

# TRAVELCENTERS OF AMERICA INC

## FORM 10-Q (Quarterly Report)

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# SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

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## FORM 10-Q

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

For the Quarterly Period Ended September 30, 1997

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## TRAVELCENTERS OF AMERICA, INC.

(Exact name of Registrant as specified in its charter)

DELAWARE  
(State or other jurisdiction of  
incorporation or organization)

36-3856519  
(IRS Employer  
Identification No.)

24601 Center Ridge Road, Suite 300  
Westlake, OH 44145-5634  
(Address of principal executive offices, including zip code)

(440) 808-9100  
(Telephone number, including area code)

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

Yes x No

**TRAVELCENTERS OF AMERICA, INC.**

THIS QUARTERLY REPORT ON FORM 10-Q CONTAINS HISTORICAL INFORMATION AND FORWARD-LOOKING STATEMENTS. STATEMENTS LOOKING FORWARD IN TIME ARE INCLUDED IN THIS FORM 10-Q PURSUANT TO THE "SAFE HARBOR" PROVISIONS OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. THEY INVOLVE KNOWN AND UNKNOWN RISKS AND UNCERTAINTIES THAT MAY CAUSE THE COMPANY'S ACTUAL RESULTS TO DIFFER FROM FUTURE PERFORMANCE SUGGESTED HEREIN. IN THE CONTEXT OF FORWARD-LOOKING INFORMATION PROVIDED IN THIS FORM 10-Q AND IN OTHER REPORTS, PLEASE REFER TO THE DISCUSSION OF RISK FACTORS DETAILED IN, AS WELL AS THE OTHER INFORMATION CONTAINED IN, THE COMPANY'S FILINGS WITH THE SECURITIES AND EXCHANGE COMMISSION.

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**SIGNATURE**

## **PART I - FINANCIAL INFORMATION**

### **Item 1. Financial Statements**

#### **TRAVELCENTERS OF AMERICA, INC. INTRODUCTION TO THE CONSOLIDATED FINANCIAL STATEMENTS**

The consolidated financial statements included herein have been prepared by TravelCenters of America, Inc. (the "Company"), without audit, pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to such rules and regulations. The Company believes that the disclosures are adequate to make the information presented not misleading when read in conjunction with the Company's consolidated financial statements and notes included therein for the year ended December 31, 1996.

The financial information presented reflects all adjustments, consisting only of normal recurring adjustments, which are, in the opinion of management, necessary for a fair statement of the results for the interim periods presented. The results for interim periods are not necessarily indicative of results to be expected for the year.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED BALANCE SHEET**

	SEPTEMBER 30, 1997 (UNAUDITED)	DECEMBER 31, 1996
	-----	-----
	(In Thousands of Dollars)	
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash	\$ 76,816	\$ 23,779
Accounts receivable (net of allowance for doubtful accounts of \$4,405 for 1997 and \$3,502 for 1996)	64,680	54,371
Inventories	32,491	29,082
Deferred income taxes	3,877	3,877
Other current assets	8,774	10,530
	-----	-----
Total current assets	186,638	121,639
Notes receivable, net	594	1,835
Property and equipment, net	264,523	269,366
Intangible assets	21,342	19,657
Deferred financing costs	12,162	8,379
Other assets	2,653	5,013
	-----	-----
<b>TOTAL ASSETS</b>	<b>\$487,912</b>	<b>\$425,889</b>
	-----	-----
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Revolving loans	\$ --	\$ 14,000
Current maturities of long-term debt	500	17,250
Accounts payable	21,118	37,201
Other accrued liabilities	51,324	29,422
	-----	-----
Total current liabilities	72,942	97,873
Commitments and contingencies (Note 6)		
Long-term debt (net of unamortized discount)	289,750	193,185
Deferred income taxes	9,452	9,452
Other long-term liabilities	3,609	5,914
	-----	-----
<b>TOTAL LIABILITIES</b>	<b>375,753</b>	<b>306,424</b>
Mandatorily redeemable senior convertible participating preferred stock (Note 7)	59,463	53,885
Other preferred stock, common stock and other shareholders' equity	47,037	50,743
Retained earnings	5,659	14,837
	-----	-----
	52,696	65,580
	-----	-----
<b>TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY</b>	<b>\$487,912</b>	<b>\$425,889</b>
	-----	-----

The accompanying notes are an integral part of these consolidated financial statements.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF INCOME AND RETAINED EARNINGS**  
**UNAUDITED**

	THREE MONTHS ENDED SEPTEMBER 30,		NINE MONTHS ENDED SEPTEMBER 30,	
	1997	1996	1997	1996
	----	----	----	----
	(IN THOUSANDS OF DOLLARS EXCEPT PER SHARE AMOUNTS)			
REVENUES:				
Fuel	\$166,572	\$117,564	\$540,988	\$346,306
Nonfuel	77,133	15,778	214,759	42,628
Rent	6,607	10,430	24,555	31,750
	-----	-----	-----	-----
TOTAL REVENUES	250,312	143,772	780,302	420,684
	-----	-----	-----	-----
Cost of revenues (excluding depreciation)	180,537	120,249	585,226	354,531
	-----	-----	-----	-----
GROSS PROFIT (EXCLUDING DEPRECIATION)	69,775	23,523	195,076	66,153
	-----	-----	-----	-----
Operating expenses	43,136	7,387	118,681	20,023
Selling, general and administrative expenses	9,390	6,369	30,070	18,600
Refinancing, transition and development costs	3,867	1,384	10,958	1,500
Depreciation and amortization	5,777	3,538	20,073	10,273
(Gain) loss on sales of property and equipment	(7,409)	(84)	(5,945)	(125)
Other operating (income) expense, net	1,100	--	1,100	--
Income of subsidiary held for disposition	--	(3,070)	--	(5,255)
	-----	-----	-----	-----
INCOME FROM OPERATIONS	13,914	7,999	20,139	21,137
	-----	-----	-----	-----
Interest (expense), net	(5,987)	(3,540)	(16,954)	(10,047)
	-----	-----	-----	-----
(LOSS) INCOME BEFORE INCOME TAXES AND EXTRAORDINARY ITEM	7,927	4,459	3,185	11,090
	-----	-----	-----	-----
(Benefit) provision for income taxes	3,069	1,757	1,231	4,360
	-----	-----	-----	-----
(Loss) income before extraordinary item	4,858	2,702	1,954	6,730
Extraordinary item (less applicable income tax benefit of \$3,608)	--	--	(5,554)	--
	-----	-----	-----	-----
NET (LOSS) INCOME	4,858	2,702	(3,600)	6,730
	-----	-----	-----	-----
Less: preferred dividends	(1,941)	(1,704)	(5,579)	(4,895)
	-----	-----	-----	-----
Retained earnings - beginning of the period:				
As previously reported	6,749	18,582	17,647	16,997
Adjustments (Note 7)	(4,007)	(1,842)	(2,809)	(1,091)
As restated	2,742	16,740	14,838	15,903
	-----	-----	-----	-----
Retained earnings - end of the period	\$5,659	\$ 17,738	\$ 5,659	\$ 17,738
	-----	-----	-----	-----
(Loss) income before extraordinary item per common share and common share equivalent	\$0.34	\$0.11	\$(3.19)	\$ 0.21
	-----	-----	-----	-----
Extraordinary item	--	--	(4.89)	--
	-----	-----	-----	-----
Net loss per common share and common share equivalent (Note 2)	\$ 0.34	\$ 0.11	\$ (8.08)	\$ 0.21
	-----	-----	-----	-----
Weighted average number of shares and common share equivalents (in thousands)	8,639	8,896	1,136	8,940
	-----	-----	-----	-----

The accompanying notes are an integral part of these consolidated financial statements.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF CASH FLOWS**  
**UNAUDITED**

	NINE MONTHS ENDED	
	SEPTEMBER 30,	
	1997	1996
	-----	-----
	(IN THOUSANDS OF DOLLARS)	
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net (loss) income	\$ (3,600)	\$ 6,730
Adjustments to reconcile net (loss) income to net cash provided by operating activities:		
Net income of subsidiary held for disposition	--	(3,153)
Extraordinary item	5,554	--
Depreciation and amortization	20,073	10,261
Provision for doubtful accounts	1,404	840
(Gain) loss on sales of property and equipment	(5,945)	(125)
Changes in assets and liabilities, adjusted for the effects of acquisitions of network assets		
Accounts receivable	16,208	250
Inventories	(1,558)	(68)
Other current assets	1,756	(7,358)
Accounts payable	(16,083)	7,450
Other current liabilities	25,509	4,145
Other, net	1,520	1,566
	-----	-----
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES</b>	<b>15,538</b>	<b>20,538</b>
	-----	-----
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Acquisitions of network assets	(11,069)	(3,107)
Proceeds from sales of property and equipment	20,099	--
Capital expenditures	(19,372)	(10,239)
	-----	-----
<b>NET CASH USED IN INVESTING ACTIVITIES</b>	<b>(10,342)</b>	<b>(13,346)</b>
	-----	-----
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Revolving loan borrowings	3,750	10,000
Revolving loan repayments	(17,750)	--
Long-term debt borrowings	205,000	--
Long-term debt repayments	(126,550)	(8,750)
Repurchase of common stock	(3,706)	(126)
Debt issuance costs	(12,903)	--
	-----	-----
<b>NET CASH PROVIDED BY FINANCING ACTIVITIES</b>	<b>47,841</b>	<b>1,124</b>
	-----	-----
Net increase in cash	53,037	8,316
Cash at the beginning of the period	23,779	3,191
	-----	-----
Cash at the end of the period	\$ 76,816	\$11,507
	-----	-----

The accompanying notes are an integral part of these consolidated financial statements.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF INCOME AND RETAINED EARNINGS**

**1. BASIS OF PRESENTATION**

The Company is a holding company which, through its wholly-owned subsidiaries, TA Operating Corporation ("TA") and National Auto/Truckstops, Inc. ("National"), owns, operates and franchises more travel centers in the United States than any of its competitors with 146 network sites nationwide, including 125 Company-owned locations. TA currently operates a network (the "TA Network") of 49 travel centers in 27 states under the "TravelCenters of America" or "TA" brand name and National currently operates a network (the "National Network") of 97 travel centers in 36 states under the licensed "Unocal 76" and related brand names.

The Company was formed in December 1992 to facilitate the acquisition by the Company of the National Network (the "National Acquisition") in April 1993 from a subsidiary of Unocal Corporation ("Unocal"). In December 1993, the Company acquired the TA Network (the "TA Acquisition") from subsidiaries of the British Petroleum Company Plc ("BP"). In connection with the TA Acquisition, a group of institutional investor shareholders (the "Investor Group") and certain members of TA's management granted an option to the Company whereby the Company could repurchase its equity held by such Investor Group and management members in exchange for consideration consisting of cash and all of the equity of TA (the "Repurchase"). If the Repurchase had been consummated, the Company and the National Network would have been owned by the operator and franchisee-owner stockholders of the Company and certain members of National's management, and TA would have been owned by the Investor Group and certain members of TA's management. During the nine months ended September 30, 1996, TA and National were separately managed and financed and in the Company's consolidated financial statements TA was presented as net assets of subsidiary held for disposition and TA's results of operations were included in the Company's consolidated financial statements as a single amount. Effective September 30, 1996, the decision was made to retain TA, and, subsequently, the Company chose to pursue the combination of the TA and National networks (the "Combination Plan"). After September 30, 1996, TA was no longer carried as net assets of subsidiary held for disposition and TA's results of operations were consolidated with the Company's.

**2. RECAPITALIZATION AND RESTRUCTURING**

On March 27, 1997, the Company was recapitalized and restructured pursuant to a series of transactions in which (i) the Company's subsidiaries were restructured such that the Company directly owns its three subsidiaries, TA, TA Franchise Systems, Inc. ("TAFSI") and National (the Company's former subsidiary, TA Holdings Corporation ("TAHC"), was liquidated as of such date), (ii) the Company's indebtedness under the old National and TA debt agreements was refinanced, and (iii) TA and National guaranteed the Company's indebtedness under its new credit facilities.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF INCOME AND RETAINED EARNINGS**

Consequent to the early extinguishment of the Company's prior indebtedness, the Company recognized extraordinary losses, net of applicable income taxes, of \$5,554,000 as a result of writing off the then remaining unamortized balances of deferred financing costs and debt discount related to those prior borrowings of approximately \$7,847,000 and \$1,315,000, respectively. The approximately \$12,903,000 of financing costs associated with the Company's new borrowings have been capitalized and will be amortized over the lives of the related new debt instruments.

As a result of the combination of the Company's two networks under the existing TA management, most of National's corporate-level employees have been or will be terminated. In January 1997, certain of National's executive officers resigned and related severance costs of approximately \$774,000 were recognized. In May 1997 management finalized its plans regarding employee terminations and, accordingly, the related expense of approximately \$1,833,000 was recognized. The severance expense, which totalled approximately \$2,607,000 for the nine month period ended September 30, 1997, is included in the income statement within refinancing, transition and development costs. Pursuant to the Company's plans, 111 employees have been or will be terminated. Through September 30, 1997, approximately \$1,329,000 of termination benefits had been paid to the 83 employees actually terminated. At September 30, 1997, the remaining accrual for termination benefits, which will be substantially paid by year-end with the final payments made by March 1998, was approximately \$1,278,000.

### 3. EARNINGS PER SHARE

Earnings per common share and common share equivalent were computed by subtracting preferred dividends from net income and dividing the resulting amount by the weighted average number of shares of common stock and common stock equivalents outstanding during the period, provided the common stock equivalents are not antidilutive. The Mandatorily Redeemable Senior Participating Preferred Stock Series I and II and Convertible Preferred Stock Series I and II are considered to be equivalents of common stock as are the outstanding common stock warrants and the number of shares issuable on the exercise of vested stock options when the formula price of the common stock exceeds the exercise price of the options. The increase in the number of common shares is reduced by the number of common shares which are assumed to have been purchased with the proceeds from the exercise of the options.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF INCOME AND RETAINED EARNINGS**

4. INVENTORIES

Inventories consist of the following:

	SEPTEMBER 30, 1997 ----	DECEMBER 31, 1996 ----
	( IN THOUSANDS )	
Nonfuel merchandise	\$29,727	\$26,090
Petroleum products	2,764	2,992
	-----	-----
Total inventories	\$32,491	\$29,082
	-----	-----
	-----	-----

5. SUPPLEMENTAL CASH FLOW INFORMATION

During the nine months ended September 30, 1997, the Company extinguished \$85,500,000 of senior secured notes through the issuance of new senior secured notes of an equal face amount. For the nine months ended September 30, 1997 and 1996, the Company received \$4,495,000 and \$1,400,000 respectively, of inventory and property and equipment in liquidation of trade accounts receivable.

6. MATERIAL CONTINGENCIES

**ENVIRONMENTAL MATTERS**

The Company's operations and properties are subject to extensive federal, state and local laws, regulations and ordinances relating to environmental matters that (i) govern activities and operations that may have adverse environmental effects, such as discharges to air, soil and water, as well as handling, storage and disposal practices for petroleum products and solid and hazardous substances or (ii) impose liability and damages for the cost of remediating sites affected by, and damage resulting from, past spills and disposal of other releases of petroleum products and hazardous substances.

The Company owns and uses underground storage tanks (USTs) and above-ground storage tanks (ASTs) at company-operated and operator locations to store petroleum products and waste oils. These tanks must comply with statutory and regulatory requirements regarding tank construction, integrity testing, leak detection and monitoring, overfilling and spill control, release reporting, financial assurance and corrective action in case of a release from a UST or AST into the environment. To meet minimum federal requirements, all existing USTs owned by the Company must conform to certain construction requirements, have installed tank leak detection systems, and have installed corrosion protection and spill-overfill prevention equipment by December 22, 1998. The Company has established a program of tank replacement and equipment installation to meet the requirements by that time.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF INCOME AND RETAINED EARNINGS**

While the costs of compliance for these matters have not had a material adverse impact on the Company, it is impossible to predict accurately the ultimate effect these changing laws and regulations may have on the Company in the future. The Company incurred capital expenditures, maintenance, remediation and other environmental related costs of approximately \$2,213,000 and \$4,665,000 for the nine months ended September 30, 1997 and 1996, respectively.

The Company is in the process of resolving alleged violations of wastewater discharge permits in several states relating to travel center operations and is conducting investigatory and/or remedial actions with respect to petroleum product releases that have occurred at approximately 25 travel centers. Remediation activities have been completed at other travel centers and the Company anticipates no further actions to be required by the respective state agencies in regard to those matters at those locations. Most of the wastewater discharge notices have been resolved by the Company without penalty. However, given the status of the proceedings with respect to matters still pending, ultimate investigative and remediation costs cannot accurately be predicted. The Company expects that some or all of any fines paid or costs incurred in connection with the wastewater discharge violations noted above will be paid by Unocal and BP pursuant to the environmental agreements.

The Company has estimated the current ranges of remediation costs at currently active sites and what it believes will be its ultimate share for such costs after required indemnification and remediation is performed by Unocal and BP under the environmental agreements and has a reserve for such matters at September 30, 1997, of \$933,000. While it is not possible to quantify with certainty the environmental exposure, in the opinion of management, the potential liability, beyond that considered in the reserve, for all environmental proceedings, based on information known to date, will not have a material adverse effect on the financial condition, results of operations or liquidity of the Company.

**PENDING LITIGATION**

In connection with the acquisition of the Network, the Company acquired six travel centers located in California that are currently members of the Network. In January 1993, the operators of four of these travel centers (the "California Plaintiffs") commenced litigation against Unocal, The Clipper Group, L.P. ("Clipper") and the Company in California state court seeking, among other things, specific performance by Unocal of their alleged rights, either under the California Business and Professions Code (the "California Statute") or, in the alternative, pursuant to alleged statements made by Unocal, to purchase their travel centers at a fair market price and seeking compensatory and punitive damages against the Company and others for both tortious interference with the California Plaintiffs' alleged rights and civil conspiracy. The operator of a fifth California travel center also asserted a purchase right, but never filed suit. This property, together with the four properties operated by the California Plaintiffs, are referred to herein as the "California Properties".

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF INCOME AND RETAINED EARNINGS**

Under the asset purchase agreements pursuant to which the Company acquired the California Properties from Unocal, and related agreements, (i) the Company purchased the California Properties for \$39 million and (ii) Unocal agreed to indemnify the Company for, among other things, claims arising under the California Statute arising out of or resulting from the sale of the California Properties, including any amounts ("Excess Amounts") by which the original purchase price paid by the Company for the California Properties exceeds the price at which the Company might be ordered by a court to resell such properties. Pursuant to such agreements, Unocal is not required to indemnify the Company for awards of punitive damages. The Company cannot predict whether it ultimately will be required to resell any or all of the California Properties to the California operators. However, in such event, the Company would seek indemnification from Unocal for any Excess Amounts. The Company believes that the claims asserted by the operators of the California Properties against the Company are without merit and has engaged in a vigorous defense.

During 1995, the trial commenced and two of the California Plaintiffs elected to settle their portion of the litigation with Unocal and the Company. In resolution, the Company entered into an agreement whereby the Company acquired the assets and operations of one of the related travel centers and paid approximately \$900,000 for the operations and certain assets used in the operations. The other operator's issues were resolved at no cost to the Company and that operator continues to operate the travel center under the existing lease agreement.

On May 1, 1995, the jury rendered a verdict in favor of the two remaining California Plaintiffs and against Unocal and the Company. The jury determined that the two remaining California Plaintiffs were entitled to total compensatory damages of \$4,012,000. On May 3, 1995, the jury rendered a verdict assessing punitive damages against Unocal, Clipper and the Company in the amounts of \$7,000,000, \$1,600,000 and \$1,500,000, respectively. On May 30, 1995, the California State Court rendered a decision in favor of Unocal and the Company on the equitable claims asserted by the California Plaintiffs and denying Plaintiffs' request for rescission of the asset purchase agreements for the related California Properties. The Company filed motions with the trial court to enter judgement in its favor on plaintiff's damages claims notwithstanding the verdict, or in the alternative, to order a new trial. On August 1, 1995, the California court denied the motion for judgement notwithstanding the verdict, but granted the Company's motion for a new trial on all issues. On October 22, 1997, the California Court of Appeal filed a decision affirming the trial court's orders granting a new trial and denying defendants' motions for judgment notwithstanding the verdict. The Court of Appeal also reversed an order of the trial court granting a nonsuit on plaintiffs' claims against the Company and Clipper for civil conspiracy. The Company intends to petition the California Supreme Court to seek review of the appeal court's decision. The Company's ultimate liability in the disposition of this matter is difficult to estimate. However, it is management's belief that the outcome, while potentially material to the Company's results of operations, is not likely to have a material adverse effect on the Company's financial position.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF INCOME AND RETAINED EARNINGS**

The Company believes all compensatory damages ultimately awarded and legal fees incurred on this matter are covered under the indemnification agreement with Unocal. Legal costs incurred by the Company through September 30, 1997 total \$5,042,000, of which Unocal has paid \$1,000,000 to the Company to date. Unocal has stated that it may contest portions of the Company's claims for such indemnification. However, the Company believes that the effect on the financial statements of any amounts not ultimately collected from Unocal will not be material.

In April 1996, a group of 11 National operators filed a complaint in the Circuit Court of Berkeley County, West Virginia, which was later amended in 1997. The amended complaint, brought on behalf of eighteen National operators, alleges that the Company's fuel pricing policies and practices violate the Petroleum Marketing Practices Act and the Uniform Commercial Code and constitute breach of the contractual duty of good faith and fair dealing and unjust enrichment. The amended complaint also asserts claims of fraud and fraud in the inducement, apparently based on alleged representations made by the Company concerning fuel pricing. The amended complaint seeks actual and punitive damages in an unspecified sum. The Company has removed the case to federal court and had it transferred to federal court in Nashville, Tennessee. The Company, at an immaterial cost, has entered into settlement agreements with four of the plaintiffs pursuant to which the claims of those plaintiffs have been or will be dismissed with prejudice. One additional plaintiff has withdrawn its claim in the action without prejudice.

On March 31, April 1, and April 7, 1997, three of the plaintiffs filed motions for a preliminary injunction. The motions sought an order requiring, among other things, that the Company set its price for diesel fuel sold to the movants at not more than two cents above the quoted industry average price per gallon. In addition, on April 22, 1997, two of the movants filed a motion seeking a temporary restraining order for substantially the same relief. On May 21, 1997, the court denied the plaintiffs' motions. Plaintiffs appealed the trial court's denial of their motions to the United States Courts of Appeals for both the Fourth and the Sixth Circuits. On September 11, 1997, the Fourth Circuit dismissed plaintiffs' appeal for lack of jurisdiction. Plaintiffs' appeal to the Sixth Circuit is pending. By order dated August 1, 1997, all proceedings in the district court have been stayed pending the completion of all appeals. The Company believes that the claims made in the complaint and the amended complaint are baseless and intends to defend this litigation vigorously. It is management's belief that the outcome is not likely to have a material adverse effect on the Company's results of operations, financial position or liquidity.

In addition to the above matters, the Company is the subject of, or party to, a number of pending or threatened legal actions, contingencies and commitments involving a variety of matters, including laws and regulations relating to the environment. The ultimate resolution of these contingencies could, individually or in the aggregate, be material to the Company's results of operations, but is not expected to be material to the Company's financial position or liquidity.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF INCOME AND RETAINED EARNINGS**

**7. PRIOR PERIOD ADJUSTMENTS**

The balance of retained earnings at December 31, 1996 has been restated from amounts previously reported to reflect the correction of errors that had been made in the calculations of accrued dividends related to the mandatorily redeemable senior convertible participating preferred stock during the period from June 1994 through June 1997. These dividend accruals do not enter into the determination of net income or loss. The total adjustment amount at December 31, 1996, is \$2,810,000, of which \$1,719,000 is applicable to 1996 and has been reflected as an increase in preferred on the statement of income and retained earnings for that year, with the balance of the adjustment amount of \$1,091,000 applicable to earlier periods reflected as a reduction in retained earnings at January 1, 1996. The preferred dividend amounts for the six month period ended June 30, 1997, have also been restated through an increase in the preferred dividends amount previously reported as \$2,440,000 to \$3,637,000.

**8. CONDENSED CONSOLIDATING FINANCIAL STATEMENT SCHEDULES**

The following schedules set forth the consolidating balance sheets as of September 30, 1997 and December 31, 1996, the consolidating statements of income and retained earnings for the three months ended September 30, 1997 and 1996 and for the nine months ended September 30, 1997 and 1996, and consolidating statements of cash flows for the nine months ended September 30, 1997 and 1996. In the following schedules, "Parent Company" refers to the unconsolidated balances of TravelCenters of America, Inc., "Guarantor Subsidiaries" refers to the combined unconsolidated balances of TA and National, and "Nonguarantor Subsidiary" refers to the balances of TAFSI. "Eliminations" represent the adjustments necessary to (a) eliminate intercompany transactions, (b) eliminate the Company's investments in its subsidiaries and (c) present TAHC as a subsidiary held for disposition until September 30, 1996. The Guarantor Subsidiaries, TA and National, are wholly-owned subsidiaries of the Company and have fully and unconditionally, jointly and severally, guaranteed the Company's indebtedness. In the 10-Q filing, the Company has not presented separate financial statements and other disclosures concerning the Guarantor Subsidiaries because management has determined such information is not material to investors.

**TRAVELCENTERS OF AMERICA, INC.**  
**CONSOLIDATED STATEMENT OF INCOME AND RETAINED EARNINGS**

BALANCE SHEET SCHEDULES:

SEPTEMBER 30, 1997

	PARENT COMPANY	GUARANTOR SUBSIDIARIES	NONGUARANTOR SUBSIDIARY	ELIMINATIONS	CONSOLIDATED
(IN THOUSANDS OF DOLLARS)					
<b>ASSETS</b>					
Current assets:					
Cash	\$ 45,526	\$ 31,290	\$ --	\$ --	\$ 76,816
Accounts receivable, net	2,491	79,724	208	(17,743)	64,680
Inventories	--	32,491	--	--	32,491
Deferred income taxes	--	3,877	--	--	3,877
Other current assets	476	51,087	988	(43,777)	8,774
Total current assets	48,493	198,469	1,196	(61,520)	186,638
Notes receivable, net	--	594	--	--	594
Property and equipment, net	--	268,376	--	(3,853)	264,523
Intangible assets	--	21,342	--	--	21,342
Deferred financing costs	12,162	--	--	--	12,162
Other assets	--	2,653	--	--	2,653
Advances to subsidiaries	225,904	--	--	(225,904)	--
Investments in subsidiaries	124,860	--	--	(124,860)	--
Total assets	\$411,419	\$491,434	\$ 1,196	(\$416,137)	\$487,912
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>					
Current Liabilities:					
Current maturities of long-term debt	\$ 500	\$ --	\$ --	\$ --	\$ 500
Accounts payable	--	21,118	--	--	21,118
Other accrued liabilities	7,755	104,926	162	(61,519)	51,324
Total current liabilities	8,255	126,044	162	(61,519)	72,942
Long-term debt (net of unamortized discount)	289,750	--	--	--	289,750
Deferred income taxes	--	9,452	--	--	9,452
Advance from parent	--	225,904	--	(225,904)	--
Other liabilities	--	3,609	--	--	3,609
Total liabilities	298,005	365,009	162	(287,423)	375,753
Mandatorily redeemable senior convertible participating preferred stock	59,463	--	--	--	59,463
Other preferred stock, common stock and other shareholders' equity	48,292	85,032	--	(86,287)	47,037
Retained earnings	5,659	41,393	1,034	(42,427)	5,659
Total liabilities and shareholders' equity	53,951	126,425	1,034	(128,714)	52,696
Total liabilities and shareholders' equity	\$411,419	\$491,434	\$ 1,196	(\$416,137)	\$487,912

**TRAVELCENTERS OF AMERICA, INC.**  
**SELECTED NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

DECEMBER 31, 1997

	PARENT COMPANY	GUARANTOR SUBSIDIARIES	NONGUARANTOR SUBSIDIARY	ELIMINATIONS	CONSOLIDATED
(IN THOUSANDS OF DOLLARS)					
<b>ASSETS</b>					
Current assets:					
Cash	\$ --	\$ 23,779	\$ --	\$ --	\$ 23,779
Accounts receivable, net	--	54,294	1,051	(974)	54,371
Inventories	--	29,082	--	--	29,082
Deferred income taxes	--	3,877	--	--	3,877
Other current assets	499	10,236	2	(207)	10,530
	-----	-----	-----	-----	-----
Total current assets	499	121,268	1,053	(1,181)	121,639
Notes receivable, net	--	1,835	--	--	1,835
Property and equipment, net	--	273,216	--	(3,853)	269,366
Intangible assets	--	19,657	--	--	19,657
Deferred financing costs	--	8,379	--	--	8,379
Other assets	2,500	7,348	--	(4,835)	5,013
Investments in subsidiaries	121,818	--	--	(121,818)	--
	-----	-----	-----	-----	-----
Total assets	\$122,817	\$431,706	\$ 1,053	(\$129,687)	\$425,889
	-----	-----	-----	-----	-----
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>					
Current liabilities:					
Revolving loans	\$ --	\$ 14,000	\$ --	\$ --	\$ 14,000
Current maturities of long-term debt	--	17,250	--	--	17,250
Accounts payable	1,555	37,945	--	(2,299)	37,201
Other accrued liabilities	450	29,553	105	(686)	29,422
	-----	-----	-----	-----	-----
Total current liabilities	2,005	98,748	105	(2,985)	97,873
Long-term debt (net of unamortized discount)	--	193,185	--	--	193,185
Deferred income taxes	92	9,891	--	(531)	9,452
Other liabilities	1	8,413	--	(2,500)	5,914
	-----	-----	-----	-----	-----
Total liabilities	2,098	310,237	105	(6,016)	306,424
Mandatorily redeemable senior convertible participating preferred stock	53,885	--	--	--	53,885
Other preferred stock, common common stock and other shareholders' equity	51,997	85,033	--	(86,287)	50,743
Retained earnings	14,837	36,436	948	(37,384)	14,837
	-----	-----	-----	-----	-----
Total liabilities and shareholders' equity	\$122,817	\$431,706	\$ 1,053	(\$129,687)	\$425,889
	-----	-----	-----	-----	-----

TRAVELCENTERS OF AMERICA, INC.  
SELECTED NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

STATEMENT OF INCOME AND RETAINED EARNINGS SCHEDULES:

THREE MONTHS ENDED SEPTEMBER 30, 1997

	PARENT COMPANY	GUARANTOR SUBSIDIARIES	NONGUARANTOR SUBSIDIARY	ELIMINATIONS	CONSOLIDATED
(IN THOUSANDS OF DOLLARS)					
Revenues:					
Fuel	\$ --	\$ 171,710	\$ --	\$ (5,138)	\$ 166,572
Nonfuel	--	76,735	398	--	77,133
Rent	--	10,688	--	(4,081)	6,607
Total revenues	--	259,133	398	--	250,312
Cost of revenues (excluding depreciation)	--	185,675	--	(5,138)	180,537
Gross profit (excluding depreciation)	--	73,458	398	(4,081)	69,775
Operating expenses	--	47,217	--	(4,081)	43,136
Selling, general and administrative expenses	385	8,979	26	--	9,390
Refinancing, transition and development costs	--	3,630	237	--	3,867
Depreciation and amortization	(69)	5,846	--	--	5,777
(Gain) loss on sales of property and equipment	--	(7,409)	--	--	(7,409)
Other operating (income) expense, net	--	1,100	--	--	1,100
Income from operations	(316)	14,095	135	--	13,914
Interest income (expense), net	(6,362)	375	--	--	(5,987)
Equity income (loss)	12,157	--	--	(12,157)	--
(Loss) income before income taxes	5,479	14,470	135	(12,157)	7,927
(Benefit) provision for income taxes	621	5,627	59	(3,238)	3,069
Net (loss) income	4,858	8,843	76	(8,919)	4,858
Less: preferred dividends	(1,941)	--	--	--	(1,941)
Retained earnings - beginning of period	2,742	32,550	958	(33,508)	2,742
Retained earnings - end of the period	\$ 5,659	\$ 41,393	\$ 1,034	(\$ 42,427)	\$ 5,659

TRAVELCENTERS OF AMERICA, INC.  
SELECTED NOTES TO CONSOLIDATED FINANCIAL STATEMENTS.

THREE MONTHS ENDED SEPTEMBER 30, 1996

	PARENT COMPANY	GUARANTOR SUBSIDIARIES	NONGUARANTOR SUBSIDIARY	ELIMINATIONS	CONSOLIDATED
(IN THOUSANDS OF DOLLARS)					
Revenues:					
Fuel	\$ --	\$190,931	\$ --	(\$73,367)	\$117,564
Nonfuel	--	64,709	380	(49,311)	15,778
Rent	--	10,430	--	--	10,430
Total revenues	--	266,070	380	(122,678)	143,772
Cost of revenues (excluding depreciation)	--	204,430	--	(84,181)	120,249
Gross profit (excluding depreciation)	--	61,640	380	(38,497)	23,523
Operating expenses	--	33,865	--	(26,478)	7,387
Selling, general and administrative expenses	664	9,443	157	(3,895)	6,369
Refinancing, transition and development costs	--	1,384	--	--	1,384
Depreciation and amortization	--	6,763	--	(3,225)	3,538
(Gain) loss on sales of property and equipment	--	(84)	--	--	(84)
Income from subsidiary held for disposition	--	--	--	(3,070)	(3,070)
Income (loss) from operations	(664)	10,269	223	(1,829)	7,999
Interest (expense), net	--	(5,369)	--	1,829	( 3,540)
Equity income (loss)	7,782	--	--	(7,782)	--
(Loss) income before income taxes	7,118	4,900	223	(7,782)	4,459
(Benefit) provision for income taxes	4,416	2,482	93	(5,234)	1,757
Net (loss) income	2,702	2,418	130	(2,548)	2,702
Less: preferred dividends	(1,704)	--	--	--	(1,704)
Retained earnings- beginning of the period	16,740	34,618	811	(35,429)	16,740
Retained earnings- end of the period	\$17,738	\$ 37,036	\$941	(\$37,977)	\$ 17,738

TRAVELCENTERS OF AMERICA, INC.  
SELECTED NOTES TO CONSOLIDATED FINANCIAL STATEMENTS.

NINE MONTHS ENDED SEPTEMBER 30, 1997

	PARENT COMPANY	GUARANTOR SUBSIDIARIES	NONGUARANTOR SUBSIDIARY	ELIMINATIONS	CONSOLIDATED
(IN THOUSANDS OF DOLLARS)					
Revenues:					
Fuel	\$ --	\$546,126	\$ --	\$ (5,138)	\$540,988
Nonfuel	--	213,667	1,092	--	214,759
Rent	--	28,636	--	(4,081)	24,555
Total revenues	--	788,429	1,092	--	780,302
Cost of revenues (excluding depreciation)	--	590,364	--	(5,138)	585,226
Gross profit (excluding depreciation)	--	198,065	1,092	(4,081)	195,076
Operating expenses	--	122,762	--	(4,081)	118,681
Selling, general and administrative expenses	639	28,705	726	--	30,070
Refinancing, transition and development costs	--	10,721	237	--	10,958
Depreciation and amortization	741	19,332	--	--	20,073
(Gain) loss on sales of property and equipment	--	(5,945)	--	--	(5,945)
Other operating (income) expense, net	--	1,100	--	--	1,100
Income from operations	(1,380)	21,390	129	--	20,139
Interest (expense), net	(12,721)	(4,233)	--	--	(16,954)
Equity income (loss)	8,199	75	--	8,274	--
(Loss) income before income taxes and extraordinary items	(5,902)	17,232	129	--	3,185
(Benefit) provision for income taxes	(2,302)	6,721	50	(3,238)	1,231
(Loss) income before extraordinary items	(3,600)	10,511	79	(5,036)	1,954
Extraordinary items (Less applicable income tax benefit of \$3,608)	--	(5,554)	--	--	(5,554)
Net (loss) income	(3,600)	4,957	79	(5,036)	(3,600)
Less: preferred dividends	(5,579)	--	--	--	(5,579)
Retained earnings- beginning of the period	14,838	36,436	955	(37,391)	14,838
Retained earnings- end of the period	\$ 5,659	\$ 41,393	\$1,034	(\$42,427)	\$ 5,659

TRAVELCENTERS OF AMERICA, INC.  
SELECTED NOTES TO CONSOLIDATED FINANCIAL STATEMENTS.

NINE MONTHS ENDED SEPTEMBER 30, 1996

	PARENT COMPANY	GUARANTOR SUBSIDIARIES	NONGUARANTOR SUBSIDIARY	ELIMINATIONS	CONSOLIDATED
(IN THOUSANDS OF DOLLARS)					
Revenues:					
Fuel	\$ --	\$548,360	\$ --	(\$202,054)	\$346,306
Nonfuel	--	179,758	1,041	(138,171)	42,628
Rent	--	31,750	--	--	31,750
Total revenues	--	759,868	1,041	(340,225)	420,684
Cost of revenues (excluding depreciation)	--	587,970	--	(233,439)	354,531
Gross profit (excluding depreciation)	--	171,898	1,041	(106,786)	66,153
Operating expenses	--	94,795	--	(74,772)	20,023
Selling, general and administrative expenses	807	29,176	653	(12,036)	18,600
Refinancing, transition and development costs	--	1,500	--	--	1,500
Depreciation and amortization	--	19,405	--	(9,132)	10,273
(Gain) loss on sales of property and equipment	--	(125)	--	--	(125)
Income from subsidiary held for disposition	--	--	--	(5,255)	(5,255)
Income from operations	(807)	27,147	388	(5,591)	21,137
Interest (expense), net	--	(15,638)	--	5,591	(10,047)
Equity income (loss)	11,897	--	--	(11,897)	--
(Loss) income before income taxes	11,090	11,509	388	(11,897)	11,090
(Benefit) provision for income taxes	4,360	5,083	151	(5,234)	4,360
Net (loss) income	6,730	6,426	237	(6,663)	6,730
Less: preferred dividends	(4,895)	--	--	--	(4,895)
Retained earnings- beginning of the period	15,903	30,610	704	(31,314)	15,903
Retained earnings- end of the period	\$17,738	\$ 37,036	\$ 941	(\$ 37,997)	\$ 17,738

TRAVELCENTERS OF AMERICA, INC.  
SELECTED NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

STATEMENT OF CASH FLOWS SCHEDULES:

NINE MONTHS ENDED SEPTEMBER 30, 1997					
	PARENT COMPANY	GUARANTOR SUBSIDIARIES	NONGUARANTOR SUBSIDIARY	ELIMINATIONS	CONSOLIDATED
(IN THOUSANDS OF DOLLARS)					
CASH FLOWS FROM					
OPERATING ACTIVITIES:	\$ (590)	\$ 18,858	\$ --	\$ --	\$ 15,538
CASH FLOWS FROM					
INVESTING ACTIVITIES:					
Acquisitions of network assets	--	(11,069)	--	--	(11,069)
Proceeds from sales of property and equipment	--	20,099	--	--	20,099
Capital expenditures	--	(19,372)	--	--	(19,372)
Net cash used in investing activities	--	(10,342)	--	--	(10,342)
CASH FLOWS FROM FINANCING ACTIVITIES:					
Revolving loan borrowings	--	3,750	--	--	3,750
Revolving loan repayments	--	(17,750)	--	--	(17,750)
Long-term debt borrowings	205,000	--	--	--	205,000
Long-term debt repayments	(250)	(126,300)	--	--	(126,550)
Advance from parent	(138,900)	138,900	--	--	--
Debt issuance costs	(12,903)	--	--	--	(12,903)
Repurchase of common stock	(3,706)	--	--	--	(3,706)
Net cash (used in) provided by financing activities	49,366	(1,400)	--	--	47,841
Net increase in cash	45,526	7,511	--	--	53,037
Cash at beginning of the period	--	23,779	--	--	23,779
Cash at the end of the period	\$ 45,526	\$ 31,290	\$ --	\$ --	\$ 76,816

**TRAVELCENTERS OF AMERICA, INC.**  
**SELECTED NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

NINE MONTHS ENDED SEPTEMBER 30, 1997

	PARENT COMPANY	GUARANTOR SUBSIDIARIES	NONGUARANTOR SUBSIDIARY	ELIMINATIONS	CONSOLIDATED
	(IN THOUSANDS OF DOLLARS)				
CASH FLOWS FROM OPERATING ACTIVITIES:	\$ 126	\$ 32,267	\$ --	(\$ 11,855)	\$ 20,538
CASH FLOWS FROM INVESTING ACTIVITIES:					
Acquisitions of network assets	--	(3,107)	--	--	(3,107)
Proceeds from sales of property and equipment	--	322	--	(322)	--
Capital expenditures	--	(16,783)	--	6,544	(10,239)
Net cash used in investing activities	--	(19,568)	--	6,222	(13,346)
CASH FLOWS FROM FINANCING ACTIVITIES:					
Revolving loan borrowings	--	10,000	--	--	10,000
Long-term debt repayments	--	(12,500)	--	3,750	(8,750)
Repurchase of common stock	(126)	--	--	--	(126)
Net cash (used in) provided by financing activities	(126)	(2,500)	--	3,750	1,124
Net increase in cash	--	10,199	--	(1,883)	8,316
Cash at the beginning of the period	--	15,617	--	(12,426)	3,191
Cash at the end of the period\$	--	\$ 25,816	\$ --	(\$ 14,309)	\$ 11,507

## ITEM 2 - MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with the audited financial statements and with Management's Discussion and Analysis included in the Company's Registration Statement on Form S-4 filed under the Securities Act of 1933 (File No. 333-26497) on July 23, 1997.

### OVERVIEW

The Company is a holding company which, through its wholly-owned subsidiaries, TA and National, owns, operates and franchises more travel centers in the United States than any of its competitors with 146 network sites nationwide, including 125 Company-owned locations. TA currently operates a network of 49 travel centers in 27 states under the "TravelCenters of America" or "TA" brand names and National currently operates a network of 97 travel centers in 36 states under the licensed "Unocal 76" and related brand names.

The Company was formed in December 1992 to facilitate the National Acquisition in April 1993. In December 1993, the Company acquired the TA Network. In connection with the TA Acquisition, the Investor Group and certain members of TA's management granted an option to the Company whereby the Company could repurchase its equity held by such Investor Group and management members in exchange for consideration consisting of cash and all of the equity of TA. If the Repurchase had been consummated, the Company and the National Network would have been owned by the operator and franchisee-owner stockholders of the Company and certain members of National's management, and TA would have been owned by the Investor Group and certain members of TA's management. During the nine months ended September 30, 1996, TA and National were separately managed and financed and in the Company's consolidated financial statements TA was presented as net assets of subsidiary held for disposition and TA's results of operations were included in the Company's consolidated financial statements as a single amount. Effective September 30, 1996, the decision was made to retain TA, and, subsequently, the Company chose to pursue the combination of the TA and National networks. After September 30, 1996, TA was no longer carried as net assets of subsidiary held for disposition and TA's results of operations were consolidated with the Company's.

Historically, under the Company's ownership, National operated principally as a franchisor. As a result, its revenues consisted primarily of wholesale diesel fuel sales to franchisees, rent from operators of leased sites and nonfuel franchise royalty payments. Since early 1995, National has increased its number of Company-operated sites as certain operators terminated their franchise and lease agreements. In contrast, TA operated principally as an owner-operator of travel centers. Consequently, while TA derived the majority of its revenues from retail diesel fuel sales, the majority of its gross profit has been derived from, and its principal strategic focus has been, the sale of higher margin nonfuel products and services.

### COMBINATION PLAN

During the three and nine month periods ended September 30, 1997, the Company has incurred approximately \$3.9 million and \$11.0 million, respectively, of expenses related to the Combination plan. These costs, identified as transition expenses in the Company's consolidated financial statements, are expected to total approximately \$14.0 million, of which approximately \$2.0 million is expected to be incurred in 1998. These

expenses relate, among other things, to employee separations, costs to convert National Network travel centers to TA Network travel centers, costs to dispose of travel centers or terminate lease or franchise agreements, and the costs of integrating the management and operations of the two networks into a single network, including relocation, travel, training, and legal expenses.

## **EMPLOYEE TERMINATIONS**

As a result of the Combination Plan, which was approved by the Board of Directors in January 1997, most of National's corporate-level employees have been or will be terminated. In January 1997, certain of National's executive officers resigned and related severance costs of \$0.8 million were recognized. In May 1997, management finalized its plans regarding employee terminations and, accordingly, the related costs were recognized. This expense totaled approximately \$1.8 million. Pursuant to the Company's plans, 111 employees are to be terminated, 83 of which had been severed through September 30, 1997. Through September 30, 1997, approximately \$1.3 million of termination benefits had been paid to such terminated employees. The remaining accrual for termination benefits of approximately \$1.3 million at September 30, 1997 will be substantially paid by year-end with the final payments scheduled by March of 1998.

## **NETWORK RATIONALIZATION**

During the third quarter of 1997, the Company continued to refine and execute its plans for improving the profitability of its combined network (the "Network") through rebranding of its sites under the TA brand name and rationalizing the number and locations of its travel centers. In the nine months ended September 30, 1997, eight Company-owned National travel centers were sold to the operators of those sites for gross proceeds of \$19.7 million, resulting in a gain on sale of \$5.6 million. An additional 15 such sales are expected to close by the second quarter of 1998, providing expected sales proceeds of an additional approximately \$37.8 million. The Company expects that it will recognize a gain from these sales. During the nine months ended September 30, 1997, relationships with the owner/operators of 16 franchised National travel centers ("Franchisee-Owner Sites") were terminated and agreements have been reached with, or appropriate notices provided to, owner/operators of an additional 11 such sites, such that the Company expects that all such Franchisee-Owner Sites will be terminated by the end of 1997. Beginning in July 1997, those National Network franchisees whose sites have been selected for inclusion in the Company's continuing network began to convert their franchises to TA from National, a process that includes rebranding of the travel centers, installation of TA's store and shop programs, training of the franchisees in TA's operating procedures and revisions to the franchise agreements and, where applicable, lease agreements, such that there will be an increase in the royalty the Company receives as a percentage of the franchisees' nonfuel revenues and a decrease in fixed rent revenue. The Company expects these new agreements will result in reduced revenue in the short term, but that in the long term increased franchisee nonfuel revenues will result in a net increase in the Company's revenue. At September 30, 1997, 24 National franchisees had signed TA franchise agreements.

## **SITE CONVERSIONS**

During the three months ended September 30, 1997, the Company converted six National Network travel centers from Company-owned and leased locations ("Leased Sites") to Company-owned and operated

locations by acquiring the travel center operations from the related operators, bringing the total of such conversions during 1997 to 23. One additional such conversion was completed in each of October and November 1997. These two fourth quarter conversions are expected to be the final such conversions, although the continuing negotiations with the operators of Leased Sites to whom the Company intends to sell the respective sites could lead to additional conversions, as could the continuing negotiations with those National franchisees to whom the TA franchise agreement has been offered. Through September 30, 1997, a total of 26 travel centers have been converted to Company-operated sites since September 30, 1996. Such conversions typically result in decreased rent revenue and increased operating expenses, offset to varying degrees for each individual site by increased fuel and nonfuel revenues.

Management expects that, over time, the increased revenues will exceed the decreases in rent revenue and increases in operating expenses, especially as TA management, marketing, operations, safety and training programs are fully implemented at the former National company-operated sites converted to TA operation. In June 1997, 14 of the National Company-operated travel centers were converted to TA Company-operated sites, and in July 1997, the then remaining 21 National Company-operated locations were so converted. National Leased Sites subsequently converted to company-operated sites were converted to TA company operations at the time of the acquisitions of the site operations from the respective operators. During the first few months of operation after both the conversion from a leased site and the conversion to a TA branded site (with respect to all former National travel centers), the operating results of each converted travel center are adversely affected by the costs (such as for maintenance and supplies) of bringing the travel centers into compliance with TA's standards. In addition, the Company has chosen to increase the number of employees at the converted sites in order to improve customer service and, as a consequence, employees were hired in anticipation of expected revenue increases. For these reasons, the Company anticipates that the operating results of these converted travel centers will improve in the fourth quarter of 1997 and into 1998.

The following table sets forth the number and type of ownership and management of the travel centers operating in each of the Company's networks.

	TA		NATIONAL	
	AS OF SEPT. 30,		AS OF SEPT. 30,	
	1997	1996	1997	1996
Company-owned and operated sites	40	40	42	16
Company-owned and leased sites	--	--	43	79
Company-owned sites	40	40	85	95
Franchisee-owner sites	9	8	12	28
Total	49	48	97	123

At the conclusion of the Combination Plan, assuming the Combination Plan is completed as expected by management, the Network will consist of 122 travel centers, 75 of which will be Company-owned and operated, 37 of which will be Leased Sites and 10 of which will be Franchisee-Owner Sites, although the achievement of the Combination Plan as currently envisioned is not ensured.

The following Management's Discussion and Analysis of Financial Condition and Results of Operations presents detail on the Company's combined results, which differ from the Company's consolidated results reflected in the unaudited financial statements for the three and nine month periods ended September 30, 1996, as a result of the presentation of TA as assets of subsidiary held for disposition during those periods. The following table presents the Company's consolidated results of operations for the 1996 periods as though TA had not been held for disposition and had instead been fully consolidated.

	THREE MONTHS ENDED		NINE MONTHS ENDED	
	SEPTEMBER 30,		SEPTEMBER 30,	
	1997	1996	1997	1996
	(IN MILLIONS OF DOLLARS)			
REVENUES:				
Fuel	\$166.6	\$167.2	\$541.0	\$524.6
Nonfuel	77.1	65.0	214.8	180.7
Rent	6.6	10.5	24.6	31.8
TOTAL REVENUES	250.3	242.7	780.4	737.1
Cost of revenues (excluding depreciation)	180.5	176.2	585.2	559.7
GROSS PROFIT (EXCLUDING DEPRECIATION)	69.7	66.5	195.2	177.4
Operating expenses	43.1	33.8	118.7	94.7
Selling, general and administrative expenses	9.4	12.8	30.1	33.2
Refinancing, transition and development costs	3.9	1.3	11.0	1.4
Depreciation and amortization	5.8	6.8	20.1	19.4
(Gain) loss on sales of property and equipment	(7.4)	(0.1)	(5.9)	(0.1)
Other operating (income) expense, net	1.1	--	1.1	--
INCOME FROM OPERATIONS	13.8	11.9	20.1	28.8
Interest (expense), net	(6.0)	(5.4)	(17.0)	(15.6)
INCOME (LOSS) BEFORE INCOME TAXES AND EXTRAORDINARY ITEMS	7.8	6.5	3.1	13.2
Provision (benefit) for income taxes	3.1	1.4	1.2	4.0
Income (loss) before extraordinary items	4.7	5.1	1.9	9.2
Extraordinary items (net of taxes)	--	--	(5.6)	--
Net (loss) income	\$ 4.7	\$ 5.1	\$ (3.7)	\$ 9.2

## **RESULTS OF OPERATIONS FOR THE NINE AND THREE MONTH PERIODS ENDED SEPTEMBER 30, 1997 AND 1996**

### **REVENUES**

The Company's consolidated revenues for the three and nine month periods ended September 30, 1997 were \$250.3 million and \$780.4 million, respectively, which represent increases over the prior year periods of \$7.6 million, or 3.1%, for the three month period and \$43.3 million, or 5.9%, for the nine month period.

Fuel revenue for the nine months ended September 30, 1997 reflects an increase over the 1996 period of \$16.4 million, or 3.1%. For the third quarter, the 1997 amount reflects a decrease from the same period in 1996 of \$0.6 million, or 0.4%. The increase for the year to date period results from both an increase in diesel gallons sold of 15.5 million gallons and an approximately 2.0% increase in average retail diesel prices. The decrease for the 1997 third quarter as compared to the 1996 third quarter is due to a decrease in diesel gallons sold of 3.8 million gallons, primarily due to the reduction in the total number of locations during 1997, coupled with a decrease of approximately 2.5% in average retail diesel prices.

Nonfuel revenue in both 1997 periods has increased over the same periods in the prior year, primarily due to the increased number of Company-operated sites offering nonfuel products and services: from September 30, 1996 through September 30, 1997 there have been 26 additional converted National sites. In addition, a new TA site was opened in September 1996 and two stand-alone TA shops were opened in mid-1996.

Rent revenue for both 1997 periods has decreased from the same periods in 1996 as a result of (a) conversions of leased sites to Company-operated sites, (b) sales of Leased Sites and (c) the rent reductions that are effective when franchisees sign new franchise and lease agreements with the Company. Rent revenue is expected to continue to decline in the fourth quarter as additional sites are converted to Company-operated sites or sold and as additional franchisee-lessees sign new franchise and lease agreements with the Company. The new franchise and lease agreements provide for reduced fixed rents but increased franchise royalty rates to be applied to nonfuel revenues generated by the franchisees' operations. The decline in rent revenue is expected to cease in 1998 as the network rationalization is expected to be substantially complete as regards franchisee-lessees by the end of 1997.

### **GROSS PROFIT**

The Company's gross profit for the third quarter of 1997 was \$69.7 million, compared to \$66.5 million for 1996, an increase of \$3.2 million, or 4.8%. For the nine months of 1997, the Company's gross profit was \$195.2 million, an increase of \$17.8 million, or 10.0%, from 1996. The increase in the Company's gross profit was primarily due to increases in nonfuel revenues and diesel fuel margins, partially offset by decreased rent revenue, resulting from the conversions of travel centers from Leased Sites to Company-operated sites.

## **OPERATING AND SELLING, GENERAL AND ADMINISTRATIVE EXPENSES**

Operating expenses include the direct expenses of Company-operated travel centers and selling, general and administrative expenses ("SG&A") include corporate overhead and administrative costs.

The Company's operating expenses increased by \$9.3 million, or 27.5%, and \$24.0 million, or 25.3%, respectively, to \$43.1 million and \$118.7 million for the three and nine month periods ended September 30, 1997, as compared to the corresponding prior year periods. These increases reflect the increased number of Company-operated locations during 1997 as a result of the 1996 addition of three new-build TA sites (including the two stand-alone shops) and the conversion through September 30, 1997 of 26 Leased Sites to Company-operated sites since September 30, 1996.

The Company's SG&A for the third quarter decreased from \$12.8 million in 1996 to \$9.4 million in 1997, primarily as a result of personnel reductions at National pursuant to the Combination Plan, partially offset by increased staffing in the operational support and business development areas at TA. For the nine month period, SG&A decreased by \$3.2 million to \$30.1 million primarily due to the factors previously described.

## **REFINANCING, TRANSITION AND DEVELOPMENT COSTS**

Refinancing, transition and development costs for the third quarter of 1997 increased from \$1.3 million for 1996 to \$3.9 million, while for the nine months of 1997 such costs increased to \$11.0 million from \$1.4 million in 1996. The 1997 costs were incurred in effecting the combination of National and TA, including recognition of employee termination benefits of \$2.6 million, while the 1996 amount is primarily comprised of \$1.3 million of expenses incurred in a failed refinancing attempt by National.

## **DEPRECIATION AND AMORTIZATION**

Depreciation and amortization for the nine months of 1997 increased by \$0.7 million from the corresponding 1996 period as a result of the capital expenditures made during 1996 and 1997, as well as from increased amortization of deferred financing costs stemming from the refinancing.

## **INCOME FROM OPERATIONS**

Income from operations for the Company for the third quarter of 1997 was \$13.8 million as compared to \$11.9 million in 1996, an increase of \$1.9 million or 16.0%. For the nine months ended September 30, 1997, income from operations reflects a decrease from 1996 of \$8.7 million to \$20.1 million. The decrease for the year to date period is attributable to the transition expenses incurred in 1997, as well as the effect of decreased rent revenue and increased operating costs resulting from the conversions of Leased Sites to Company-operated sites, partially offset by increased nonfuel sales margins as a result of the site conversions, all of which is due to the execution of the Combination Plan throughout 1997. The increase seen for the third quarter is a result of the factors just described, although the transition expense spending is slowing, further offset by the gains realized on the sales of Leased Sites to operators during the 1997 third quarter. EBITDA (defined as income from operations plus the sum of (a) depreciation, amortization and other non-cash charges, (b) refinancing,

transition and development costs and (c) gains or losses from sales of property and equipment) for the Company for the three and nine month periods ended September 30, 1997 was \$17.2 million and \$46.3 million, respectively, as compared to \$19.9 million and \$49.5 million for the respective 1996 periods. The decreased EBITDA in 1997 is largely derived from reduced rent as a result of the Combination Plan.

### **INTEREST (INCOME) EXPENSE - NET**

Interest expense for the third quarter and nine months of 1997 was \$0.6 million and \$1.4 million higher, respectively, than for the same 1996 periods as a result of the increased debt balance after consummation of the refinancing (discussed in Liquidity and Capital Resources below) on March 27, 1997.

### **LIQUIDITY AND CAPITAL RESOURCES**

The Company's cash requirements consist principally of working capital needs, payments of principal and interest on outstanding indebtedness and capital expenditures, including expenditures for acquisitions, expansion and environmental upgrades.

Net cash provided by operating activities totaled \$15.5 million in the nine months of 1997 and \$32.4 million in 1996. The decrease in net cash flows provided by operating activities in 1997 compared to 1996 was primarily due to decreased operating income in 1997, as discussed previously, and growth in working capital requirements as a result of the increased number of Company-operated sites.

Net cash used in investing activities for the nine months ended September 30, 1997 was \$10.3 million versus \$19.6 million in 1996. The amount for 1997 reflects a \$10.5 million increase in expenditures related to capital additions and conversions of Leased Sites to Company-operated sites, offset by a \$19.8 million increase in proceeds from sales of property and equipment resulting from the sales of eight Leased Sites to the respective operators.

Net cash flows provided by financing activities were \$47.8 million in the first nine months of 1997 while for the first nine months of 1996, the net cash flows used in financing activities was \$2.5 million. The change in the amount of financing activity cash flows in 1997 from 1996 was due to the Company's refinancing and recapitalization completed in March 1997.

On March 27, 1997, the Company was refinanced and currently has outstanding \$290.3 million of indebtedness, consisting of \$125.0 million principal amount of Senior Subordinated Notes, \$85.5 million principal amount of Senior Notes and a \$79.8 million term loan facility. The Company also has a \$40.0 million revolving credit facility, which, except for \$1.5 million used for letters of credit, was not drawn upon at September 30, 1997. The Senior Notes have no amortization requirements until 2001, the Senior Subordinated Notes are due 2007 and the term facility has annual amortization requirements of \$500,000 until 2004.

The Company expects to invest up to approximately \$220 million in the Network between 1997 and the end of 2001 (with approximately \$140 million of this amount to be spent by the end of 1998) in connection with a capital program to upgrade, rebrand, reimage and increase the number of travel centers. Approximately \$50

million of the \$220 million intended to be spent represents normal ongoing maintenance and related capital expenditures. The Company has budgeted expenditures in order to add additional sites, rebrand and reimage sites, add additional nonfuel offerings (such as fast food offerings) at existing sites, make required environmental improvements, and purchase, install and upgrade its information systems.

The Company anticipates that it will be able to fund its 1997 working capital requirements and capital expenditures primarily from funds generated from the refinancing, funds generated from operations, and, to the extent necessary, from borrowings under the revolving facility. The Company's long-term liquidity requirements, including capital expenditures, are expected to be financed by a combination of internally generated funds, borrowings and other sources of external financing as needed.

## **ENVIRONMENTAL MATTERS**

The Company's operations and properties are subject to various Environmental Laws.

The Company owns and operates USTs and ASTs at Company-operated locations and Leased Sites which must comply with certain statutory and regulatory requirements by December 22, 1998. The Company is making necessary upgrades to comply with those requirements. The Company expects to spend a total of approximately \$10 million to \$15 million in 1997 and 1998 to complete the upgrade of USTs and other environmental related costs. In addition, the Company has estimated the current ranges of remediation costs at currently active sites and what it believes will be its ultimate share for such costs after required indemnification and remediation is performed by Unocal and BP under the respective Environmental Agreements and has a reserve for such matters of \$0.9 million as of September 30, 1997. While it is not possible to quantify with certainty the environmental exposure, in the opinion of management, the potential liability, beyond that considered in the reserve, for all environmental proceedings, based on information known to date, will not have a material adverse effect on the financial condition, results of operations or liquidity of the Company.

## **NEW ACCOUNTING PRONOUNCEMENT**

In February 1997, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 128, "Earnings per Share," which establishes standards for computing and presenting earnings per share information for periods ending after December 15, 1997. The Company believes that the basic earnings per share calculated amount under this standard will exceed the amount of primary earnings per share presented herein while the diluted earnings per share amount calculated under this standard will approximate the amount of primary earnings per share presented herein.

## **FORWARD-LOOKING STATEMENTS**

The statements contained in this report that are not statements of historical fact may include forward-looking statements that involve a number of risks and uncertainties. Moreover, from time to time the Company may issue other forward-looking statements. The following factors are among those that could cause actual results to differ materially from the forward-looking statements: competition from other travel center and truckstop operators, including additional or improved services or facilities of competitors, the economic condition of the

trucking industry (which in turn is dependent on general economic factors), diesel and gasoline fuel pricing, availability of fuel supply and difficulties that may be encountered by the Company or its franchisees in implementing the Company's plan to combine its existing travel center networks into a single network. The forward looking statements should be considered in light of these factors.

## **PART II--OTHER INFORMATION**

### **Item 1. Legal Proceedings**

The Company is party to several litigation matters, described below, involving certain of its franchisees. The Company does not expect any of these matters to have a material adverse effect on the Company. From time to time the Company is a party to litigation in the ordinary course of its business involving negligence and other similar claims which are covered by the Company's third party insurance policies. While claims for damages in such litigation may in certain instances be in excess of the Company's insurance coverage, the Company does not expect its existing litigation to have a material adverse effect on the Company.

**FORTY-NINER TRUCK PLAZA LITIGATION.** This action was commenced in California Superior Court, Sacramento County, on January 28, 1993 by four Operators of National TravelCenters in California. The complaint asserts claims on behalf of each of the plaintiffs against the Company, Clipper and Unocal Corporation and its subsidiaries based upon alleged violations by Union Oil Company of California and Unocal Corporation (together the "Unocal Entities") of the California Business and Professions Code and of an alleged contract by failing to provide them with a bona fide offer or right of first refusal to purchase their truckstops in connection with the sale of the plaintiffs' truckstops by Unocal to the Company. Two of the plaintiffs settled their claims prior to commencement of the trial. The claims of two plaintiffs, who are franchisees of National in Sacramento and Santa Nella, California, were tried and the jury rendered a verdict awarding \$4.0 million in compensatory damages jointly and severally against the Company, the Unocal Entities and Clipper, and assessing punitive damages against them in the amount of \$1.5 million, \$7.0 million and \$1.6 million, respectively. On August 1, 1995, the court granted the defendants' motions for a new trial on all issues, although it denied defendants' motions for judgment notwithstanding the verdict. On October 22, 1997, the California Court of Appeal filed a decision affirming the trial court's orders granting a new trial and denying defendants' motions for judgment notwithstanding the verdict. The Court of Appeal also reversed an order of the trial court granting a nonsuit on plaintiffs' claim against the Company and Clipper for civil conspiracy. The Company intends to petition the California Supreme Court to seek review of the appeal court's decision. Pursuant to the asset purchase and related agreements between the Company and the Unocal Entities, the Company believes that the Unocal Entities are required to indemnify it for attorneys' fees and compensatory damages. The Unocal Entities may, however, contest the Company's claim for indemnification. The indemnification agreement between the Unocal Entities and the Company does not by its terms cover punitive damages. The Company entered into an agreement indemnifying Clipper in connection with the Company's purchase of the properties in the National Network, and Clipper has asserted and the Company has concurred that this agreement obligates the Company to pay any compensatory and punitive damages assessed against Clipper.

CHARLESTON, WEST VIRGINIA LITIGATION. This action was commenced on April 17, 1996 in the Circuit Court of Berkeley County, West Virginia. The amended complaint, brought on behalf of eighteen National Operators, alleges that the Company's fuel pricing policies and practices violate the PMPA and the Uniform Commercial Code and constitute a breach of the contractual duty of good faith and fair dealing and unjust enrichment. The amended complaint also asserts claims of fraud and fraud in the inducement, apparently based on alleged representations made by the Company concerning fuel pricing. The amended complaint asserts claims against the Company, Clipper and certain present and former directors and officers of the Company, and seeks actual and punitive damages in an unspecified sum. The Company has removed the case to federal court, and the court has granted the Company's motion to transfer the case to federal court in Nashville, Tennessee.

The Company has entered into settlement agreements with four of the plaintiffs pursuant to which the claims of those plaintiffs have been or will be dismissed with prejudice. One additional plaintiff has withdrawn its claims in the action without prejudice.

On March 31, April 1 and April 7, 1997, three of the plaintiffs filed motions for a preliminary injunction. The motions sought an order requiring, among other things, that the Company sell to the movants all of the movants' requirements of diesel fuel at a price per gallon of not more than two cents above the Oil Price Information Service average price under the terms of the Company's existing lease and franchise agreements. In addition, on April 22, 1997, two of the movants filed a motion seeking a temporary restraining order for substantially the same relief. On May 21, 1997, the court denied the plaintiffs' motions. Plaintiffs appealed the trial court's denial of their motions to the United States Courts of Appeals for both the Fourth and the Sixth Circuits. On September 11, 1997, the Fourth Circuit dismissed plaintiffs' appeal for lack of jurisdiction. Plaintiffs' appeal to the Sixth Circuit is pending. By order dated August 1, 1997, all proceedings in the district court have been stayed pending the completion of all appeals.

FOOD SYSTEMS LITIGATION. The Company filed this action on May 7, 1996, in the U.S. District Court for the Middle District of Tennessee seeking, among other things, a declaratory judgment that it was entitled to terminate the franchise of the defendant, one of the Company's TravelCenter Operators, for failure to pay rent and on other grounds. On June 11, 1996, the defendant filed counterclaims for violation of the PMPA, for breach of contract and for breach of implied contract, seeking actual and punitive damages in an unspecified amount. On November 12, 1996, the defendant filed for relief under Chapter 7 of the Bankruptcy Code, thereby staying all proceedings in this action. The Company has recovered possession of the Salt Lake City site through bankruptcy court proceedings. The Company has entered into a settlement agreement with the defendant and certain of its principals which is subject to approval by the United States Bankruptcy Court for the District of Utah, Central Division. The settlement agreement provides for mutual releases and the dismissal of all claims with prejudice.

#### **Item 4. Submission of Matters to a Vote of Security Holders**

On September 2, 1997, the Company commenced a consent solicitation (the "Consent Solicitation") addressed to its non-management stockholders seeking stockholder approval of all amounts and benefits to be provided under a proposed stock option plan and certain proposed employment agreements to be entered into with

senior management. The Consent Solicitation was approved by stockholders representing more than the number of shares required to take stockholder action without a stockholders' meeting. Of the 6,442,302 shares of Company stock eligible to ratify the Consent Solicitation, stockholders representing 5,356,052 shares, or 83.3% of such eligible shares, ratified the Consent Solicitation.

**Item 6. Exhibits and Reports on Form 8-K**

(a) EXHIBITS

**Exhibit 10.1 1997 Stock Incentive Plan**

**Exhibit 27 Financial Data Schedule**

(b) REPORTS ON FORM 8-K

During the three months ended September 30, 1997, the Company filed no reports on Form 8-K.

**SIGNATURE**

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

**TRAVELCENTERS OF AMERICA, INC.**  
(Registrant)

*Date: November 14, 1997*

*By: /S/ JAMES W. GEORGE*

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*Name: James W. George*  
*Title: Senior Vice President and*  
*Chief Financial Officer*  
*(Principal Financial Officer and*  
*Duly Authorized Officer)*

**TRAVELCENTERS OF AMERICA, INC.**

**1997 STOCK INCENTIVE PLAN**

**TRAVELCENTERS OF AMERICA, INC.  
1997 STOCK INCENTIVE PLAN**

**ARTICLE 1**

**GENERAL**

1.1 PURPOSE. The purpose of this TravelCenters of America, Inc. 1997 Stock Incentive Plan (the "Plan") is to provide for certain officers, directors and key employees of TravelCenters of America, Inc. (the "Company") and certain of its Affiliates an equity-based incentive to maintain and enhance the performance and profitability of the Company.

1.2 ADMINISTRATION.

(a) The Plan shall be administered by a committee (the "Committee") which shall be either (i) the Board of Directors of the Company (the "Board") or (ii) a committee composed of two or more members of the Board designated by the Board to administer the Plan. It is expected (although not required) that each director designated to serve on the Committee be a "Non-Employee Director" (within the meaning of Rule 16b-3 promulgated under the Securities Exchange Act of 1934 (the "Act") or any successor rule thereto, and an "outside director" (within the meaning of

Section 162(m) of the Internal Revenue Code of 1986, as amended (the "Code")) during any period when, and to the extent that, Rule 16b-3 and Code section

162(m), respectively, are applicable to the Company and the Plan; provided, however, that the mere fact that a Committee member shall fail to qualify under either of the foregoing requirements shall not invalidate any award made by the Committee which award is otherwise validly made under the Plan. The members of the Committee shall be appointed by, and may be changed at any time and from time to time in the discretion of, the Board.

(b) The Committee shall have the authority (i) to exercise all of the powers granted to it under the Plan, (ii) to construe, interpret and implement the Plan and any Plan agreements executed pursuant to the Plan, (iii) to prescribe, amend and rescind rules relating to the Plan, (iv) to make any determination necessary or advisable in administering the Plan, and (v) to correct any defect, supply any omission and reconcile any inconsistency in the Plan.

(c) The determination of the Committee on all matters relating to the Plan or any Plan agreement shall be conclusive.

(d) No member of the Committee shall be liable for any action or determination made in good faith with respect to the Plan or any award hereunder.

1.3 PERSONS ELIGIBLE FOR AWARDS. Awards under the Plan may be made to such officers, directors and executive, managerial, professional or other employees ("key personnel") of the Company or its Affiliates, as the Committee shall from time to time in its sole discretion select.

#### 1.4 TYPES OF AWARDS UNDER PLAN.

(a) Awards may be made under the Plan in the form of (i) stock options ("options"), (ii) stock appreciation rights related to an option ("related stock appreciation rights"), and (iii) stock appreciation rights not related to any option ("unrelated stock appreciation rights"), all as more fully set forth in Article II.

(b) Options granted under the Plan may be either (i) "nonqualified" stock options subject to the provisions of Code section 83, or (ii) options intended to qualify for incentive stock option treatment described in Code section 422.

(c) All options when granted are intended to be nonqualified stock options, unless the applicable Plan agreement explicitly states that an option is intended to be an incentive stock option. If an option is intended to be an incentive stock option, and if for any reason such option (or any portion thereof) shall not qualify as an incentive stock option, then, to the extent of such nonqualification, such option (or portion) shall be regarded as a nonqualified stock option appropriately granted under the Plan provided that such option (or portion) otherwise meets the Plan's requirements relating to nonqualified stock options.

#### 1.5 SHARES AVAILABLE FOR AWARDS.

(a) Subject to Sections 2.2(c) (relating to adjustments for payments covering fractional shares) and 3.5 (relating to adjustments upon changes in capitalization), as of any date the total number of shares of Common Stock with respect to which options and unrelated stock appreciation rights may be granted under the Plan shall be equal to the excess (if any) of (i) 750,000 shares of Common Stock, over (ii) the sum of (A) the number of shares of Common Stock subject to outstanding options and outstanding unrelated stock appreciation rights granted under the Plan, (B) the number of shares previously issued pursuant to the exercise of options granted under the Plan, and (C) the number of shares in respect of which related and unrelated stock appreciation rights granted under the Plan shall have previously been exercised. In accordance with (and without limitation upon) the preceding sentence, shares of Common Stock covered by options or unrelated stock appreciation rights granted under the Plan which expire, terminate, or are canceled for any reason whatsoever without the grantee (or the grantee's beneficiary) having enjoyed any of the benefits of stock ownership (other than voting rights or dividends that are forfeited) shall again become available for awards under the Plan.

(b) Shares of stock that shall be subject to issuance pursuant to the Plan shall be authorized and applicable unissued or treasury shares of Common Stock.

(c) Without limiting the generality of the foregoing, the Committee may cancel any award granted under the Plan and issue a new award in substitution therefor upon such terms as the Committee may in its sole discretion determine (provided that the substituted award shall satisfy all applicable Plan requirements as of the date such new award is made) without the grantee's consent, where (unless the applicable Plan agreement (as defined in

Section 1.7(a)) otherwise provides) the substituted award confers upon the grantee, until exercised, substantially the same economic benefit inherent in the replaced award, taking into account any post-exercise puts and calls, etc., and with the grantee's consent if otherwise.

(d) In any calendar year, a participant eligible for awards under the Plan may not be granted options and/or stock appreciation rights under the Plan covering a combined total of more than 150,000 shares of Common Stock.

#### 1.6 DEFINITIONS OF CERTAIN TERMS.

(a) The term "Affiliate" as used herein means any person or entity which, at the time of reference, directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Company.

(b) The term "Common Stock" as used herein means the shares of common stock, par value \$.01 per share, of the Company as constituted on the effective date of the Plan, and any other shares into which such common stock shall thereafter be changed by reason of a recapitalization, merger, consolidation, split-up, combination, exchange of shares or the like.

(c) Except as otherwise determined by the Committee in its sole discretion, the "Fair Market Value" of a share of Common Stock as of any date and in respect of any share of Common Stock shall be the mean between the high and low sales prices of a share of Common Stock on such date as reported on the New York Stock Exchange if shares of Common Stock are then trading upon such exchange, or if not, then such average on such other stock exchange on which shares of the Common Stock are principally trading, if any, or if the shares are not then listed on a stock exchange, then such average in over the counter trading, or if the shares are not publicly traded, then, as otherwise reasonably determined by the Committee in its sole discretion in accordance with Appendix A hereto and as set forth in the relevant Plan agreement. In no event shall the Fair Market Value of any share be less than its par value.

## 1.7 AGREEMENTS EVIDENCING AWARDS.

- (a) Options and stock appreciation rights granted under the Plan shall be evidenced by written agreements. Any such written agreements shall (i) contain such provisions not inconsistent with the terms of the Plan as the Committee may in its sole discretion deem necessary or desirable, and (ii) be referred to herein as "Plan agreements."
- (b) Each Plan agreement with respect to the granting of an option shall set forth the number of shares of Common Stock subject to the option granted thereby.
- (c) Each Plan agreement with respect to the granting of a related stock appreciation right shall set forth the number of shares of Common Stock subject to the option related to the stock appreciation right granted thereby. Each Plan agreement with respect to the granting of an unrelated stock appreciation right shall set forth the number of stock appreciation rights granted thereby.
- (d) Each Plan agreement with respect to the granting of an option shall set forth the amount (the "option exercise price") payable by the grantee to the Company in connection with the exercise of the option evidenced thereby. Except as otherwise determined by the Committee with respect to nonqualified stock options, the option exercise price per share shall not be less than the Fair Market Value of a share of Common Stock on the date the option is granted. In the case of options intended to be incentive stock options, the option exercise price per share shall not be less than the Fair Market Value of a share of Common Stock on the date the option is granted.
- (e) Each Plan agreement with respect to a stock appreciation right shall set forth the amount (the "appreciation base") over which appreciation will be measured upon exercise of the stock appreciation right evidenced thereby. Except as otherwise determined by the Committee, the appreciation base per share of Common Stock subject to a stock appreciation right shall not be less than (i) in the case of an unrelated stock appreciation right, the Fair Market Value of a share of Common Stock on the date the stock appreciation right is granted, or (ii) in the case of a related stock appreciation right, the option exercise price per share of Common Stock subject to the related option.

**ARTICLE 2****STOCK OPTIONS AND  
STOCK APPRECIATION RIGHTS**

2.1 GRANT OF STOCK OPTIONS. The Committee may grant options to purchase shares of Common Stock in such amounts and subject to such terms and conditions as the Committee shall from time to time in its sole discretion determine, subject to the terms of the Plan.

2.2 GRANT OF STOCK APPRECIATION RIGHTS.

(a) RELATED STOCK APPRECIATION RIGHTS. The Committee may grant a related stock appreciation right in connection with all or any part of an option granted under the Plan, either at the time the related option is granted or any time thereafter prior to the exercise, termination or cancellation of such option, and subject to such terms and conditions as the Committee shall from time to time determine, subject to the terms of the Plan. The grantee of a related stock appreciation right shall, subject to the terms of the Plan and the applicable Plan agreement, have the right to surrender to the Company for cancellation all or a portion of the related option granted under the Plan, but only to the extent that such option is then exercisable, and to be paid therefor an amount equal to the excess (if any) of (i) the aggregate Fair Market Value of the shares of Common Stock subject to the option or portion thereof (determined as of the date of exercise of such stock appreciation right), over (ii) the aggregate appreciation base (determined pursuant to Section 1.7(e)) of the shares of Common Stock subject to the stock appreciation right or portion thereof surrendered.

(b) UNRELATED STOCK APPRECIATION RIGHTS. The Committee may grant an unrelated stock appreciation right in such amount and subject to such terms and conditions as the Committee shall from time to time in its sole discretion determine, subject to the terms of the Plan. The grantee of an unrelated stock appreciation right shall, subject to the terms of the Plan and the applicable Plan agreement, have the right to surrender to the Company for cancellation all or a portion of such stock appreciation right, but only to the extent that such stock appreciation right is then exercisable, and to be paid therefor an amount equal to the excess (if any) of (i) the aggregate Fair Market Value of the shares of Common Stock subject to the stock appreciation right or portion thereof surrendered (determined as of the date of exercise of such stock appreciation right), over (ii) the aggregate appreciation base (determined pursuant to Section 1.7(e)) of the shares of Common Stock subject to the stock appreciation right or portion thereof.

(c) PAYMENT. Payment due to the grantee upon exercise of a stock appreciation right shall be made in cash and/or in Common Stock (valued at the Fair Market Value thereof as of the date of exercise), as determined by the

Committee in its sole discretion. If the Committee shall determine to make all of such payments in Common Stock, any payments covering fractional shares of Common Stock shall be rounded up to the next whole share, and no fractional shares shall be issued and no cash payments shall be made in lieu of fractional shares.

**2.3 EXERCISE OF RELATED STOCK APPRECIATION RIGHT REDUCES SHARES SUBJECT TO OPTION.** Upon any exercise of a related stock appreciation right or any portion thereof, the number of shares of Common Stock subject to the related option shall be reduced by the number of shares of Common Stock in respect of which such stock appreciation right shall have been exercised.

**2.4 EXERCISABILITY OF OPTIONS AND STOCK APPRECIATION RIGHTS.** Subject to the other provisions of this Plan:

(a) **EXERCISABILITY DETERMINED BY PLAN AGREEMENT.** Each Plan agreement shall set forth the period during which and the conditions subject to which the option or stock appreciation right evidenced thereby shall be exercisable, as determined by the Committee in its sole discretion.

(b) **DEFAULT PROVISIONS.** Unless the applicable Plan agreement otherwise specifies, subject to Section 2.7:

(i) no option or stock appreciation right shall vest or become exercisable prior to the December 31 in the year of grant,

(ii) annual options and stock appreciation rights granted under the Plan shall become fully vested and exercisable on the December 31 in the year of grant provided that the Committee determines that the applicable performance targets established by the Committee have been met (and if the applicable performance targets have not been met then such awards shall not vest or become exercisable and shall be forfeited), and

(iii) each option or stock appreciation right which has become vested and exercisable in accordance with the foregoing clauses shall remain vested and exercisable through December 31, 2006, after which date all such options and stock appreciation rights shall terminate and cease to be exercisable.

(c) **EXERCISE OF RELATED STOCK APPRECIATION RIGHT.** Unless the applicable Plan agreement otherwise provides, a related stock appreciation right shall be exercisable at any time during the period that the related option may be exercised.

(d) **PARTIAL EXERCISE PERMITTED.** Unless the applicable Plan agreement otherwise provides, an option or stock appreciation right granted under the

Plan may be exercised from time to time as to all or part of the shares as to which such option or stock appreciation right shall then be exercisable.

(e) NOTICE OF EXERCISE; EXERCISE DATE.

(i) An option or stock appreciation right shall be exercisable by the filing of a written notice of exercise with the Company, on such form as shall be provided to the Optionee by the Committee and in such manner as the Committee shall in its sole discretion prescribe, and by payment in accordance with Section 2.6.

(ii) Unless the applicable Plan agreement otherwise provides or the Committee in its sole discretion otherwise determines, the date of exercise of an option or unrelated stock appreciation right shall be the date the Company receives such written notice of exercise.

(iii) For purposes of the Plan, the "option exercise date" shall be deemed to be the sixth business day immediately following the date written notice of exercise is received by the Company.

2.5 LIMITATION ON EXERCISE. Notwithstanding any other provision of the Plan, no Plan agreement shall permit an award to be exercisable more than ten (10) years after the date of grant or after December 31, 2006.

2.6 PAYMENT OF OPTION PRICE.

(a) TENDER DUE UPON NOTICE OF EXERCISE. Unless the applicable Plan agreement otherwise provides or the Committee in its sole discretion otherwise determines, (i) any written notice of exercise of an option shall be accompanied by payment of the full purchase price for the shares being purchased, and (ii) the grantee shall have no right to receive shares of Common Stock with respect to an option exercise prior to the option exercise date.

(b) MANNER OF PAYMENT. Payment of the option exercise price shall be made in any combination of the following:

(i) by certified or official bank check payable to the Company (or the equivalent thereof acceptable to the Committee);

(ii) with the consent of the Committee in its sole discretion, by personal check (subject to collection), which may in the Committee's discretion be deemed conditional;

(iii) if and to the extent provided in the applicable Plan agreement, by delivery of previously acquired shares of Common Stock owned

by the grantee for at least six months (or such other period as the Committee may prescribe that will not result in the imposition of "variable accounting") having a Fair Market Value (determined as of the option exercise date) equal to the portion of the option exercise price being paid thereby, provided that the Committee may require the grantee to furnish an opinion of counsel acceptable to the Committee to the effect that such delivery would not result in the grantee incurring any liability under section 16(b) of the Act and does not require any Consent (as defined in Section 3.2); and

(iv) with the consent of the Committee in its sole discretion, by the promissory note and agreement of the grantee providing for payment with interest on the unpaid balance accruing at a rate not less than needed to avoid the imputation of income under Code section 7872 and upon such terms and conditions (including the security, if any, therefor) as the Committee may determine. Any promissory note issued in accordance with this Section 2.6(b)(iv) shall be secured by the stock issued in connection with delivery of such note and shall provide for full recourse against the grantee, unless the Committee otherwise determines.

(c) CASHLESS EXERCISE. Payment in accordance with clause (iii) of Section 2.6(b) may be deemed to be satisfied, if and to the extent provided in the applicable Plan agreement, (i) if the Common Stock is publicly traded (as described in Section 1.6(c)), by delivery to the Company of an assignment of a sufficient amount of the proceeds from the sale of Common Stock acquired upon exercise to pay for all of the Common Stock acquired upon exercise and an authorization to the broker or selling agent to pay that amount to the Company, which sale shall be made at the grantee's direction at the time of exercise, provided that the Committee may require the grantee to furnish an opinion of counsel acceptable to the Committee to the effect that such delivery would not result in the grantee incurring any liability under section 16(b) of the Act and does not require any Consent (as defined in Section 3.2), or (ii) if the Common Stock is not publicly traded (as described in Section 1.6(c)) by tender to the Company for cancellation options covering shares of Common Stock of such number (rounded, if not a whole number to the next highest whole number) that the spread between the option exercise price and the Put Purchase Price (as defined in Appendix B) of such shares is sufficient to pay for the number of shares being purchased.

(d) ISSUANCE OF SHARES. As soon as practicable after receipt of full payment, the Company shall, subject to the provisions of Section 3.2, deliver to the grantee one or more certificates for the shares of Common Stock so purchased, which certificates may bear such legends as the Company may deem appropriate concerning restrictions on the disposition of the shares in accordance with applicable securities laws, rules and regulations or otherwise.

**2.7 TERMINATION OF EMPLOYMENT.** Subject to the other provisions of the Plan and unless the applicable Plan agreement otherwise provides:

(a) **GENERAL RULE.** All options and stock appreciation rights granted to a grantee shall terminate upon his termination of employment for any reason (including death) except to the extent post-employment exercise of the vested portion of an option or stock appreciation right is permitted in accordance with this Section 2.7. The "vested portion" of any option or stock appreciation right shall mean the portion thereof which is vested (whether or not then exercisable) immediately prior to the grantee's termination of employment for any reason.

(b) **IMPROPER ACTIVITY; QUIT.** All options and stock appreciation rights granted to a grantee shall terminate and expire on the day the grantee's employment is terminated for cause or the grantee quits employment, whether or not he is a party to a written employment contract. For purposes of this

Section 2.7, a grantee's employment shall be deemed to be terminated for "cause" if, in the case of a grantee who has an employment agreement with the Company or any Affiliate, he is terminated for cause pursuant to the terms of such agreement, and in all other cases if he is discharged (i) on account of fraud, embezzlement or other unlawful or tortious conduct, or conduct involving dishonesty or moral turpitude, whether or not involving or against the Company or any Affiliate, (ii) for violation of a significant policy of the Company or any Affiliate or willful repeated failure to follow directions of the Board of Directors or a senior executive officer, (iii) for serious and willful acts of misconduct detrimental to the business or reputation of the Company or any Affiliate or grantee's conviction of, or plea of guilty or NOLO CONTENDERE to, any crime that constitutes a felony or involves dishonesty or moral turpitude.

(c) **REGULAR TERMINATION; LEAVES OF ABSENCE.** If the grantee's employment terminates for reasons other than as provided in subsection (b) or

(d) of this Section 2.7, the portion of options and stock appreciation rights granted to such grantee which were vested and exercisable immediately prior to such termination of employment may be exercised until the earlier of (a) 30 days after his termination of employment or (b) the date on which such options and stock appreciation rights terminate or expire in accordance with the provisions of the Plan (other than this Section 2.7) and the Plan agreement; provided, that the Committee may in its sole discretion determine such other period for exercise (i) with respect to any portion of options and stock appreciation rights which were vested but not exercisable immediately prior to such termination of employment and (ii) in the case of an individual whose employment terminates solely because his employer ceases to be an Affiliate or he transfers his employment with the Company's consent to a purchaser of a business disposed of by the Company. The Committee may in its discretion determine (i) whether any leave of absence (including short-term or long-term disability or medical leave) shall constitute a termination of employment for

purposes of the Plan, and (ii) the impact, if any, of any such leave on outstanding awards under the Plan.

(d) DEATH. If a grantee's employment terminates by reason of death, or if a grantee's employment terminates in the manner described in Section 2.7(c) and he dies within the period for exercise provided for therein, the options and stock appreciation rights vested and exercisable by him immediately prior to his death shall be exercisable by the person to whom such options and stock appreciation rights pass under the grantee's will (or, if applicable, pursuant to the laws of descent and distribution) until the earlier of (a) one year after the grantee's death or (b) the date on which such options and stock appreciation rights terminate or expire in accordance with the provisions of the Plan (other than this Section 2.7) and the Plan agreement; provided, that the Committee may in its sole discretion determine such other period for exercise with respect to any portion of options and stock appreciation rights which were vested but not exercisable by the grantee immediately prior to his death.

2.8 CALL AND PUT OPTIONS. Unless the applicable Plan agreement otherwise provides,

(a) CALL OPTION OF COMPANY. If a grantee shall no longer be employed by the Company or any Affiliate for any reason whatsoever, including, without limitation, by reason of death, permanent disability, adjudicated incompetency or termination with or without cause (each, a "termination" and the effective date of such termination is hereinafter referred to as the "Termination Effective Date"), irrespective of whether such grantee receives in connection with the termination any severance or other payment from the Company or any Affiliate, the Company, by written notice (the "Call Notice") to such grantee, his estate, or his legal representative, as the case may be, or his "Permitted Transferee" (as defined in Section 3.3) (the "Departing Purchaser"), given within sixty (60) days after the later of (x) the Termination Effective Date, and (y) where applicable, the expiration of the Post-Employment Exercise Period (as defined below) (the "Primary Election Period"), shall have the right, but not the obligation, to purchase (any such right but not obligation hereunder, a "Call Option"), and if the Company exercises such Call Option, the Departing Purchaser shall have the obligation to sell, such number of shares of Common Stock specified in the Call Notice, which number may be any or all of the shares of Common Stock held by the Departing Purchaser (the "Departing Purchaser Shares"), at an aggregate purchase price equal to the Call Purchase Price (as defined in Appendix A hereof) on the Termination Effective Date. The Post-Employment Exercise Period shall mean the period following the grantee's termination of employment during which he (or in the case of his death, the person to whom options to acquire such shares pass in accordance with Section 2.7(d) hereof) may exercise the vested portion of such option granted thereunder in accordance with the provisions of Section 2.7 hereof (or under the applicable Plan agreement, if different). If the Company elects not to purchase all of the Departing Purchaser

Shares, not later than the end of the Primary Election Period, the Company shall so notify the other Management Stockholders and shall include in such notice the Call Purchase Price on the Termination Effective Date.

(b) **CALL OPTION OF OTHER MANAGEMENT STOCKHOLDERS.** For the thirty (30) days following the end of the Primary Election Period (or the earlier delivery of the notice from the Company referred to in the final sentence of Section 2.8(a)) (the "Secondary Election Period"), each other "Management Stockholder" (as defined in the preamble to the Supplemental Stockholders' Agreement), by written notice (the "Call Notice") to the Departing Purchaser given within the Secondary Election Period, shall have such a Call Option and if any other Management Stockholder exercises such Call Option, the Departing Purchaser shall have the obligation to sell to such Management Stockholder, the aggregate number of Departing Purchaser Shares specified in such Call Notices and not purchased by the Company pursuant to Section 2.8(a), at an aggregate purchase price equal to the Call Purchase Price on the Termination Effective Date. If such Management Stockholders elect to purchase more than the number of Departing Purchaser Shares not purchased by the Company, the same procedure shall be followed, except that the number of shares to be sold and the aggregate purchase price shall be divided PRO RATA among such electing Management Stockholders, in the relative proportion that the number of shares of Common Stock held by each bears to the total number of shares of Common Stock held by all such Management Stockholders electing to purchase the Departing Purchaser Shares not purchased by the Company, or as such electing Management Stockholders may otherwise agree among themselves. If the other Management Stockholders elect not to purchase all of the Departing Purchaser Shares, not later than the end of the Secondary Election Period, the Company shall immediately so notify the Investors and shall include in such notice the Call Purchase Price on the Termination Effective Date.

(c) **CALL OPTION OF INVESTORS.** For the thirty (30) days following the end of the Secondary Election Period (or the earlier delivery of the notice from the Company referred to in the final sentence of Section 2.8(b)) (the "Tertiary Election Period"), each "Investor" (as defined in the Supplemental Stockholders' Agreement), by written notice (the "Call Notice") to the Departing Purchaser given within the Tertiary Election Period, shall have such a Call Option and if any Investor exercises such Call Option, the Departing Purchaser shall have the obligation to sell to the Investors, the aggregate number of Departing Purchaser Shares specified in such Call Notices not purchased by the Company or the other Management Stockholders pursuant to Sections 2.8(a) and 2.8(b), at an aggregate purchase price equal to the Call Purchase Price on the Termination Effective Date. If the Investors elect to purchase more than the number of Departing Purchaser Shares not purchased by the Company or the other Management Stockholders, the same procedure shall be followed, except that the number of shares to be sold and the aggregate purchase price shall be divided PRO RATA among such electing Investors, in the relative proportion that the number of shares of Common Stock held by each

bears to the total number of shares of Common Stock held by all such Investors electing to purchase Departing Purchaser Shares, or as such electing Investors may otherwise agree among themselves. If the Investors elect not to purchase all of the Departing Purchaser Shares not purchased by the Company or the other Management Stockholders, the Company shall immediately so notify the Put Eligible Holders (as defined below) and shall include in such notice the Put Purchase Price on the Termination Effective Date.

(d) PUT OPTION. If all of the Departing Purchaser Shares are not purchased pursuant to Sections 2.8(a) through (c) above, then for a period of sixty (60) days following the Tertiary Election Period (or the earlier delivery of the notice from the Company referred to in the final sentence of

Section 2.8(c)), the Departing Purchaser shall have the right and option (the "Put Option") to require the Company to purchase any or all of the shares of Common Stock held by such Departing Purchaser by delivering written notice of exercise (the "Put Exercise Notice") to the Company setting forth the number of such shares of Common Stock subject to the Put Option. If the Departing Purchaser shall exercise the Put Option, then the Company shall purchase, and the Departing Purchaser shall sell, such number of shares of Common Stock set forth in the Put Exercise Notice delivered by such Departing Purchaser at an aggregate purchase price equal to the Put Purchase Price (as defined in Appendix B hereof) on the Termination Effective Date.

(e) RESTRICTIONS ON PUT. In the event that following the delivery of a Put Exercise Notice, the Company is unable to repurchase the shares of Common Stock set forth in the Put Exercise Notice (and any shares of Common Stock transferred by the grantee to his Permitted Transferees) as a result of legal or bona fide business or contractual restrictions which the Company shall make reasonable efforts to remove, then such Put Exercise Notice shall nevertheless remain in full force and effect (in which event the Company shall repurchase the shares of Common Stock set forth in the Put Exercise Notice within sixty (60) days following the date on which the Company first becomes able to repurchase all of such shares), unless within sixty (60) days of receiving notice from the Company of such inability (and in any event prior to repurchase of such shares by the Company), the Departing Purchaser notifies the Company that he elects to withdraw and terminate the Put Exercise Notice.

(f) CLOSING. The closing of any purchase under this Section 2.8 shall, subject to Section 2.8(e) and a reasonable period to effect the completion of any required regulatory approvals, be held at the principal offices of the Company at 11:00 a.m. local time on the 30th day after the date of the latest Call Notice or, if applicable, Put Exercise Notice, as the case may be, or at such other time and place as the Company and the Departing Purchaser agree upon. At such closing, the Departing Purchaser shall deliver or cause the delivery of certificates representing the shares of Common Stock to be sold, duly endorsed for transfer and accompanied by all requisite stock transfer taxes, and such shares shall be free and

clear of any liens, claims, options, charges, encumbrances or rights of others arising through the action or inaction of the Departing Purchaser and the Departing Purchaser shall so represent and warrant, and further represent and warrant that he or she or it is the beneficial owner of such shares. The Company, the other Management Stockholders and/or the Investors, as the case may be, shall deliver at the closing payment in full, by certified or bank check for such shares.

(g) **TERMINATION OF CALL AND PUT OPTIONS UPON IPO.** The provisions of this Section 2.8 shall terminate automatically upon the consummation of an IPO (as such term is defined in Section 3.11(e)).

**2.9 SPECIAL ISO REQUIREMENTS.** In order for a grantee to receive special tax treatment with respect to stock acquired under an option intended to be an incentive stock option, the grantee of such option must be, at all times during the period beginning on the date of grant and ending on the day three months before the date of exercise of such option, an employee of the Company or any of the Company's parent or subsidiary corporations (within the meaning of Code section 424), or of a corporation or a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which Code section 424(a) applies. No option intended to be an incentive stock option shall be granted under the Plan unless the Plan is approved, directly or indirectly, by (i) the express consent of stockholders holding at least a majority of the Company's voting stock voting in person or by proxy at a duly held stockholders' meeting, or (ii) the unanimous written consent of the stockholders of the Company, within 12 months before or after the date the Plan is adopted. If an option granted under the Plan is intended to be an incentive stock option, and if the grantee, at the time of grant, owns stock possessing 10 percent or more of the total combined voting power of all classes of stock of the grantee's employer corporation or of its parent or subsidiary corporation, then (a) the option exercise price per share shall in no event be less than 110 percent of the Fair Market Value of the Common Stock on the date of such grant and (b) such option shall not be exercisable after the expiration of five years after the date such option is granted.

### **ARTICLE 3**

#### **MISCELLANEOUS**

##### **3.1 AMENDMENT OF THE PLAN; MODIFICATION OF AWARDS.**

(a) **PLAN AMENDMENTS.** The Board may, without stockholder approval, at any time and from time to time suspend, discontinue or amend the Plan in any respect whatsoever, except that no such amendment shall impair any rights under either any award theretofore made under the Plan or a Plan Agreement theretofore executed, without the consent of the optionee. Furthermore, from and

after the time the Plan is initially approved by the stockholders, except as and to the extent otherwise permitted by Section 3.5 or 3.11, no such amendment shall be made without stockholder approval if (i) such approval is necessary to comply with any tax or regulatory requirement, including for these purposes any approval requirement which is a prerequisite for exemptive relief from Section 16(b) of the Act or Code section 162(m) (provided that the Company is subject to the requirements of Section 16 of the Act or Code section 162(m), as the case may be, as of the date of such action), (ii) if such amendment shall permit a stock option or stock appreciation right to be exercisable more than 10 years after the date of grant, or (iii) if such amendment shall extend the term of the Plan beyond the period set forth in Section 3.13.

(b) AWARD MODIFICATIONS. With the consent of the grantee (except with respect to the Committee's ability to substitute awards without the consent of the grantee in accordance with Section 1.5(c)), and subject to the terms and conditions of the Plan (including Section 3.1(a)), the Committee may amend outstanding Plan agreements with such grantee, including, without limitation, any amendment which would (i) accelerate the time or times at which an award may vest or become exercisable and/or (ii) extend the scheduled termination or expiration date of the award.

### 3.2 RESTRICTIONS.

(a) CONSENT REQUIREMENTS. If the Committee shall at any time determine that any Consent (as hereinafter defined) is necessary or desirable as a condition of, or in connection with, the granting of any award under the Plan, the acquisition, issuance or purchase of shares or other rights hereunder or the taking of any other action hereunder (each such action being hereinafter referred to as a "Plan Action"), then such Plan Action shall not be taken, in whole or in part, unless and until such Consent, which the Committee shall make reasonable efforts to obtain, shall have been effected or obtained to the full satisfaction of the Committee. Without limiting the generality of the foregoing, if (i) the Committee may make any payment in cash, Common Stock or both, and (ii) the Committee determines that Consent is necessary or desirable as a condition of, or in connection with, payment in any one or more of such forms, then the Committee shall be entitled to determine not to make any payment whatsoever until such Consent has been obtained.

(b) CONSENT DEFINED. The term "Consent" as used herein with respect to any Plan Action means (i) any and all listings, registrations or qualifications in respect thereof upon any securities exchange or other self-regulatory organization or under any federal, state or local law, rule or regulation, (ii) the expiration, elimination or satisfaction of any prohibitions, restrictions or limitations under any federal, state or local law, rule or regulation or the rules of any securities exchange or other self-regulatory organization, (iii) any and all written agreements and representations by the grantee with respect to the disposition of shares, or with

respect to any other matter, which the Committee shall deem necessary or desirable to comply with the terms of any such listing, registration or qualification or to obtain an exemption from the requirement that any such listing, qualification or registration be made and (iv) any and all consents, clearances and approvals in respect of a Plan Action by any governmental or other regulatory bodies or any parties to any loan agreements or other contractual obligations of the Company or any Affiliate.

**3.3 NONTRANSFERABILITY.** No award granted to any grantee under the Plan or under any Plan agreement shall be assignable or transferable by the grantee other than by will or by the laws of descent and distribution. During the lifetime of the grantee, all rights with respect to any option or stock appreciation right granted to the grantee under the Plan or under any Plan agreement shall be exercisable only by him. Shares of Common Stock acquired upon exercise of any portion of an option granted to a grantee under the Plan shall not be transferable to any person, other than (i) to the grantee's parent, spouse, ex-spouse or child (or any trust for the benefit of any such person) or (ii) pursuant to the laws of descent and distribution, in each case, to a "Permitted Transferee" and such shares shall remain subject to the call and put options set forth in Section 2.8 above. Each transferee shall agree in writing to be bound by all of the provisions of this Plan and any applicable Plan agreement, and no such transferee shall be permitted to make any transfer other than in accordance with the terms of the Plan or such Plan agreement.

#### **3.4 WITHHOLDING TAXES.**

(a) Whenever under the Plan shares of Common Stock are to be delivered upon exercise of an option or stock appreciation right, the Company may require as a condition of delivery that the grantee remit an amount sufficient to satisfy all federal, state and other governmental withholding tax requirements related thereto. Whenever cash is to be paid under the Plan (whether upon exercise of a stock appreciation right or otherwise), the Company may, as a condition of its payment, deduct therefrom, or from any salary or other payments due to the grantee, an amount sufficient to satisfy all federal, state and other governmental withholding tax requirements related thereto or to the delivery of any shares of Common Stock under the Plan.

(b) Without limiting the generality of the foregoing, (i) a grantee may elect to satisfy all or part of the foregoing withholding requirements by delivery of unrestricted shares of Common Stock owned by the grantee for at least six months (or such other period as the Committee may determine) having a Fair Market Value (determined as of the date of such delivery by the grantee) equal to all or part of the amount to be so withheld, provided that the Committee may require, as a condition of accepting any such delivery, that the grantee furnish an opinion of counsel acceptable to the Committee to the effect that such delivery would not result in the grantee incurring any liability under section 16b of the Act; and (ii) the Committee may permit any such delivery to be made by withholding shares of

Common Stock from the shares otherwise issuable pursuant to the award(s) giving rise to the tax withholding obligation (in which event the date of delivery shall be deemed the date the award(s) was exercised).

**3.5 ADJUSTMENTS UPON CHANGES IN CAPITALIZATION.** If and to the extent specified by the Committee, the number of shares of Common Stock which may be issued pursuant to awards under the Plan, the number of shares of Common Stock subject to awards under the Plan, the option exercise price and appreciation base of options and stock appreciation rights theretofore granted under the Plan, and the amount payable by a grantee in respect of an award (if any), may be appropriately adjusted (as the Committee may determine) for any change in the number of issued shares of common stock resulting from the subdivision or combination of shares of common stock or other capital adjustments, or the payment of a stock dividend or other extraordinary dividend after the effective date of this Plan, or other change in such shares of common stock effected without receipt of consideration by the Company; provided, that any awards covering fractional shares of common stock resulting from any such adjustment shall be rounded up to the next whole share, and provided further, that each incentive stock option granted under the Plan shall not be adjusted in a manner that causes such option to fail to continue to qualify as an "incentive stock option" within the meaning of Code section 422. Adjustments under this Section 3.5 shall be made by the Committee, whose determination as to what adjustments shall be made, and the extent thereof, shall be final, binding and conclusive.

**3.6 RIGHT OF DISCHARGE RESERVED.** Nothing in the Plan or in any Plan agreement shall confer upon any person the right to continue in the employment or service of the Company or an Affiliate or affect any right which the Company or an Affiliate may have to terminate the employment or service of such person.

**3.7 NO RIGHTS AS A STOCKHOLDER.** No grantee or other person shall have any of the rights of a stockholder of the Company with respect to shares subject to an option or shares deliverable upon exercise of a stock appreciation right until the issuance of a stock certificate to him for such shares. Except as otherwise provided in Section 3.5, no adjustment shall be made for dividends, distributions or other rights (whether ordinary or extraordinary, and whether in cash, securities or other property) for which the record date is prior to the date such stock certificate is issued. In the case of a grantee of an award which has not yet vested and become exercisable, the grantee shall have the rights of a stockholder of the Company if and only to the extent provided in the applicable Plan agreement.

**3.8 NATURE OF PAYMENTS.**

(a) Any and all awards or payments hereunder shall be granted, issued or paid, as the case may be, in consideration of services performed for the Company or for its Affiliates by the grantee.

(b) No such awards, issuances and payments shall, unless otherwise determined by the Committee, be taken into account in computing the amount of the grantee's salary or compensation for the purposes of determining any pension, retirement, death or other benefits under (i) any pension, retirement, life insurance or other benefit plan of the Company or any Affiliate or (ii) any agreement between the Company or any Affiliate and the grantee.

(c) By accepting an award under the Plan, the grantee shall thereby waive any claim to continued exercise or vesting of an award or to damages or severance entitlement related to non-continuation of the award beyond the period provided herein or in the applicable Plan agreement, notwithstanding any contrary provision in any written employment contract with the grantee, whether any such contract is executed before or after the grant date of the award.

**3.9 NON-UNIFORM DETERMINATIONS.** The Committee's determinations under the Plan need not be uniform and may be made by it selectively among persons who receive, or are eligible to receive, awards under the Plan (whether or not such persons are similarly situated). Without limiting the generality of the foregoing, the Committee shall be entitled, among other things, to make non-uniform and selective determinations, and to enter into non-uniform and selective Plan agreements, as to (a) the persons to receive awards under the Plan, (b) the terms and provisions of awards under the Plan, (c) the exercise by the Committee of its discretion in respect of the exercise of stock appreciation rights pursuant to the terms of the Plan, and (d) the treatment of leaves of absence for purposes of Section 2.7(b).

**3.10 OTHER PAYMENTS OR AWARDS.** Nothing contained in the Plan shall be deemed in any way to limit or restrict the Company, any Affiliate or the Committee from making any award or payment to any person under any other plan, arrangement or understanding, whether now existing or hereafter in effect.

**3.11 CERTAIN REORGANIZATIONS.**

(a) In the event that the Company is merged or consolidated with another corporation (other than an Affiliate) and, whether or not the Company shall be the surviving corporation, there shall be any change in the shares of common stock by reason of such merger or consolidation, or in the event that all or substantially all of the assets of the Company are acquired by another person (other than an Affiliate) or in the event of a "Change of Control" (as defined in Section 3.11(e) below), after the date of the adoption of this Plan, or in the event of a reorganization or liquidation of the Company where the recipient of most of the Company's assets is not an Affiliate (each such event being hereinafter referred to as a "Reorganization Event") or in the event that the Board shall propose that the Company enter into a Reorganization Event, then the Committee may in its discretion take any or all of the following actions:

(i) by written notice to each grantee, provide that his outstanding options and/or stock appreciation rights will be terminated unless exercised within 30 days (or such longer period as the Committee shall determine in its sole discretion) after the date of such notice (without acceleration of the vesting and/or exercisability of such awards (subject to the provisions of Section 3.11(c) with respect to a Change of Control or IPO)); and/or

(ii) advance the dates upon which any or all outstanding options and/or stock appreciation rights shall be vested and/or exercisable (subject to the provisions of Section 3.11(c) with respect to a Change of Control or IPO).

(b) Whenever deemed appropriate by the Committee, any action referred to in Section 3.11(a) may be made conditional upon the consummation of the applicable Reorganization Event.

(c) In the event that a "Change of Control" or an "IPO" (as such terms are defined in Section 3.11(e) below) is effective prior to January 1, 2001, then upon the consummation of the Change of Control or IPO: (i) all outstanding options and unrelated stock appreciation rights granted under the Plan with respect to the calendar year in which such Change of Control or IPO is effective (including any such awards which were granted with respect to a prior calendar year and which did not then vest and become exercisable, which were regranted with respect to the calendar year in which such Change of Control or IPO is effective) to the "Eligible Grantees" (as defined below) shall immediately become fully vested and exercisable, and (ii) any options and unrelated stock appreciation rights granted under the Plan to each Eligible Grantee with respect to each calendar year after the calendar year in which such Change of Control or IPO is effective, as evidenced by a Plan agreement executed by the Eligible Grantee and the Company shall immediately be granted and become fully vested and exercisable. The option exercise price for each such option

(and the appreciation base for each such unrelated stock appreciation right) described in clause (ii) in the preceding sentence shall be the option exercise price for the most recent option granted under the Plan in the event of a Change of Control, or the price per share at which shares of Common Stock are offered in the IPO in the event of an IPO. The term "Eligible Grantee" means an individual who has been granted an award under the Plan and who remains actively employed by the Company or its Affiliates on the effective date of the Change of Control or IPO. There shall be no acceleration of the grant, vesting or exercisability of any award under the Plan if a Change of Control or IPO becomes effective after December 31, 2000. A Change of Control or IPO shall not cause any award granted under the Plan with respect to any calendar year prior to the calendar year in which the Change of Control or IPO becomes effective to become further vested or exercisable.

(d) LOOK BACK RIGHT. If (a) any grantee shall (i) be discharged from employment without cause or (ii) terminate his or her employment for good reason or by reason of such grantee's death or permanent disability; (b) (i) the Company, the other Management Stockholders or the Investors shall have exercised its or their Call Options with respect to any Management Shares held by such grantee (or any other Departing Purchaser of such grantee) or (ii) such Departing Purchaser shall have exercised his, her or its Put Option with respect to any shares of such Departing Purchaser; and (c) a change of control is consummated through one or more transactions (collectively, a "Change of Control Transaction") within six months after such discharge or termination, then such Departing Purchaser (an "Eligible Stockholder"), shall be eligible (but not obligated) to exercise the right to receive from the persons purchasing such shares upon exercise of a Call Option or Put Option (PRO RATA as to the number of such shares so purchased) an additional payment determined in the following sentence. The amount of such additional payment shall be an amount such that the Eligible Stockholder receives the same amount and type of consideration as such Eligible Stockholder would have received in the Change of Control Transaction if the shares transferred through exercise of the Call Options and/or Put Options had instead been transferred in the Change of Control Transaction, by receiving the amount per share by which the consideration that other stockholders received in the Change of Control Transaction exceeds the consideration that the Eligible Stockholder received through the exercise of the Call Options, or through the exercise of the Put Options; provided that, in the case of any Eligible Stockholder who exercised a Put Option, the number of shares subject to adjustment under this Section 3.11(d) (the "Qualifying Number of Put Shares") shall be made only with respect to a number of shares of Common Stock (if any) obtained by dividing (x) the amount of "Indebtedness" (as defined in Section 3.11(e)) owed by such grantee to the Company at the time such Put Option was exercised by (y) the Put Purchase Price at which such Put Options were exercised (the "Put Price"). If the consideration received by other stockholders in the Change of Control Transaction is payable entirely in cash, the payment required by this Section 3.11(d) shall be made by payment of an additional cash payment. If the consideration received by other stockholders in the Change of Control Transaction is all or partially in consideration other than cash, the Eligible Stockholder shall return all or a proportionate amount of the cash previously received upon exercise of the Call Option or all or a proportionate amount of the Qualified Put Amount (as defined below) in exchange for such other consideration. The term "Qualified Put Amount" means the Qualified Number of Put Shares multiplied by the Put Price. In addition, an interest factor of eight percent (8%) per annum shall be charged to the Eligible Stockholder, calculated from the date of payment under the Call Option or Put Option to the date the Eligible Stockholder receives payment or consideration under this Section 3.11(d). The Committee shall make all determinations of any adjustment pursuant to this Section 3.11(d) and such determination shall be final and binding on all parties absent manifest error. Not later than thirty (30) days following a Change of Control Transaction, the Company shall give notice to each Eligible Stockholder of his or her rights under this Section 3.11(d) and unless such Eligible Stockholder shall exercise his or her rights hereunder within

thirty (30) days following the delivery of such notice, all rights under this

Section 3.11(d) shall irrevocably terminate. The provisions of this Section 3.11(d) shall terminate automatically upon the consummation of an IPO.

(e) ADDITIONAL DEFINITIONS. The term "Change of Control" means either (i) a person or "group" (within the meaning of section 13(d)(3) of the Act but excluding any underwriter participating in a public offering of the Company's securities) acquiring or having beneficial ownership of securities (including options, warrants, rights and convertible and exchangeable securities) having a majority of the ordinary voting power of the capital stock of the Company (assuming exercise or conversion solely of the securities held by such person or group), (ii) the election of a majority of the directors of the Company who are not currently directors of the Company and are not designated or approved by a majority of the Company's current directors or their designated or approved successors, or (iii) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all, or substantially all, of the assets of the Company. The term "IPO" means an offering of Common Stock of the Company registered under the Securities Act of 1933, as amended from time to time, or any successor act. The term "Permanent Disability" means the physical or mental inability of the grantee to perform, consistent with past practice, the grantee's duties (including such duties as specified in any employment agreement) for at least 12 consecutive months. The term "Good Reason" means a resignation by the grantee as a result of one or both of the following events: (i) a material reduction in the grantee's aggregate compensation, duties or title with respect to the Company or any of its Affiliates (other than nonsubstantive, titular or nominal changes); or (ii) a material breach of any employment agreement of the grantee by the Company or any of its Affiliates unless such breach is substantially cured within a reasonable period of time after written notice advising the Company of the acts or omissions constituting such breach is actually received by the Company in accordance with the notice provisions of such employment agreement. The term "Indebtedness" means any amount borrowed by a grantee from the Company in connection with a purchase by the grantee of Common Stock.

3.12 SECTION HEADINGS. The section headings contained herein are for the purposes of convenience only and are not intended to define or limit the contents of said sections.

### 3.13 EFFECTIVE DATE AND TERM OF PLAN.

(a) The Plan shall be adopted subject to the approval of the Board and the written approval of holders of record of stock of the Company representing more than seventy-five percent (75%) of the voting power of all outstanding stock of the Company on the date the Plan is adopted (determined without regard to any stock actually or constructively owned by any grantee and such other persons as determined by the Company), and the Plan shall become effective as of January 1, 1997.

(b) The Plan shall terminate 10 years after the earlier of the date on which it becomes effective or the date on which it is approved by shareholders, and no awards shall thereafter be made under the Plan. Notwithstanding the foregoing, all awards made under the Plan prior to such termination date shall remain in effect until such awards have been satisfied or terminated in accordance with the terms and provisions of the Plan.

3.14 GOVERNING LAW. This Plan shall be governed by the laws of the State of New York applicable to agreements made and to be performed entirely within such State.

**APPENDIX A**

"Call Purchase Price" means the purchase price equal to a number obtained by the following formula:

$(X-Y) \times A/B$  where

X equals the Call Multiplier multiplied by EBITDA (as defined below);

Y equals the aggregate amount of consolidated Indebtedness (as defined below);

A equals the number of shares of Common Stock for which options have been granted to the respective grantee ("Shares") subject to the Call Notice; and

B equals the number of issued and outstanding shares of capital stock of the Company plus all shares issuable pursuant to warrants exercisable at a price equal to \$.01 per warrant, each as of the date of the Call Notice.

**The Call Multiplier is equal to the Multiplier.**

The Multiplier shall be determined in the following manner:

(a) Not later than 90 days after the end of each fiscal year of the Company, the Compensation Committee of the Board (the "Compensation Committee") shall determine the Multiplier in effect with respect to the effective date of terminations of employment in such prior fiscal year based on its good faith determination of the value of comparable enterprises. The Compensation Committee shall promptly notify in writing each member of the Company's management who has outstanding options under this Plan which are vested and exercisable and/or was ever granted an option to purchase shares by the Company and currently owns shares of Common Stock and who is subject to any call or put arrangement based on a price determined with reference to the Call Multiplier or the Put Multiplier (as defined in Appendix B) (the "Affected Management Stockholders") as to the Multiplier as so determined.

(b) The determination of the Compensation Committee pursuant to paragraph (a) above shall be final and binding unless, within 30 days following such determination, Affected Management Stockholders holding a majority interest of common stock then owned by the Affected Management Shareholders or which may be acquired by the Affected Management Shareholders upon exercise of outstanding

options under this Plan which are vested and exercisable shall notify the members of the Compensation Committee in writing (a "Contest Notice") that such Affected Management Stockholders contest such determination. The Affected Management Stockholders and the Compensation Committee will use their reasonable best efforts to agree within 30 days following receipt of a Contest Notice upon an appropriate Multiplier and if they are unable to do so shall thereupon jointly appoint an independent appraiser (the "Independent Appraiser") who shall determine the Multiplier and whose decision shall be binding upon the Company and all Affected Management Stockholders. If the Compensation Committee and the Affected Management Stockholders delivering the Contest Notice shall fail to make the joint selection of the Independent Appraiser within such 30-day period, then the Company's independent auditors shall select such Independent Appraiser (which shall not be such auditing firm).

(c) Subject to paragraph (d), the Multiplier shall be in effect for the entire fiscal year in which it is determined and shall be given retroactive effect if necessary to the beginning of such fiscal year. If any Call Option or Put Option shall be exercised prior to the determination of the Multiplier for that fiscal year, the Compensation Committee shall make a provisional determination of the Call Purchase Price or the Put Purchase Price, in its sole discretion, but in no event less than using the minimum Multiplier set forth in paragraph (e) below. Any adjustment required shall be made promptly following final determination of the Multiplier.

(d) Notwithstanding paragraph (c), either the Company or Affected Management Stockholders holding a majority interest of common stock then owned by the Affected Management Shareholders or which may be acquired by the Affected Management Shareholders upon exercise of outstanding options under this Plan which are vested and exercisable may, by written notice to the Compensation Committee (if the request is being made by the Affected Management Stockholders) or to each Affected Management Stockholder (if the request is being made by the Company), require a redetermination of the Multiplier if the persons requesting such redetermination determine in good faith that a material change has occurred since the date of the most recent determination in the financial condition or business prospects of the Company and its subsidiaries, taken as a whole, or in major financial markets in the United States. Promptly following the receipt of any written notice under this paragraph (d), the procedures set forth in paragraphs (a) and (b) shall be taken; however, any redetermination shall only be given prospective effect from the time such redetermination is finally made.

(e) Notwithstanding anything to the contrary set forth in this definition of Multiplier, in no event shall the Multiplier be less than 5.5 nor greater than 7.0.

(f) The costs of the Independent Appraiser shall be borne by the Company.

EBITDA shall mean the Company's consolidated income from operations plus the sum of consolidated depreciation, amortization and non-recurring transition costs and adjusted for consolidated non-cash gains and losses on sales of assets, all in accordance with generally accepted accounting principles consistently applied and as determined by the Committee, for the most recent four (4) consecutive full fiscal quarters subsequent to the date of adoption of this Plan and prior to the date of the delivery of the Call Notice.

Indebtedness shall mean consolidated Indebtedness (as such term is defined in the Indenture with Fleet National Bank pursuant to which the Company's Senior Subordinated Notes are being issued) of the Company, minus marketable securities and cash equivalents, plus \$2.5 million, as reflected on the Company's balance sheet of the last day of the most recent fiscal quarter ending prior to the date of the delivery of the Call Notice.

**APPENDIX B**

"Put Purchase Price" means the purchase price equal to a number obtained by the following formula:

$$(X-Y) \times A/B$$

where

X equals the Put Multiplier multiplied by EBITDA (as defined in Appendix A attached hereto);

Y equals the aggregate amount of consolidated Indebtedness (as defined in Appendix A attached hereto);

A equals the number of Shares (as defined in Appendix A attached hereto) subject to the Put Exercise Notice (and the Shares required to be sold to the Company by any Permitted Transferee); and

B equals the number of issued and outstanding shares of capital stock of the Company plus all shares issuable pursuant to warrants exercisable at a price equal to \$.01 per warrant, each as of the date of the Put Exercise Notice.

The Put Multiplier equals the Call Multiplier as from time to time in effect (as defined in Appendix A hereto), minus 0.2.

## ARTICLE 5

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE COMPANY'S CONSOLIDATED FINANCIAL STATEMENTS FOR THE QUARTER ENDED SEPTEMBER 30, 1997 AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

MULTIPLIER: 1,000

PERIOD TYPE	9 MOS
FISCAL YEAR END	DEC 31 1997
PERIOD START	JAN 01 1997
PERIOD END	SEP 30 1997
CASH	76,816
SECURITIES	0
RECEIVABLES	69,085
ALLOWANCES	4,405
INVENTORY	32,491
CURRENT ASSETS	186,638
PP&E	264,523
DEPRECIATION	0
TOTAL ASSETS	487,912
CURRENT LIABILITIES	72,942
BONDS	289,750
PREFERRED MANDATORY	59,463 <sup>1</sup>
PREFERRED	0
COMMON	0
OTHER SE	52,696 <sup>1</sup>
TOTAL LIABILITY AND EQUITY	487,912
SALES	755,747
TOTAL REVENUES	780,302
CGS	585,226
TOTAL COSTS	585,226
OTHER EXPENSES	174,937
LOSS PROVISION	1,404
INTEREST EXPENSE	16,954
INCOME PRETAX	3,185
INCOME TAX	1,231
INCOME CONTINUING	1,954
DISCONTINUED	0
EXTRAORDINARY	(5,554)
CHANGES	0
NET INCOME	(3,600)
EPS PRIMARY	(8.08)
EPS DILUTED	0

<sup>1</sup> (1) See footnote 7 to the consolidated financial statements

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