (i) to any other Bank, (ii) upon the order of any court or administrative agency, (iii) upon the request or demand of any regulatory agency or authority having jurisdiction over such Bank, (iv) which has been publicly disclosed, (v) to the extent reasonably required in connection with any litigation to which the Administrative Agent, any Bank or their respective Affiliates may be a party, (vi) to the extent reasonably required in connection with the exercise of any remedy hereunder, (vii) to such Bank's legal counsel and independent auditors and (viii) to any actual or proposed Participant, Assignee or other Transferee of all or part of its rights hereunder which has agreed in writing to be bound by the provisions of this Section 10.09; provided that should disclosure of any such confidential information be required by virtue of clause (ii) of the immediately preceding sentence, to the extent permitted by law, any relevant Bank shall promptly notify the Borrower of same so as to allow the Borrower to seek a protective order or to take any other appropriate action; provided, further, that, no Bank shall be required to delay compliance with any directive to disclose any such information so as to allow the Borrower to effect any such action.

SECTION 10.10. Representation by Banks. Each Bank hereby represents that it is a commercial lender or financial institution which makes loans in the ordinary course of its business and that it will make its Loans hereunder for its own account in the ordinary course of such business; provided that, subject to Section 10.08, the disposition of the Note or Notes held by that Bank shall at all times be within its exclusive control.

SECTION 10.11. Obligations Several. The obligations of each Bank hereunder are several, and no Bank shall be responsible for the obligations or commitment of any other Bank hereunder. Nothing contained in this Agreement and no action taken by the Banks pursuant hereto shall be deemed to constitute the Banks to be a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Bank shall be a separate and independent debt, and each Bank shall be entitled to protect and enforce its rights arising out of this Agreement or any other Loan Document and it shall not be necessary for any other Bank to be joined as an additional party in any proceeding for such purpose.

SECTION 10.12. Georgia Law. This Agreement and each Note shall be construed in accordance with and governed by the law of the State of Georgia.

SECTION 10.13. Severability. In case any one or more of the provisions contained in this Agreement, the Notes or any of the other Loan Documents should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby and shall be enforced to the greatest extent permitted by law.

SECTION 10.14. Interest. In no event shall the amount of interest, and all charges, amounts or fees contracted for, charged or collected pursuant to this Agreement, the Notes or the other Loan Documents and deemed to be interest under applicable law (collectively, "Interest") exceed the highest rate of interest allowed by applicable law (the "Maximum Rate"), and in the event any such payment is inadvertently received by any Bank, then the excess sum (the "Excess") shall be credited as a payment of principal, unless the Borrower shall notify such Bank in writing that it elects to have the Excess returned forthwith. It is the express intent hereof that the Borrower not pay and the Banks not receive, directly or indirectly in any manner whatsoever, interest in excess of that which may legally be paid by the Borrower under applicable law. The right to accelerate maturity of any of the Loans does not include the right to accelerate any interest that has not otherwise accrued on the date of such acceleration, and the Administrative Agent and the Banks do not intend to collect any unearned interest in the event of any such acceleration. All monies paid to the Administrative Agent or the Banks hereunder or under any of the Notes or the other Loan Documents, whether at maturity or by prepayment, shall be subject to rebate of

unearned interest as and to the extent required by applicable law. By the execution of this Agreement, the Borrower covenants, to the fullest extent permitted by law, that (i) the credit or return of any Excess shall constitute the acceptance by the Borrower of such Excess, and (ii) the Borrower shall not seek or pursue any other remedy, legal or equitable, against the Administrative Agent or any Bank, based in whole or in part upon contracting for charging or receiving any Interest in excess of the Maximum Rate. For the purpose of determining whether or not any Excess has been contracted for, charged or received by the Administrative Agent or any Bank, all interest at any time contracted for, charged or received from the Borrower in connection with this Agreement, the Notes or any of the other Loan Documents shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread in equal parts throughout the full term of the Commitments. The Borrower, the Administrative Agent and each Bank shall, to the maximum extent permitted under applicable law, (i) characterize any non-principal payment as an expense, fee or premium rather than as Interest and (ii) exclude voluntary prepayments and the effects thereof. The provisions of this Section shall be deemed to be incorporated into each Note and each of the other Loan Documents (whether or not any provision of this Section is referred to therein). All such Loan Documents and communications relating to any Interest owed by the Borrower and all figures set forth therein shall, for the sole purpose of computing the extent of obligations hereunder and under the Notes and the other Loan Documents be automatically recomputed by the Borrower, and by any court considering the same, to give effect to the adjustments or credits required by this Section.

SECTION 10.15. Interpretation. No provision of this Agreement or any of the other Loan Documents shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

SECTION 10.16. Waiver of Jury Trial; Consent to Jurisdiction. The Borrower (a) and each of the Banks and the Administrative Agent irrevocably waives, to the fullest extent permitted by law, any and all right to trial by jury in any legal proceeding arising out of this Agreement, any of the other Loan Documents, or any of the transactions contemplated hereby or thereby, (b) submits to the nonexclusive personal jurisdiction in the State of Georgia, the courts thereof and the United States District Courts sitting therein, for the enforcement of this Agreement, the Notes and the other Loan

Documents, (c) waives any and all personal rights under the law of any jurisdiction to object on any basis (including, without limitation, inconvenience of forum) to jurisdiction or venue within the State of Georgia for the purpose of litigation to enforce this Agreement, the Notes or the other Loan Documents, and (d) agrees that service of process may be made upon it in the manner prescribed in Section 10.01 for the giving of notice to the Borrower. Nothing herein contained, however, shall prevent the Administrative Agent from bringing any action or exercising any rights against any security and against the Borrower personally, and against any assets of the Borrower, within any other state or jurisdiction.

SECTION 10.17. Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION 10.18. Source of Funds -- ERISA. Each of the Banks hereby severally (and not jointly) represents to the Borrower that no part of the funds to be used by such Bank to fund the Loans hereunder from time to time constitutes (i) assets allocated to any separate account maintained by such Bank in which any employee benefit plan (or its related trust) has any interest nor (ii) to the best of its knowledge, any other assets of any employee benefit plan. As used in this Section, the terms "employee benefit plan" and "separate account" shall have the respective meanings assigned to such terms in Section 3 of ERISA.

SECTION 10.19. Survival. The provisions of Sections 3.09, 8.05 and 10.04 shall survive payment or satisfaction in full of all obligations of the Borrower hereunder and the termination of this Agreement.

[Signatures are contained on the following pages.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, under seal, by their respective authorized officers as of the day and year first above written.

U.S. XPRESS ENTERPRISES, INC.
(SEAL)

By: _____
Title:

2931 S. Market Street
Chattanooga, Tennessee 37410
Attention: Ray Harlin
Telecopier number: 423-265-5715
Confirmation number:

[Signatures continued on the following pages.]

COMMITMENTS	COMMITMENT SHARE
-----	-----
	WACHOVIA BANK, N.A., as Administrative Agent and as a Bank (SEAL)
\$30,000,000	15% By: _____ Title: _____
	Lending Office ----- Wachovia Bank, N.A. 191 Peachtree Street, N.E. Atlanta, Georgia 30303-1757 Attention: John B. Tibe Telecopier number: 404-332-5016 Confirmation number: _____

[Signatures continued on the following pages.]

NATIONSBANK, N.A. (SEAL)

\$27,500,000

13.75% By: _____
Title: _____

Lending Office

NationsBank, N.A.
Corporate Finance
600 Peachtree Street, N.E.
21st Floor
Atlanta, Georgia 30308-2213
Attention: Nancy S. Goldman
Telecopier number: 404-607-6484
Confirmation number: _____

[Signatures continued on the following pages.]

\$27,500,000 13.75% BANKBOSTON, N.A. (SEAL)

By:_____ Title:

Lending Office

BankBoston, N.A.

Transportation Division
Mail Stop: 01-08-01
100 Federal Street
Boston, Massachusetts 02110
Attention: Andrew K. Michaud
Telecopier number: 617-434-1955
Confirmation number: _____

[Signatures continued on the following pages.]

\$22,500,000 11.25% SUNTRUST BANK, CHATTANOOGA, N.A.
(SEAL)

By: _____
Title:

By: _____
Title:

Lending Office

SunTrust Bank, Chattanooga, N.A.

Corporate Lending Department
Mail Code M0125
736 Market Street
Chattanooga, Tennessee 37402
Attention: Jon C. Long
Telecopier number: 423-757-3437
Confirmation number: _____

[Signatures continued on the following pages.]

\$15,500,000 7.75% TEXAS COMMERCE BANK

NATIONAL ASSOCIATION (SEAL)

By: _____
Title:

Lending Office

Texas Commerce Bank National Association Corporate Banking 2200 Ross Avenue 3rd Floor
Dallas, Texas 75201 Attention: Ana Moreira Telecopier number: 214-965-2044 Confirmation number: _____

[Signatures continued on the following pages.]

By: _____
Title:

By: _____
Title:

Lending Office

The Sumitomo Bank, Limited
233 South Wacker Drive
Suite 5400
Chicago, Illinois 60606
Attention: Diane Rhoades
Telecopier number: 404-523-7983
Confirmation number: _____

For Business Purposes Only: U.S. Commercial Banking Depart.
Atlanta Peachtree Center Office
303 Peachtree Street, N.E.
Suite 4420
Atlanta, Georgia 30308
Attention: Lauren P. Carrigan
Telecopier number: 404-523-7983
Confirmation number: _____

[Signatures continued on the following pages.]

\$15,500,000 7.75% BANK OF AMERICA (SEAL)

By: _____
Title:

Lending Office

Bank of America Leasing, Finance & Transportation 231 South LaSalle Street Chicago, Illinois 60697 Attention: Bonita J. Althoff Telecopier
number: 312-828-1997 Confirmation number: _____

[Signatures continued on the following pages.]

\$15,500,000 7.75% ABN-AMRO BANK, N.A. (SEAL)

By:_____ Title:

By:_____ Title:

Lending Office

ABN-Amro Bank, N.A.

Surface Transportation
135 South LaSalle Street
Chicago, Illinois 60674-9135
Attention: Dave Thomas
Telecopier number: 312-904-2849
Confirmation number:_____

[Signatures continued on the following pages.]

\$15,500,000 7.75% AMSOUTH BANK (SEAL)

By: _____
Title:

Lending Office

AmSouth Bank Commercial Banking Division 601 Market Center Chattanooga, Tennessee 37402 Attention: Steve C. Anderson Telecopier
number: 423-752-1558 Confirmation number: _____

[Signatures continued on the following pages.]

\$7,500,000

3.75% FIRST AMERICAN NATIONAL BANK
(SEAL)

By: _____
Title:

Lending Office

First American National Bank

Corporate Bank

Chattanooga Division

1 Union Square

Suite 100

Chattanooga, Tennessee 37402-2583

Attention: Mary E. Buckner

Telecopier number: 423-755-6014

Confirmation number: 423-755-6062

[Signatures continued on the following pages.]

\$7,500,000

3.75% FIRST TENNESSEE BANK, N.A. (SEAL)

By: _____
Title:

Lending Office

First Tennessee Bank, N.A.

Corporate Group

701 Market Street

Chattanooga, Tennessee 37402

Attention: Brett P. Johnson

Telecopier number: 423-757-4028

Confirmation number: _____

TOTAL COMMITMENTS:

\$200,000,000

End of Filing

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