

# DOLLAR GENERAL CORP

## FORM 10-Q (Quarterly Report)

Filed 12/12/97 for the Period Ending 10/31/97

Address	100 MISSION RIDGE GOODLETTSVILLE, TN, 37072
Telephone	6158554000
CIK	0000029534
Symbol	DG
SIC Code	5331 - Retail-Variety Stores
Industry	Discount Stores
Sector	Consumer Cyclical
Fiscal Year	02/02

# DOLLAR GENERAL CORP

## FORM 10-Q (Quarterly Report)

Filed 12/12/1997 For Period Ending 10/31/1997

Address	100 MISSION RIDGE GOODLETTSVILLE, Tennessee 37072
Telephone	615-855-4000
CIK	0000029534
Industry	Retail (Specialty)
Sector	Services
Fiscal Year	01/31

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

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

For the quarterly period ended October 31, 1997

*Commission file number 0-4769*

**DOLLAR GENERAL CORPORATION**

(Exact name of registrant as specified in its charter)

KENTUCKY  
(State or other jurisdiction of  
incorporation or organization)

61-0502302  
(I.R.S. employer  
identification no.)

104 Woodmont Blvd.  
Suite 500

Nashville, Tennessee 37205  
(Address of principal executive offices, zip code)

Registrant's telephone number, including area code: (615) 783-2000

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 .

The number of shares of common stock outstanding at December 8, 1997 was 133,490,764.

Dollar General Corporation Form 10-Q For the Quarter Ended October 31, 1997 Index

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**PART I. FINANCIAL INFORMATION**

**ITEM 1. FINANCIAL STATEMENTS**

**DOLLAR GENERAL CORPORATION AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS**

(In thousands)

	Oct. 31, 1997 (Unaudited)	Jan. 31, 1997 (Audited)	Nov. 1, 1996 (Unaudited)
	-----	-----	-----
<b>ASSETS</b>			
Current assets:			
Cash and cash equivalents	\$ 13,168	\$ 6,563	\$ 8,769
Merchandise inventories	737,263	476,103	623,354
Deferred income taxes	3,776	3,689	11,954
Other current assets	21,694	18,244	16,447
	-----	-----	-----
Total current assets	775,901	504,599	660,524
Property & equipment, at cost	378,506	321,917	285,084
Less: Accumulated depreciation	140,404	113,381	105,715
	-----	-----	-----
Net property and equipment	238,102	208,536	179,369
Other assets	5,595	5,012	5,065
	-----	-----	-----
Total assets	\$1,019,598	\$718,147	\$844,958
	=====	=====	=====
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>			
Current liabilities:			
Current portion of long-term debt	\$ 1,597	\$ 2,030	\$ 2,060
Short-term borrowings	193,583	38,469	184,725
Accounts payable	210,845	103,523	144,684
Accrued expenses	75,547	70,441	67,937
Income taxes	14,363	10,002	4,913
	-----	-----	-----
Total current liabilities	495,935	224,465	404,319
Long-term debt	1,411	2,582	2,748
Deferred income taxes	5,360	5,571	3,573
Shareholders' equity:			
Preferred stock	858	858	858
Common stock	66,660	53,105	42,389
Additional paid-in capital	373,234	329,948	326,199
Retained earnings	276,667	302,145	265,399
	-----	-----	-----
Total shareholders' equity	717,419	686,056	634,845
Less: treasury stock	200,527	200,527	200,527
	-----	-----	-----
Total shareholders' equity	516,892	485,529	434,318
	-----	-----	-----
Total liabilities and shareholders' equity	\$1,019,598	\$718,147	\$844,958
	=====	=====	=====

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

**DOLLAR GENERAL CORPORATION AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF INCOME**  
(In thousands except per share amounts)

(Unaudited)

	Three Months Ended		Nine Months Ended	
	Oct. 31 1997	Nov. 1 1996	Oct. 31 1997	Nov. 1 1996
Net sales	\$649,400	\$508,977	\$1,766,234	\$1,459,222
Cost of goods sold	465,616	360,343	1,280,439	1,053,486
Gross profit	183,784	148,634	485,795	405,736
Selling, general and administrative expense	128,220	104,178	355,254	299,444
Operating profit	55,564	44,456	130,541	106,292
Interest expense	1,559	1,485	2,625	3,791
Income before provision for taxes on income	54,005	42,971	127,916	102,501
Provision for taxes on income	20,387	16,329	48,288	38,950
Net income	\$ 33,618	\$ 26,642	\$ 79,628	\$ 63,551
Net income per common and common equivalent share	\$ 0.24	\$ 0.19	\$ 0.58	\$ 0.46
Weighted average number of common shares outstanding	137,813	138,089	137,537	138,619
Cash dividends per common share as declared	\$ .04	\$ .05	\$ .13	\$ .15
As adjusted to give retroactive effect to the five-for-four stock splits distributed on February 12, 1997 and September 22, 1997:	\$ .04	\$ .03	\$ .12	\$ .10

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

**DOLLAR GENERAL CORPORATION AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

(In thousands)

(Unaudited)

	Nine Months Ended	
	Oct. 31, 1997	Nov. 1, 1996
Operating activities:		
Net income	\$ 79,628	\$ 63,551
Adjustments to reconcile net income to net cash used in operating activities:		
Depreciation and amortization	27,750	23,027
Deferred income taxes	(298)	615
Change in operating assets and liabilities:		
Merchandise inventories	(261,160)	(134,992)
Accounts payable trade	107,322	41,508
Accrued expenses	5,106	5,838
Income taxes	4,361	(9,844)
Other	(2,848)	(1,712)
	(40,139)	(12,009)
Net cash used in operating activities	(40,139)	(12,009)
Investing activities		
Purchase of property and equipment	(92,313)	(46,897)
Proceeds from sale of property and equipment	33,811	0
	(58,502)	(46,897)
Net cash used in investing activities	(58,502)	(46,897)
Financing activities:		
Issuance of short-term borrowings	170,892	149,390
Repayments of short-term borrowings	(15,777)	(36,811)
Issuance of long-term debt	190	1,487
Repayments of long-term debt	(1,794)	(1,493)
Payment of cash dividends	(17,562)	(12,672)
Proceeds from exercise of stock options	26,072	15,257
Repurchase of common stock	(75,123)	(59,788)
Tax effect of stock options	17,748	7,437
Other	600	524
	105,246	63,331
Net cash provided by financing activities	105,246	63,331
Net increase in cash and cash equivalents	6,605	4,425
Cash and cash equivalents at beginning of period	6,563	4,344
Cash and cash equivalents at end of period	\$ 13,168	\$ 8,769

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

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
(Unaudited)

1. Basis of Presentation

The accompanying consolidated financial statements are presented in accordance with the requirements of Form 10-Q and consequently do not include all of the disclosures normally required by generally accepted accounting principles or those normally made in the Company's Annual Report on Form 10-K. Accordingly, the reader of the quarterly report on Form 10-Q should refer to the Company's Annual Report on Form 10-K for the year ended January 31, 1997 for additional information.

The accompanying consolidated financial statements as of October 31, 1997 and November 1, 1996, have been prepared in accordance with the Company's customary accounting practices and have not been audited. All subsidiaries are included. In management's opinion, all adjustments (which are of a normal recurring nature) necessary for a fair presentation of the results of operations for the three-month and nine-month periods ended October 31, 1997 and November 1, 1996, have been made.

Interim cost of goods sold is determined using estimates of inventory shrinkage, inflation, and markdowns which are adjusted during interim periods to reflect actual results. Because of the seasonal nature of the Company's business, the results for interim periods are not necessarily indicative of the results to be expected for the entire year.

2. Net Income Per Common Share

Net income per common and common equivalent share is based upon the actual weighted average number of common shares outstanding during each period (including the presumed conversion of the Series A Convertible Preferred Stock) plus the assumed exercise of dilutive stock options as follows:

As adjusted to give retroactive effect to the five-for-four stock splits distributed on February 12, 1997 and September 22, 1997:

	Three Months Ended		Nine Months Ended	
	(In thousands)			
	Oct. 31, 1997	Nov. 1, 1996	Oct. 31, 1997	Nov. 1, 1996
Actual weighted average number of common shares outstanding during the period	113,266	112,731	113,558	113,227
Common Stock Equivalents:				
Dilutive effect of stock options using the "Treasury Stock Method"	3,603	4,414	3,035	4,448
1,715,742 shares of Series A Convertible Preferred Stock Issued August 22, 1994	20,944	20,944	20,944	20,944
Weighted Average Shares	137,813	138,089	137,537	138,619



3. Changes in shareholders' equity for the nine months ended October 31, 1997 and November 1, 1996 were as follows (dollars in thousands except per share amounts):

	Preferred Stock	Common Stock	Additional Paid-In Capital	Retained Earnings	Treasury Stock	Total
	-----	-----	-----	-----	-----	-----
Balances, January 31, 1996	\$ 858	\$ 42,762	\$ 303,609	\$ 273,309	\$ 200,527	\$ 420,011
Net income				63,551		63,551
Cash dividend, \$.15 per common share, as declared				(10,863)		(10,863)
Cash dividend, \$.75 per preferred share				(1,810)		(1,810)
Issuance of common stock under employee stock incentive plans		614	14,643			15,257
Tax benefit from exercise of options			7,436			7,436
Repurchase of common stock		(1,000)		(58,788)		(59,788)
Transfer to ESOP		13	511			524
	-----	-----	-----	-----	-----	-----
Balances, November 1, 1996	\$ 858	\$ 42,389	\$ 326,199	\$ 265,399	\$ 200,527	\$ 434,318
	=====	=====	=====	=====	=====	=====
Balances, January 31, 1997	\$ 858	\$ 53,105	\$ 329,948	\$ 302,145	\$ 200,527	\$ 485,529
Net income				79,628		79,628
Cash dividend, \$.13 per common share as declared				(15,132)		(15,132)
Cash dividend, \$.65 per preferred share				(2,430)		(2,430)
Stock split adjusted September 22, 1997		13,416		(13,416)		
Issuance of common stock under employee stock incentive plans		1,119	24,953			26,072
Tax benefit from exercise of options			17,748			17,748
Repurchase of common stock		(995)		(74,128)		(75,123)
Transfer to ESOP		15	585			600
	-----	-----	-----	-----	-----	-----
Balances, October 31, 1997	\$ 858	\$ 66,660	\$ 373,234	\$ 276,667	\$ 200,527	\$ 516,892
	=====	=====	=====	=====	=====	=====

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

This discussion and analysis contains both historical and forward-looking information. The forward-looking statements are made pursuant to the safe-harbor provisions of the Private Securities Litigation Reform Act of 1995. Although the Company believes the assumptions underlying the forward-looking statements contained herein are reasonable, any of the assumptions could be inaccurate, and therefore, actual results may differ materially from those projected in the forward-looking statements. Forward-looking statements may be significantly impacted by certain risks and uncertainties, including, but not limited to, general transportation and distribution delays or interruptions, inventory risks due to shifts in market demand, changes in product mix, costs and delays associated with building, opening and operating a new distribution center and the risk factors listed in the Company Annual Report on Form 10-K for the year ended January 31, 1997. The Company undertakes no obligation to publicly release any revisions to any forward-looking statements contained herein to reflect events or circumstances occurring after the date hereof or to reflect the occurrence of unanticipated events.

The following text contains references to years 1998, 1997, and 1996, which represent fiscal years ending or ended January 30, 1998, and January 31, 1997 and 1996, respectively. This discussion and analysis should be read in conjunction with, and is qualified in its entirety by, the consolidated financial statements, including the notes thereto.

### RESULTS OF OPERATIONS

The nature of the Company's business is seasonal. Historically, sales in the fourth quarter have been significantly higher than sales achieved in each of the first three quarters of the fiscal year. Thus, expenses, and to a greater extent operating income, vary by quarter. Results of a period shorter than a full year may not be indicative of results expected for the entire year. Furthermore, comparing any period to other than the same period of the previous year will not reflect the seasonal nature of the Company's business.

In August 1996, the federal minimum wage law was changed to increase minimum wage from \$4.25 per hour to \$4.75 per hour effective October 1, 1996 and from \$4.75 per hour to \$5.15 per hour effective September 1, 1997. The Company estimates that this change will result in an increase in wage expense during fiscal 1998 of approximately \$8.0 million and resulted in an increase during fiscal 1997 of approximately \$2.1 to \$2.3 million above otherwise expected levels. The Company believes that increased sales and employee productivity will partially offset the financial impact to operations of the minimum wage increase for fiscal 1998.

### NINE MONTHS ENDED OCTOBER 31, 1997 AND NOVEMBER 1, 1996

**NET SALES.** Net sales for the first nine months of fiscal 1998 increased 21.0%, to \$1.77 billion from \$1.46 billion for the comparable period of fiscal 1997. The increase resulted from 455 net additional stores being in operation as of October 31, 1997 as compared with November 1, 1996 and an increase of 6.6% in same-store sales. Same store sales growth in the first nine months of fiscal 1997 was 7.9%.

The Company regards "same stores" as those opened prior to the beginning of the previous fiscal year which have remained open throughout the previous fiscal year and the period reported. Management believes that the same-store sales were negatively impacted during the first six months by dropping an advertising circular and by store interruptions caused by converting more than 2,400 stores to the Company's new prototype during fiscal 1998. The new prototype and related product mix reflects a 65%/35% hardlines to softlines space allocation versus the previous 50%/50% allocation. The new prototype allocates more space to faster-turning consumable merchandise. For the fourth quarter of fiscal 1998, management expects continued improvement in net sales and same store sales increases.

**GROSS PROFIT.** Gross profit for the first nine months was \$485.8 million, or 27.5% of net sales, compared to \$405.7 million, or 27.8% of net sales, in the same period last year. The decrease in gross profit as a percent to sales was primarily impacted by higher freight costs associated with adding 700 new items to the merchandise mix and lower margin on current purchases. These higher costs were partially offset by lower estimated shrinkage and higher margin on beginning inventory. Management currently anticipates a slight decline in gross profit as a percent of net sales for fiscal 1998.

**SELLING, GENERAL AND ADMINISTRATIVE EXPENSE.** Selling, general and administrative expense for the nine months, ending October 31, 1997, totaled \$355.3 million, or 20.1% of net sales, compared with \$299.4 million, or 20.5% of net sales in the comparable period last year. As a percentage of sales, increases in professional fees and inventory services were offset by decreases in (i) employee incentive compensation expense, (ii) self-insurance expense, and (iii) property and use taxes. Total operating expense increased 18.6% primarily as a result of 455 net additional stores being in operation as compared with the comparable period last year. Management currently anticipates a continued slight decline in selling general and administrative expense as a percent of net sales for fiscal 1998.

**INTEREST EXPENSE.** For the first nine months of fiscal 1998 interest expense decreased 30.8% to \$2.6 million (0.2% of sales) compared with \$3.8 million (0.3% of sales) in the comparable period last year primarily as a result of lower average short-term borrowings due to faster-moving consumable merchandise and improved accounts payable management. For fiscal 1998, management expects interest expense in total dollars to be less than last year.

**PROVISION FOR TAXES ON INCOME.** The effective income tax rate was 37.8% for both the three and nine month periods of 1998 compared with 38.0% in the comparable periods last year, respectively.

### **THREE MONTHS ENDED OCTOBER 31, 1997 AND NOVEMBER 1, 1996**

**NET SALES.** Net sales for the quarter increased 27.6%, to \$649.4 million from \$509.0 million for the comparable period of fiscal 1997. The increase resulted from an increase of 11.6% in same-store sales as compared with a 6.5% increase in the same period last year and the operation of 455 additional stores as of October 31, 1997.

**GROSS PROFIT.** Gross profit for the quarter was \$183.8 million, or 28.3% of net sales, compared to \$148.6 million, or 29.2% of net sales, in the same period last year. The decrease in gross profit as a percent of sales was primarily the result of higher freight costs and lower margin on current purchases which were partially offset by lower estimated shrinkage.

**SELLING, GENERAL AND ADMINISTRATIVE EXPENSE.** Selling, general and administrative expense for the quarter totaled \$128.2 million, or 19.7% of net sales compared with \$104.2 million, or 20.5% of net sales, in the comparable period last year. As a percentage of sales, higher purchased services, professional fees and advertising expense were offset by decreases in (i) self-insurance expense, (ii) employee compensation, (iii) employee incentive compensation expense and (iv) property and use taxes. Total operating expense increased 23.1% primarily the result of 455 net additional stores being in operation compared to last year.

**INTEREST EXPENSE.** Interest expense increased 5.0% to \$1.6 million (0.2% of sales) compared with \$1.5 million (0.3% of sales) in the comparable period last year. This increase was primarily a result of higher average short-term borrowings due to increases in inventories, capital expenditures, and common stock repurchases. Inventories increased primarily as a result of opening an additional distribution center and opening new stores.

### **LIQUIDITY AND CAPITAL RESOURCES**

Cash flows from operating activities - Net cash used by operating activities increased to \$40.1 million during the first nine months of fiscal 1998 compared with \$12.0 million in the comparable period last year. This increase is primarily the result of increased inventories being only partially offset by increased accounts payable.

Cash flows from investing activities - Net cash used by investing activities increased to \$58.5 million during the first nine months of 1998 compared with \$46.9 million in the comparable period last year. This increase was primarily the result of increased capital expenditures primarily related to the expansion of the Scottsville, Kentucky distribution center, the implementation of point-of sale technology in stores and the conversion of stores to the Company's new prototype. Partially offsetting the capital expenditures was \$33.8 million received from the sale (and subsequent leaseback) of the South Boston, Virginia distribution center.

Cash flows from financing activities - The Company's short-term borrowings during the first nine months of fiscal 1998 increased by \$155.1 million compared with an increase of \$112.6 million in fiscal 1997. The increase in short-term borrowings was the result of increased inventories and capital expenditures and was partially offset by improved accounts payable management and the proceeds from the sale/leaseback of the South Boston, Virginia distribution center.

Because of the significant impact of seasonal buying (e.g., Spring and Holiday purchases), the Company's working capital needs vary significantly during the year. Working capital needs, open market stock repurchase and general corporate needs were financed by short-term borrowings under the Company's \$175 million revolving credit/term loan facility and short-term bank lines of credit totaling \$155 million at October 31, 1997. The Company had revolving credit/term loan facility borrowings and short-term bank lines of credit borrowings of \$175.0 million and \$18.6 million as of October 31, 1997 and 160.0 million and 24.7 million as of November 1, 1996, respectively.

The Company also has available an additional \$100 million leveraged lease facility. The leveraged leased facility will be used to meet capital requirements related to construction of new stores, a new distribution center in Indianola, Mississippi and a new corporate headquarters complex in Goodlettsville, Tennessee. The leveraged lease facility and the revolving credit/term loan facility will expire August 29, 2002 and they contain financial covenants similar to prior credit facilities.

The Company's liquidity position is set forth in the following table (dollars in thousands):

	Oct. 31 1997	Jan. 31, 1997	Nov. 1, 1996
	-----	-----	-----
Current ratio	1.6x	2.2x	1.6x
Total borrowings/equity	38.0%	8.9%	43.6%
Long-term debt/equity	0.3%	0.5%	0.6%
Working capital	\$279,966	\$281,134	\$256,205
Average daily use of debt: (fiscal year-to-date)			
Short-term	\$ 66,911	\$ 87,952	\$ 90,548
Long-term	3,723	2,930	3,843
	-----	-----	-----
Total	\$ 70,634	\$ 90,882	\$ 94,391
	=====	=====	=====
Maximum outstanding short-term debt (fiscal year-to-date)	\$193,583	\$184,725	\$184,725

## PART II - OTHER INFORMATION

**Item 1. Not applicable.**

**Item 2. Not applicable.**

**Item 3. Not applicable.**

**Item 4. Not applicable**

**Item 5. Not applicable.**

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

(a) Exhibits

10.1 Credit Agreement dated September 2, 1997 by and among Dollar General Corporation and Sun Trust Bank, Nashville, N.A.

10.2 Master Agreement dated September 2, 1997 among Dollar General Corporation, Certain Subsidiaries of Dollar General Corporation, Atlantic Financial Group, Ltd., Certain Financial Institutions Parties hereto at SunTrust Bank, Nashville, N.A.

27 Financial Data Schedule (for SEC use only)

(b) No reports on Form 8-K were filed during the quarter ended October 31, 1997.

**SIGNATURES**

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

**DOLLAR GENERAL CORPORATION**  
(Registrant)

*December 12, 1997*

*By: /s/ Phil Richards*

-----  
*Phil Richards, Vice President  
and Chief Financial Officer*

**EXHIBIT\_**

**CREDIT AGREEMENT**

**Dated as of September 2, 1997**

**By and Among**

**DOLLAR GENERAL CORPORATION**

**AND**

**SUNTRUST BANK, NASHVILLE, N.A.,  
AGENT AND AS A LENDER**



## EXHIBITS

Exhibit A -	Form of Revolving Credit Note
Exhibit B -	Form of Competitive Bid Request
Exhibit C -	Form of Assignment and Acceptance
Exhibit D -	Form of Competitive Bid Request
Exhibit E -	Form of Notice of Competitive Bid Request
Exhibit F -	Form of Competitive Bid
Exhibit G -	Form of Competitive Bid Accept/Reject Letter
Exhibit H -	Closing Certificate
Exhibit I-1 -	Form of Opinion of Corporate Counsel
Exhibit J -	Form of Compliance Certificate
Exhibit K -	Form of Subsidiary Guaranty
Exhibit L -	Form of Notice of Borrowing
Exhibit M -	Form of Continuance/Conversion Notice

## SCHEDULES

Schedule 5.1. -
Schedule 5.5. -
Schedule 5.8.(a) -
Schedule 5.8.(b) -
Schedule 5.8.(c) -
Schedule 5.11. -
Schedule 5.13. -
Schedule 5.15. -
Schedule 5.16. -
Schedule 5.17. -
Schedule 5.18. -
Schedule 5.20. -
Schedule 5.21. -

## **CREDIT AGREEMENT**

THIS CREDIT AGREEMENT is made and entered into as of this 2nd day of September, 1997 by and between DOLLAR GENERAL CORPORATION, a Kentucky corporation (the "Borrower"), SUNTRUST BANK, NASHVILLE, N.A. ("SunTrust"), and such other banks and lending institutions are referred to collectively as the "Lenders"), and SUNTRUST BANK, NASHVILLE, N.A., in its capacity as agent for Lenders and each successive agent for such Lenders as may be appointed from time to time pursuant to Article 9. herein (the "Agent").

### **RECITALS:**

1. The Borrower desires that the Lenders extend the Borrower credit pursuant to the terms of this Credit Agreement.
2. The Lenders are willing to extend the Borrower credit pursuant to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the parties agree as follows:

### **ARTICLE 1. DEFINITIONS; CONSTRUCTION**

#### **SECTION 1.1. DEFINITIONS.**

In addition to the other terms defined herein, the following terms used herein shall have the meanings herein specified (to be equally applicable to both the singular and plural forms of the terms defined):

"Acquisition" means the acquisition by any Consolidated Company of any of the following: (a) the controlling interest in any Person, (b) a Consolidated Company, or (c) substantially all of the Property of any Person.

"Adjusted LIBO Rate" shall mean with respect to each Interest Period for a Eurodollar Advance, the rate obtained by dividing (A) LIBO for such Interest Period by (B) a percentage equal to 1 minus the then stated maximum rate (stated as a decimal) of all reserves requirements (including, without limitation, any marginal, emergency, supplemental, special or other reserves) applicable to any member bank of the Federal Reserve System in respect of Eurocurrency liabilities as defined in Regulation D (or against any successor category of liabilities as defined in Regulation D).

"Advance" shall mean any principal amount advanced and remaining outstanding at any time under (i) the Revolving Loans, which Advances shall be made or outstanding as Base Rate Advances or Eurodollar Advances, as the case may be, or (ii) the Competitive Bid Loans, which Advances shall be made or outstanding as Competitive Bid Rate Advances.

"Affiliate" of any Person means any other Person directly or indirectly controlling, controlled by, or under common control with, such Person, whether through the ownership of voting securities, by contract or otherwise. For purposes of this definition, "control" (including with correlative meanings, the terms "controlling", "controlled by", and "under common control with") as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person.

"Agent" shall mean SunTrust, and any successor agent appointed pursuant to Section 9.9. hereof.

"Agreement" shall mean this Credit Agreement, as hereafter amended, restated, supplemented or otherwise modified from time to time.

"Applicable Commitment Percentage" shall mean, for each Lender, a fraction, the numerator of which shall be the amount of such Lender's Commitment and the denominator of which shall be the aggregate amount of the Commitments of all the Lenders, which Applicable Commitment Percentage for each Lender as of the Closing Date is as set forth on the signature pages hereof under the caption "Applicable Commitment Percentage".

"Applicable Margin" shall mean the number of basis points per annum determined in accordance with the table set forth below based on the fiscal quarter-end ratios for Borrower's Fixed Charge Coverage Ratio:

FIXED CHARGE COVERAGE RATIO			
TIER ONE	TIER TWO	TIER THREE	TIER FOUR
> or = 4.50 to 1.0	> or = 3.25 to 1.0 and < 4.50 to 1.0	> or = 2.50 to 1.0 and < 3.25 to 1.0	< 2.50 to 1.0
9 basis points per annum	13 basis points per annum	15 basis points per annum	22.50 basis points per annum

provided, however, that:

(a) The Applicable Margin in effect as of the date of execution and delivery of this Agreement shall be the number of basis points under the heading "Tier Two" as described in the table above and shall remain in effect until such time as the Applicable Margin may be adjusted as hereinafter provided; and

(b) So long as no Default or Event of Default has occurred and is continuing under this Agreement, adjustments, if any, to the Applicable Margin based on changes in the ratio set forth above shall be made and become effective on the Calculation Date set forth in Section 3.6. herein.

"Assignment and Acceptance" shall mean an assignment and acceptance entered into by a Lender and an Eligible Assignee in accordance with the terms of this Agreement and substantially in the form of Exhibit C.

"Available Revolving Credit Commitment" shall mean at any time that amount equal to (A) Total Commitments less (B) the sum of (i) all outstanding Revolving Loans, and (ii) all outstanding Competitive Bid Rate Advances.

"Bankruptcy Code" shall mean the Bankruptcy Code of 1978, as amended and in effect from time to time (11 U.S.C. ss. 101 et seq.) and any successor statute.

"Base Rate Advance" shall mean an Advance made or outstanding as a Revolving Loan, bearing interest based on the Base Rate.

"Base Rate" shall mean (with any change in the Base Rate to be effective as of the date of change of either of the following rates) the higher of (i) the rate which the Agent publicly announces from time to time as its "base" or "prime" lending rate, as the case may be, for Dollar loans in the United States, as in effect from time to time, and (ii) the Federal Funds Rate, as in effect from time to time, plus one-half of one percent (0.50%) per annum. The Agent's "base" or "prime" lending rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to customers; the Agent may make commercial loans or other loans at rates of interest at, above or below the Agent's "base" or "prime" lending rate. The Base Rate is determined daily.

"Borrower" shall mean Dollar General Corporation, a Kentucky corporation, its successors and permitted assigns.

"Borrowing" shall mean the incurrence by Borrower under any Facility of Advances of one Type concurrently having the same Interest Period or the continuation or conversion of an existing Borrowing or Borrowings in whole or in part.

"Business Day" shall mean any day excluding Saturday, Sunday and any other day on which banks are required or authorized to close in Nashville, Tennessee and, if the applicable Business Day relates to Eurodollar Advances, excluding any day on which commercial banks are closed or required to be closed for domestic and international business, including dealings in Dollar deposits on the London Interbank Market.

"Capital Lease" shall mean, as applied to any Person, any lease of any Property by such Person as lessee which would, in accordance with GAAP, be required to be classified and accounted for as a capital lease on a balance sheet of such Person.

"Capital Lease Obligation" shall mean, with respect to any Capital Lease, the amount of the obligation of the lessee thereunder which would, in accordance with GAAP, appear on a balance sheet of such lessee in respect of such Capital Lease.

"Closing Date" shall mean September 2, 1997 or such later date on which the initial Loans are made and the conditions set forth in Section 4.1. and 4.2. are satisfied or waived.

"Commitment" shall mean, for any Lender at any time its Revolving Credit Commitment.

"Competitive Bid Accept/Reject Letter" shall mean a notification made by the Borrower pursuant to Section 2.4. substantially in the form of Exhibit G.

"Competitive Bid Facility" shall mean the facility established pursuant to Section 2.4.

"Competitive Bid Loan" shall mean a Loan made up of Advances by all of those Lenders whose Competitive Bids have been accepted by the Borrower pursuant to the same Competitive Bid Request under the bidding procedure described in Section 2.4. for the same Interest Period and interest rate (with the understanding that two Competitive Bid Loans may be made pursuant to a single Competitive Bid Request).

"Competitive Bid Note" shall mean a promissory note of the Borrower payable to the order of any Lender, in substantially the form of Exhibit B hereto, evidencing the indebtedness of the Borrower to such Lender with respect to outstanding Competitive Bid Rate Advances made by such Lender pursuant to this Agreement, either as originally executed or as it may be from time to time supplemented, modified, amended, renewed or extended.

"Competitive Bid Rate Advance" shall mean an Advance made by a Lender to the Borrower pursuant to the bidding procedure described in Section 2.4.

"Competitive Bid Rate" shall mean, as to any Competitive Bid made by a Lender pursuant to Section 2.4., the fixed rate of interest per annum offered by the Lender making the Competitive Bid for the relevant Interest Period.

"Competitive Bid Request" shall mean a request made by the Borrower pursuant to Section 2.4. substantially in the form of Exhibit D.

"Competitive Bid" shall mean an offer by a Lender to make a Competitive Bid Loan pursuant to Section 2.4.

"Consolidated Companies" shall mean, collectively, Borrower, its Subsidiaries, and any Person the financial statements of which are consolidated with the Borrower or any Subsidiary.

"Consolidated EBITR" shall mean for any fiscal period of the Borrower, an amount equal to (A) the sum of its Consolidated Net Income (Loss), plus, to the extent deducted in determining Consolidated Net Income (Loss), (i) provisions for taxes based on income, (ii) Consolidated Interest Expense, and (iii) Consolidated Rental Expense.

"Consolidated Funded Debt" shall mean the Funded Debt of the Consolidated Companies, on a consolidated basis.

"Consolidated Funded Debt to Total Capitalization Ratio" shall mean that ratio determined in accordance with Section 7.1.(ii) herein.

"Consolidated Interest Expense" shall mean, for any fiscal period of Borrower, total interest expense (including without limitation, interest expense attributable to Capital Leases in accordance with GAAP and any program costs incurred by Borrower in connection with sales of accounts receivable pursuant to a securitization program) of the Consolidated Companies on a consolidated basis.

"Consolidated Net Income (Loss)" shall mean for any fiscal period of Borrower, the net income (or loss) of the Consolidated Companies on a consolidated basis for such period (taken as a single accounting period) determined in conformity with GAAP; provided that there shall be excluded therefrom (i) any items of gain or loss which were included in determining such consolidated net income and were not realized in the ordinary course of business; and (ii) the income (or loss) of any Person accrued prior to the date such becomes a Consolidated Company or is merged into or consolidated with a Consolidated Company, or such Person's assets are acquired by a Consolidated Company.

"Consolidated Net Worth" shall mean on a consolidated basis the excess of (A) total assets over (B) total liabilities of the Consolidated Companies, as determined in accordance with GAAP.

"Consolidated Rental Expense" shall mean for any fiscal period of Borrower, the total operating lease expense of the Consolidated Companies on a consolidated basis.

"Contractual Obligation" of any Person shall mean any provision of any security issued by such Person or of any agreement, instrument or under-taking under which such Person is obligated or by which it or any of the Property owned by it is bound.

"Credit Documents" shall mean, collectively, this Agreement, the Notes, the Fee Letter, the Subsidiary Guaranties, and all other instruments, documents, certificates, agreements and writings executed in connection herewith.

"Default" shall mean any event or condition the occurrence of which constitutes or would, with the lapse of time or the giving of notice, or both, constitute an Event of Default.

"Dollar" and "U.S. Dollar" and the sign "\$" shall mean lawful money of the United States of America.

"Eligible Assignee" shall mean (i) a commercial bank organized under the laws of the United States, or any state thereof, having total assets in excess of \$1,000,000,000 or any commercial finance or asset based lending Affiliate of any commercial bank and (ii) any Lender or any Affiliate of any Lender.

"Environmental Laws" shall mean all federal, state, local and foreign statutes and codes or regulations, rules or ordinances issued, promulgated, or approved thereunder, now or hereafter

in effect (including, without limitation, those with respect to asbestos or asbestos containing material or exposure to asbestos or asbestos containing material), relating to pollution or protection of the environment and relating to public health and safety, relating to (i) emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals or industrial toxic or hazardous constituents, substances or wastes, including without limitation, any Hazardous Substance, petroleum including crude oil or any fraction thereof, any petroleum product or other waste, chemicals or substances regulated by any Environmental Law into the environment (including, without limitation, ambient surface water, ground water, land surface or subsurface strata), or (ii) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of any Hazardous Substance, petroleum including crude oil or any fraction thereof, any petroleum product or other waste, chemicals or substances regulated by any Environmental Law, and (iii) underground storage tanks and related piping, and emissions, discharges and releases or threatened releases therefrom. Such Environmental Laws to include, without limitation (i) the Clean Air Act (42 U.S.C. ss. 7401 et seq.), (ii) the Clean Water Act (33 U.S.C. ss. 1251 et seq.), (iii) the Resource Conservation and Recovery Act (42 U.S.C. ss. 6901 et seq.), (iv) the Toxic Substances Control Act (15 U.S.C. ss. 2601 et seq.), (v) the Comprehensive Environmental Response Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act (42 U.S.C. ss. 9601 et seq.), and (vi) all applicable national and local laws or regulations with respect to environmental control.

"ERISA Affiliate" shall mean, with respect to any Person, each trade or business (whether or not incorporated) which is a member of a group of which that Person is a member and which is under common control within the meaning of the regulations promulgated under Section 414 of the Tax Code.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended and in effect from time to time.

"Eurodollar Advance" shall mean an Advance made or outstanding as a Revolving Loan, bearing interest based on the Adjusted LIBO Rate.

"Event of Default" shall have the meaning provided in Article 8.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended from time to time, any successor statute thereto.

"Executive Officer" shall mean with respect to any Person, the Chief Executive Officer, President, Vice Presidents (if elected by the Board of Directors of such Person), Chief Financial Officer, Treasurer, Secretary and any Person holding comparable offices or duties (if elected by the Board of Directors of such Person).

"Facility Fee" shall have the meaning ascribed to it in Section 3.5.(a).

"Facility" or "Facilities" shall mean the Revolving Credit Commitments or the Competitive Bid Facility, as the context may indicate.

"Facility Fee Percentage" shall mean the number of basis points per annum determined in accordance with the table set forth below based on the fiscal quarter-end ratios for Borrower's Fixed Charge Coverage Ratio:

FIXED CHARGE COVERAGE RATIO			
TIER ONE	TIER TWO	TIER THREE	TIER FOUR
> or = 4.50 to 1.0	> or = 3.25 to 1.0 and < 4.50 to 1.0	> or = 2.50 to 1.0 and < 3.25 to 1.0	< 2.50 to 1.0
6 basis point per annum	7 basis points per annum	10 basis points per annum	12.50 basis points per annum

provided, however, that:

(a) The Facility Fee Percentage in effect as of the date of execution and delivery of this Agreement shall be the number of basis points under the heading "Tier Two" as described in the table above and shall remain in effect until such time as the Facility Fee Percentage may be adjusted as hereinafter provided; and

(b) So long as no Default or Event of Default has occurred and is continuing under this Agreement, adjustments, if any, to the Facility Fee Percentage based on changes in the ratio set forth above shall be made and become effective on the Calculation Date set forth in Section 3.6. herein.

"Federal Funds Rate" shall mean with respect to any Base Rate Advance, a fluctuating interest rate per annum equal for each day during which such Advance is outstanding to the weighted average of the rates on overnight Federal funds transactions with member banks of the Federal Reserve System arranged by Federal funds brokers, as set forth for each day on Page 4833 of the Telerate at 8:00 a.m. (Nashville, Tennessee time) or if such reporting service is unavailable, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of Atlanta, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Agent from three Federal funds brokers of recognized standing selected by the Agent.

"Fee Letter" means that certain letter agreement dated June 26, 1997 between the Borrower and the Agent relating to certain fees from time to time payable by the Borrower to the Agent, together with all amendments and supplements thereto.

"Financial Officer" means with respect to the Borrower, any of the Chief Financial Officer, Vice President of Finance, and Treasurer.

"Financial Report" means at a specified date, the most recent financial statements of the Consolidated Companies delivered pursuant to Section 6.7. of this Agreement.



"Fiscal Year" means the twelve (12) month accounting period ending on January 31st of each year and presently used by Borrower as its fiscal year for accounting purposes.

"Fixed Charge Coverage Ratio" shall mean, as at the end of any fiscal quarter of Borrower, the ratio of (A) Consolidated EBITR, to (B) the sum of (i) Consolidated Interest Expense plus (ii) Consolidated Rental Expense.

"Funded Debt" shall mean, with respect to the Consolidated Companies without duplication on a consolidated basis, (i) Indebtedness for Borrowed Money, (ii) Capital Lease Obligations, (iii) the present value of all minimum lease commitments to make payments with respect to operating leases (excluding Synthetic Leases) (for the purpose of this calculation, the present value of such lease commitments shall be determined based upon a discount rate of ten percent (10%) in accordance with the discounted present value analytical technology), and (iv) any recourse deficiency amount or guaranteed residual portion under any Synthetic Lease, and (v) all obligations under any direct or indirect Guaranty of any Consolidated Company. Additionally, the calculation of Funded Debt shall include the redemption amount with respect to any redeemable preferred stock of any Consolidated Company required to be redeemed within the next twelve (12) months.

"GAAP" shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

"Guaranty" shall mean any contractual obligation, contingent or otherwise, of a Person with respect to any Indebtedness or other obligation or liability of another Person, including without limitation, any such Indebtedness, obligation or liability directly or indirectly guaranteed, endorsed, co-made or discounted or sold with recourse by that Person, or in respect of which that Person is otherwise directly or indirectly liable, including contractual obligations (contingent or otherwise) arising through any agreement to purchase, repurchase, or otherwise acquire such Indebtedness, obligation or liability or any security therefor, or any agreement to provide funds for the payment or discharge thereof (whether in the form of loans, advances, stock purchases, capital contributions or otherwise), or to maintain solvency, assets, level of income, or other financial condition, or to make any payment other than for value received. The definition of Guaranty shall at all times include any Synthetic Lease Guaranty. The amount of any Guaranty shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which guaranty is made or, if not so stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"Hazardous Substances" shall have the meaning assigned to that term in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Acts of 1986.

"Income Taxes" shall have the meaning given such term by GAAP.

"Indebtedness" of any Person shall mean, without duplication, (i) all obligations of such Person which in accordance with GAAP would be shown on the balance sheet of such Person as a liability (including, without limitation, obligations for borrowed money and for the deferred purchase price of Property or services, and obligations evidenced by bonds, debentures, notes or other similar instruments, (ii) all Capital Lease Obligations; (iii) all Guaranties of such Person (including the stated amount of undrawn letters of credit); (iv) Indebtedness of others secured by any Lien upon Property owned by such Person, whether or not assumed; and (v) obligations or other liabilities under currency contracts, Interest Rate Contracts or similar agreements or combinations thereof. Notwithstanding the foregoing, in determining the Indebtedness of any Person, (x) there shall be included all obligations of such Person of the character referred to in clauses (i) through (v) above deemed to be extinguished under GAAP but for which such Person remains legally liable and (y) any deferred obligations of such Person to make payments on any agreement not to compete which was entered into by such Person in connection with the acquisition of any business shall be reduced by the effective federal and state corporate tax rate applicable to such Person in order to recognize the deductibility of such payments and the resulting reduction of the cash actually expended by the Person to satisfy such obligation.

"Indebtedness for Borrowed Money" shall mean, with respect to any Person and without duplication:

(a) Indebtedness for money borrowed, including all revolving and term Indebtedness and all other lines of credit; and

(b) Indebtedness which:

(i) is represented by a note payable or drafts accepted, that represent extensions of credit;

(ii) constitutes obligations evidenced by bonds, debentures, notes or similar instruments; or

(iii) constitutes Purchase Money Indebtedness, conditional sales contracts, asset securitization vehicles, title retention debt instruments or other similar instruments upon which interest charges are customarily paid or that are issued or assumed as full or partial payment for property;

(c) Indebtedness that constitutes a Capital Lease Obligation;

(d) all indemnity agreements and reimbursement obligations under any acceptances or any letters of credit (other than commercial letters of credit) issued in support of Indebtedness of the character described in clauses (a) through (c) above; and

(e) all Indebtedness of others of the character described in clauses (a) through (d) above, but only to the extent that such Indebtedness is subject to a Guaranty of such Person.

"Interest Period" shall mean (i) as to any Eurodollar Advances, the interest period selected by the Borrower pursuant to Section 3.4.(a) hereof, and  
(ii) as to any Competitive Bid Rate Advances, the interest period requested by the Borrower and agreed to by the participating Lenders pursuant to Section 2.4. hereof in conformity with Section 3.4.(b) hereof.

"Interest Rate Contract" shall mean all interest rate swap agreements, interest rate cap agreements, interest rate collar agreements, interest rate insurance and other agreements and arrangements designed to provide protection against fluctuations in interest rates, in each case as the same may be from time to time amended, restated, renewed, supplemented or otherwise modified.

"Lender" or "Lenders" shall mean SunTrust, the other banks and lending institutions listed on the signature pages hereof, including, without limitation, each assignee thereof, if any, pursuant to Section 10.6.(c), together with their corporate successors.

"Lending Office" shall mean for each Lender, the office such Lender may designate in writing from time to time to Borrower and the Agent with respect to each Type of Loan.

"LIBO" shall mean, for any Interest Period, with respect to Eurodollar Advances, the offered rate for deposits in U.S. Dollars, for a period comparable to the Interest Period appearing on the Telerate Screen Page 3750 as of 11:00 a.m. (London, England time) on the day that is two (2) Business Days prior to the first day of the Interest Period. If the foregoing is unavailable for any reason, then such rate shall be determined by and based on any other interest rate reporting service of recognized standing designated in writing by the Agent to Borrower and the other Lenders in any such case rounded, if necessary, to the next higher 1/100 of 1.0%, if the rate is not such a multiple.

"Lien" means any security interest, mortgage, pledge, lien, claim, charge, encumbrance, title retention agreement, lessor's interest under a Capital Lease or analogous instrument, in, of or on any Property.

"Loans" shall mean, collectively, the Revolving Loans and the Competitive Bid Loans.

"Margin Regulations" shall mean Regulation G, Regulation T, Regulation U and Regulation X of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time.

"Master Agreement" shall mean that certain Master Agreement dated as of September 2, 1997 executed by the Borrower (as lessee and guarantor), certain subsidiaries of the Borrower (as lessees), Atlantic Financial Group, Ltd. (as lessor), and Agent (as agent), as such may be amended.

"Material" (or words derived therefrom) as used in this Agreement, means an amount equal to five percent (5%) of the annual net income of the Borrower reported by the Borrower on its most recent Form 10-K (filed with the Securities and Exchange Commission pursuant to ss.13 of the Exchange Act) for each Fiscal Year. The calculation of net income initially shall be determined

by reference to the "net income" amount shown on its "Consolidated Statements of Income" report for the 1997 Fiscal Year attached to its Form 10-K delivered by Borrower to Agent for fiscal year ended January 31, 1997 and shall be re-calculated on each occasion that Borrower delivers to Agent its most recently filed Form 10-K.

"Materially Adverse Effect" shall mean any Material adverse change in (i) the business, operations, financial condition or assets of the Consolidated Companies, taken as a whole, (ii) the ability of Borrower to perform its obligations under this Agreement, or (iii) the ability of the Consolidated Companies (taken as a whole) to perform their respective obligations, if any, under the Credit Documents.

"Maturity Date" shall mean the earlier of (i) September 2, 2002, and (ii) the date on which all amounts outstanding under this Agreement have been declared or have automatically become due and payable pursuant to the provisions of Article 8.; provided, however, that the date listed in subsection (i) above may be extended as provided in Section 2.13.

"Moody's" shall mean Moody's Investors Services, Inc. and each of its successors.

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

"Notes" shall mean, collectively, the Revolving Credit Notes, and the Competitive Bid Notes.

"Notice of Borrowing" shall have the meaning provided in Section 3.1.(a)(i).

"Notice of Conversion/Continuation" shall have the meaning provided in Section 3.1.(b).

"Obligations" shall mean all amounts owing to the Agent or any Lender pursuant to the terms of this Agreement or any other Credit Document, including, without limitation, all Loans (including all principal and interest payments due thereunder), fees, expenses, indemnification and reimbursement payments, indebtedness, liabilities, and obligations of the Consolidated Companies, direct or indirect, absolute or contingent, liquidated or unliquidated, now existing or hereafter arising, together with all renewals, extensions, modifications or refinancings thereof

"Payment Office" shall mean with respect to payments of principal, interest, fees or other amounts relating to the Loans and all other Obligations, the office specified as the "Payment Office" for the Agent, on the signature page of the Agent, or to such other place as the Agent directs by written notice delivered to Borrower.

"PBGC" shall mean the Pension Benefit Guaranty Corporation, or any successor thereto.

"Person" shall mean any individual, partnership, firm, corporation, association, joint venture, trust, limited liability company, limited liability partnership, or other entity, or any government or political subdivision or agency, department or instrumentality thereof

"Plan" shall mean any "employee benefit plan" (as defined in Section 3(3) of ERISA), including, but not limited to, any defined benefit pension plan, profit sharing plan, money purchase pension plan, savings or thrift plan, stock bonus plan, employee stock ownership plan, Multiemployer Plan, or any plan, fund, program, arrangement or practice providing for medical (including post-retirement medical), hospitalization, accident, sickness, disability, or life insurance benefits.

"Prior Revolving Credit Debt" means a revolving credit facility provided to Borrower by NationsBank, N.A. (Carolinas), or its successors-in-interest in the principal amount of \$170,000,000.

"Property" or "Properties" means any interest in any kind of property or asset, whether real or personal, or mixed, or tangible or intangible.

"Purchase Money Indebtedness" shall mean Indebtedness incurred or assumed for the purpose of financing all or any part of the acquisition cost of any Property (excluding trade payables incurred in the ordinary course of business) and any refinancing thereof, in each case entered into in compliance with this Agreement.

"Rating Agency" shall mean either Moody's or Standard & Poor's.

"Regulation D" shall mean Regulation D of the Board of Governors of the Federal Reserve System, as the same may be in effect from time to time.

"Required Lenders" shall mean at any time, the Lenders holding at least 66 2/3% of the amount of the Total Commitments, whether or not advanced or, following the termination of all of the Commitments, the Lenders holding at least 66 2/3% of the aggregate outstanding Advances at such time.

"Requirement of Law" for any Person shall mean any law, treaty, rule or regulation, or determination of an arbitrator or a court or other governmental authority, in each case applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"Revolving Credit Commitment" shall mean, at any time for any Lender, the amount of such commitment set forth opposite such Lender's name on the signature pages hereof, as the same may be increased or decreased from time to time as a result of any reduction thereof pursuant to Section 2.3., any assignment thereof pursuant to Section 10.6., or any amendment thereof pursuant to Section 10.2.

"Revolving Credit Notes" shall mean, collectively, the promissory notes evidencing the Revolving Loans in the form attached hereto as Exhibit A, either as originally executed or as hereafter amended, modified or supplemented.

"Revolving Loans" shall mean, collectively, the revolving loans made to the Borrower by the Lenders pursuant to Section 2.1.

"Shareholder's Equity" shall mean, with respect to any Person as at any date of determination, shareholder's equity determined on a consolidated basis in conformity with GAAP.

"Standard & Poor's" shall mean Standard & Poor's Ratings Group, a division of McGraw-Hill, Inc. and its successors.

"Subsidiary" shall mean, with respect to any Person, any corporation or other entity (including, without limitation, limited liability companies, partnerships, joint ventures, limited liability companies, and associations) regardless of its jurisdiction of organization or formation, at least a majority of the total combined voting power of all classes of Voting Stock or other ownership interests of which shall, at the time as of which any determination is being made, be owned by such Person, either directly or indirectly through one or more other Subsidiaries.

"Subsidiary Guaranty" shall mean a Subsidiary Guaranty substantially in the form of Exhibit K executed and delivered by each of the Consolidated Companies in favor of the Agent, for the ratable benefit of the Lenders, together with all amendments and supplements thereto.

"Subsidiary Guaranties" shall mean more than one Subsidiary Guaranty.

"Subsidiary Guarantor" shall mean a Consolidated Company which will execute a Subsidiary Guaranty pursuant to Section 6.10.

"SunTrust" means SunTrust Bank, Nashville, N.A., its successors and assigns.

"Synthetic Lease" shall mean the Master Agreement and any future synthetic lease that evidences a transaction that satisfies the requirements of the Statement of Financial Accounting Standards No. 13 (SFAS 13) promulgated by the Financial Accounting Standards Board (FASB) and the Emerging Issues Task Force of the Financial Accounting Standards Board (1990) (EITF 90-15) that is classified as a lease for financial accounting purposes and as a loan for tax purposes.

"Synthetic Lease Guaranty" means that certain Guaranty Agreement executed by Borrower (as guarantor) dated September 2, 1997 executed in connection with the Master Agreement (guarantying among other things all liabilities thereunder) and any guaranty agreement executed by Borrower with regard to any other Synthetic Lease transaction.

"Tax Code" shall mean the Internal Revenue Code of 1986, as amended and in effect from time to time.

"Taxes" shall mean any present or future taxes, levies, imposts, duties, fees, assessments, deductions, withholdings or other charges of whatever nature, including without limitation, income, receipts, excise, property, sales, transfer, license, payroll, withholding, social security and franchise taxes now or hereafter imposed or levied by the United States, or any state, local or foreign government or by any department, agency or other political subdivision or taxing authority thereof or therein and all interest, penalties, additions to tax and similar liabilities with respect thereto.

"Telerate Screen Page 3750" means the "British Bankers Association LIBOR Rates" shown on page 3750 of the Telerate System Incorporated Service.

"Total Capitalization" shall mean for the Consolidated Companies on a consolidated basis, the sum of their: (i) Shareholder's Equity, plus (ii) Funded Debt.

"Total Commitments" shall mean the sum of the Revolving Credit Commitments of all Lenders.

"Type" of Borrowing shall mean a Borrowing consisting of Base Rate Advances, Eurodollar Advances, or Competitive Bid Rate Advances.

"Voting Stock" shall mean stock of a corporation of a class or classes having general voting power under ordinary circumstances to elect a majority of the board of directors, managers or trustees of such corporation (irrespective of whether or not at the time stock of any other class or classes shall have or might have voting power by the reason of the happening of any contingency).

#### SECTION 1.2. ACCOUNTING TERMS AND DETERMINATION.

Unless otherwise defined or specified herein, all accounting terms shall be construed herein, all accounting determinations hereunder shall be made, all financial statements required to be delivered hereunder shall be prepared, and all financial records shall be maintained, in accordance with GAAP. In the event of a change in GAAP that is applicable to the Consolidated Companies, compliance with the financial covenants contained herein shall continue to be determined in accordance with GAAP as in effect prior to such change; provided, however, that the Borrower and the Required Lenders will thereafter negotiate in good faith to revise such covenants to the extent necessary to conform such covenants to GAAP as then in effect.

#### SECTION 1.3. OTHER DEFINITIONAL TERMS.

The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Article, Section, Schedule, Exhibit and like references are to this Agreement unless otherwise specified.

#### SECTION 1.4. EXHIBITS AND SCHEDULES.

Exhibits and Schedules attached hereto are by reference made a part hereof.

### **ARTICLE 2. REVOLVING LOANS; COMPETITIVE BID LOANS**

#### SECTION 2.1. COMMITMENT; USE OF PROCEEDS.

(a) Subject to and upon the terms and conditions herein set forth, each Lender severally agrees to make to Borrower from time to time on and after the Closing Date, but

prior to the Maturity Date, Revolving Loans; provided that, immediately after each such Revolving Loan is made, (i) the aggregate principal amount of all Advances comprising Revolving Loans made by such Lender shall not exceed such Lender's Revolving Credit Commitment, and (ii) the aggregate principal amount of all outstanding Revolving Loans, plus the aggregate principal amount of all Competitive Bid Rate Advances, shall not exceed the Total Commitments. Absent a Default or Event of Default, Borrower shall be entitled to reborrow Revolving Loans in accordance with the provisions hereof.

(b) Each Revolving Loan shall, at the option of Borrower, be made or continued as, or converted into, part of one or more Borrowings that shall consist entirely of Base Rate Advances or Eurodollar Advances. The aggregate principal amount of each Borrowing of Revolving Loans comprised of Eurodollar Advances shall be not less than \$10,000,000 or a greater integral multiple of \$500,000, and the aggregate principal amount of each Borrowing of Revolving Loans comprised of Base Rate Advances shall be not less than \$1,000,000 or a greater integral multiple of \$100,000.

(c) The proceeds of Revolving Loans shall be used solely for Acquisitions, capital expenditures, working capital, stock redemptions, and for other general corporate purposes of the Borrower and the Consolidated Companies.

#### SECTION 2.2. REVOLVING CREDIT NOTES; REPAYMENT OF PRINCIPAL.

(a) The Borrower's obligations to pay the principal of, and interest on, the Revolving Loans to each Lender shall be evidenced by the records of the Agent and such Lender and by the Revolving Credit Note payable to such Lender (or the assignor of such Lender) completed in conformity with this Agreement.

(b) All Borrowings outstanding under the Revolving Credit Commitments shall be due and payable in full on the Maturity Date.

#### SECTION 2.3. VOLUNTARY REDUCTION OF REVOLVING CREDIT COMMITMENTS; MANDATORY PREPAYMENT.

(a) Upon at least three (3) Business Days prior telephonic notice (promptly confirmed in writing) to the Agent, Borrower shall have the right, without premium or penalty, to terminate the Revolving Credit Commitments, in part or in whole, provided that any partial termination of the Revolving Credit Commitments pursuant to this Section 2.3. shall be in an amount of at least \$10,000,000 and in integral multiples of \$1,000,000.

(b) Any reduction of Revolving Credit Commitments pursuant to subsection (a) of this Section 2.3. shall apply to proportionately, and shall automatically and permanently reduce the Revolving Credit Commitments of each of the Lenders based upon each Lender's Applicable Commitment Percentage. Any amounts so reduced may not be reinstated.



(c) If at any time the aggregate outstanding Competitive Bid Loans and Revolving Loans exceed the Total Commitments, the Borrower shall immediately cause an amount equal to such excess to be applied as follows in the order of priority indicated:

First, to the prepayment of outstanding Revolving Loans; and

Second, to the prepayment of outstanding Competitive Bid Loans,

with such prepayment to be applied to such Loans as designated by the Borrower and, in the event the Borrower fails to designate a Loan, to such Loans with the earliest maturity dates, based upon the remaining terms of their respective Interest Periods, and with respect to Loans with the same Interest Period, pro rata to the Lenders extending such Loans.

Any prepayment of Revolving Loans and Competitive Bid Loans pursuant to this Section 2.3., shall be made, insofar as is possible, in such a way as to avoid any funding losses pursuant to Section 3.13.

#### SECTION 2.4. COMPETITIVE BID LOANS.

(a) In addition to making Revolving Loans pursuant to the Revolving Credit Commitments pursuant to Section 2.1. above, the Lenders may, in their sole discretion and at the request of the Borrower, make Competitive Bid Rate Advances to the Borrower in an amount not to exceed the Available Revolving Credit Commitment.

(b) In order to request Competitive Bids, the Borrower shall telecopy to the Agent a duly completed Competitive Bid Request in the form of Exhibit D attached hereto to be received by Agent no later than 11:00 a.m. (Nashville, Tennessee time), three (3) Business Days prior to the proposed Competitive Bid Loan or Loans. A Competitive Bid Request that does not conform substantially to the format of Exhibit D may be rejected in the Agent's sole discretion, and the Agent shall notify the Borrower of such rejection by telecopy not later than 1:00 p.m. (Nashville, Tennessee time) on the date of receipt. The Competitive Bid Request shall in each case refer to this Agreement and specify (i) the date of such Borrowing or Borrowings (which shall be a Business Day) and (ii) the aggregate principal amount thereof which shall be in a minimum principal amount of \$5,000,000 and in an integral multiple of \$1,000,000, and (iii) subject to Section 3.4. herein, the Interest Period requested with respect thereto. Promptly after its receipt of a Competitive Bid Request that is not rejected as aforesaid, the Agent shall invite by telecopy (substantially in the form set forth in Exhibit E attached hereto) the Lenders to bid, subject to the terms and conditions of this Agreement, to make Competitive Bid Rate Advances pursuant to the Competitive Bid Request. The Borrower may not make more than two (2) Competitive Bid Requests in any seven (7) consecutive Business Days.

(c) Each Lender may, in its sole discretion, make one or more Competitive Bids (but not more than two) to the Borrower responsive to a Competitive Bid Request. Each Competitive Bid by a Lender must be received by the Agent via telecopy, substantially in the form of Exhibit F attached hereto, not later than 9:30 a.m. (Nashville, Tennessee time)

on the Business Day of the proposed Competitive Bid Loan. Multiple bids (not to exceed two per Lender) will be accepted by the Agent. Competitive Bids that do not conform substantially to the format of Exhibit F may be rejected by the Agent acting in consultation with the Borrower, and the Agent shall notify the Lender making such nonconforming bid of such rejection as soon as practicable. Each Competitive Bid shall refer to this Agreement and specify (i) the principal amount (which shall be in a minimum principal amount of \$5,000,000 and in an integral multiple of \$1,000,000) of the Competitive Bid Rate Advance or Advances that the Lender is willing to make to the Borrower, (ii) the Competitive Bid Rate or Rates at which the Lender is prepared to make the Competitive Bid Rate Advance or Advances, and (iii) the Interest Period and the last day thereof. If any Lender shall elect not to make a Competitive Bid, such Lender shall so notify the Agent via telecopy by the time specified above for submitting a Competitive Bid; provided, however, that failure by any Lender to give such notice shall not cause such Lender to be obligated to make any Competitive Bid Rate Advance as part of such Competitive Bid Loan. A Competitive Bid submitted by a Lender pursuant to this paragraph (c) shall be irrevocable (absent manifest error).

(d) The Agent shall promptly notify the Borrower by telecopy of all the Competitive Bids made, the Competitive Bid Rate and the principal amount of each Competitive Bid Rate Advance in respect of which a Competitive Bid was made and the identity of the Lender that made each bid. The Agent shall send a copy of all Competitive Bids to the Borrower for its records as soon as practicable after completion of the bidding process set forth in this Section 2.4.

(e) The Borrower may, in its sole and absolute discretion, subject only to the provisions of this paragraph (e), accept or reject any Competitive Bid referred to in paragraph (d) above. The Borrower shall notify the Agent by telephone, confirmed by tele-copy in the form of a Competitive Bid Accept/Reject Letter, whether and to what extent it has decided to accept or reject any of or all the bids referred to in paragraph (d) above not later than 11:30 a.m. (Nashville, Tennessee time) on the Business Day of the proposed Competitive Bid Loan; provided, however, that (i) the failure by the Borrower to give such notice shall be deemed to be a rejection of all the bids referred to in paragraph (d) above, (ii) the Borrower shall not accept a bid made at a particular Competitive Bid Rate if the Borrower has decided to reject a bid made at a lower Competitive Bid Rate with respect to the same requested Advance, (iii) the aggregate amount of the Competitive Bids accepted by the Borrower shall not exceed the principal amount specified in the Competitive Bid Request, (iv) if the Borrower shall accept a bid or bids made at a particular Competitive Bid Rate but the amount of such bid or bids shall cause the total amount of bids to be accepted by the Borrower to exceed the amount specified in the Competitive Bid Request, then the Borrower shall accept a portion of such bid or bids in an amount equal to the amount specified in the Competitive Bid Request less the amount of all other Competitive Bids accepted with respect to such Competitive Bid Request, which acceptance, in the case of multiple bids at the same Competitive Bid Rate, shall be made pro rata in accordance with the amount of each such bid at such Competitive Bid Rate, and (v) except pursuant to clause (iv) above, no bid shall be accepted for a Competitive Bid Loan unless such Competitive Bid Loan is in a minimum principal amount of \$5,000,000 and

an integral multiple of \$1,000,000; provided further, however, that if a Competitive Bid Loan must be in an amount less than \$5,000,000 because of the provisions of clause (iv) above, such Competitive Bid Loan may be for a minimum of \$1,000,000 or any integral multiple thereof, and in calculating the pro rata allocation of acceptances of portions of multiple bids at a particular Competitive Bid Rate pursuant to clause (iv) above, the amounts shall be rounded to integral multiples of \$1,000,000 in a manner which shall be in the discretion of the Borrower. A notice given by the Borrower pursuant to this paragraph (e) shall be irrevocable.

(f) The Agent shall promptly notify each bidding Lender whether or not its Competitive Bid has been accepted (and if so, in what amount and at what Competitive Bid Rate) by telecopy sent by the Agent, and each successful bidder will thereupon become bound, subject to the other applicable conditions hereof, to make the Competitive Bid Loan in respect of which its bid has been accepted.

(g) No more than two (2) Competitive Bid Requests shall be made by the Borrower within any seven (7) consecutive Business Days.

(h) If the Agent shall elect to submit a Competitive Bid in its capacity as a Lender, it shall submit such bid directly to the Borrower one half of an hour earlier than the time at which the other Lenders are required to submit their bids to the Agent pursuant to paragraph (c) above.

(i) Each Lender participating in any Competitive Bid Loan shall make its Competitive Bid Rate Advance available to the Agent on the date specified in the Bid Request at the time and in the manner and subject to the provisions specified in Section 3.2.

(j) The proceeds of each of the Competitive Bid Loans shall be used by the Borrower for acquisitions, capital expenditures and as working capital, stock redemption, and for other general corporate purposes of the Borrower and other Consolidated Companies.

(k) Any Lender's Competitive Bid Rate Advance shall not reduce such Lender's obligation to lend its share of the remaining unused Commitments.

#### SECTION 2.5. COMPETITIVE BID NOTES; REPAYMENT OF PRINCIPAL.

(a) The Borrower's obligations to pay the principal of, and interest on, the Competitive Bid Loans to each Lender shall be evidenced by the records of the Agent and such Lender and by the Competitive Bid Note payable to such Lender (or the assignor of such Lender) completed in conformity with this Agreement.

(b) A Competitive Bid Loan shall be due and payable in full on the earlier of (i) the expiration of the applicable Interest Period or (ii) the Maturity Date.

## SECTION 2.6. LIMITATION ON THE AMOUNT OF BID LOANS.

The aggregate outstanding principal amount of all Revolving Loans and all Competitive Bid Loans at any time shall not exceed the Total Commitments at such time.

## SECTION 2.7. PRO RATA PAYMENTS.

Except as otherwise provided herein, (a) each payment on account of the principal of and interest on the Revolving Loans and fees (other than the fees payable under the Fee Letter, which shall be retained by the Agent) described in this Agreement shall be made to the Agent for the account of the Lenders pro rata based on their Applicable Commitment Percentages, (b) each payment on account of principal of and interest on a Competitive Bid Loan shall be made to the Agent for the account of the Lender making such Competitive Bid Loan, (c) all payments to be made by the Borrower for the account each of the Lenders on account of principal, interest and fees, shall be made in immediately available funds, free and clear of any defenses, setoffs, counter-claims, or withholdings or deductions for taxes, and (d) the Agent will promptly distribute payments received by it to the Lenders. If, for any reason, the Agent makes any distribution to any Lender prior to receiving the corresponding payment from the Borrower, and the Borrower's payment is not received by the Agent within three

(3) Business Days after payment by the Agent to the Lender, the Lender shall, upon written request from the Agent, return the payment to the Agent with interest at the interest rate per annum for overnight borrowing by the Agent from the Federal Reserve Bank for the period commencing on the date the Lender received such payment and ending on, but excluding, the date of its repayment to the Agent. If the Agent advises any Lender of any miscalculation of the amount of such Lender's share that has resulted in an excess payment to such Lender, promptly upon request by the Agent such Lender shall return the excess amount to the Agent with interest calculated as set forth above. Similarly, if a Lender advises the Agent of any miscalculation that has resulted in an insufficient payment to such Lender, promptly upon written request by such Lender the Agent shall pay the additional amount to such Lender with interest calculated as set forth above. In the event the Agent is required to return any amount of principal, interest or fees or other sums received by the Agent after the Agent has paid over to any Lender its share of such amount, such Lender shall, promptly upon demand by the Agent, return to the Agent such share, together with applicable interest on such share.

## SECTION 2.8. EXTENSION OF COMMITMENTS.

(a) The Borrower may, by written notice to the Agent (which shall promptly deliver a copy to each of the Lenders), given not more than ninety (90) days nor less than sixty (60) days prior to the annual anniversary of the Closing Date while the Revolving Credit Commitments are in effect, request that the Lenders extend the then scheduled Maturity Date (the "Existing Date") for an additional one-year period, provided, however, that the Borrower is not entitled to more than three renewals. Each Lender shall, by notice to the Borrower and the Agent within thirty (30) days after the Borrower gives such notice, advise the Borrower and the Agent whether or not such Lender consents to the extension request (and any Lender that fails to respond during such thirty (30) day period shall be deemed to have advised the Borrower and the Agent that it will not agree to such extension).

(b) In the event that, on the 30th day after Borrower gives the notice described in subsection (a) above, not all of the Lenders have agreed to extend the Revolving Credit Commitments, the Borrower shall notify each of the consenting Lenders ("Consenting Lenders") of the amount of the Revolving Credit Commitments of the non-consenting Lenders ("NonConsenting Lender") and each of such Consenting Lenders shall, by notice to the Borrower and the Agent given within ten (10) Business Days after receipt of such notice, advise the Agent and the Borrower whether or not such Lender wishes to purchase all or a portion of the Revolving Credit Commitments of the Non-Consenting Lenders (and any Lender which does not respond during such 10-Business Day period shall be deemed to have rejected such offer). In the event that more than one Consenting Lender agrees to purchase all or a portion of such Revolving Credit Commitments, the Borrower and the Agent shall allocate such Revolving Credit Commitments among such Consenting Lenders so as to preserve, to the extent possible, the relative pro-rata shares of the Consenting Lenders of the Revolving Credit Commitments prior to such extension request. If the Consenting Lenders do not elect to assume all of the Revolving Credit Commitments of the Non-Consenting Lenders, the Borrower shall have the right to arrange for one or more banks or other lending institutions (any such bank or lending institution being called a "New Lender"), to purchase the Revolving Credit Commitment of any NonConsenting Lender. Such New Lender must meet the requirements of an Eligible Assignee. Each Non-Consenting Lender shall assign its Revolving Credit Commitment and the Loans outstanding hereunder to the Consenting Lender or New Lender purchasing such Revolving Credit Commitment in accordance with Section 10.6., in return for payment in full of all principal, interest, and other amounts owed to such Non-Consenting Lender hereunder on or before the Existing Date and, as of the effective date of such assignment, shall no longer be a party hereto, provided that each New Lender shall be subject to the approval of the Agent (which approval shall not be unreasonably withheld). If (and only if) Lenders (including New Lenders) holding Revolving Credit Commitments representing at least 100% of the aggregate Revolving Credit Commitments on the date of such extension request shall have agreed in accordance with the terms hereof to such extension (the "Continuing Lenders"), then (i) the Maturity Date shall be extended for one additional year from the Existing Date and (ii) the Commitment of any NonConsenting Lender which has not been assigned to a Consenting Lender or to a New Lender shall terminate (with the result that the amount of the Total Commitments shall be decreased by the amount of such Revolving Credit Commitment), and all Loans of such Non-Consenting Lenders shall become due and payable, together with all accrued interest thereon and all other amounts owed to such Non-Consenting Lender hereunder, on the Existing Date applicable to such Lender without giving effect to the extension of the Maturity Date.

(c) The effective date of any extension of the Maturity Date shall be the date on which 100% of the Continuing Lenders have agreed to such extension in accordance with the terms hereof.

## ARTICLE 3. GENERAL LOAN TERMS

### SECTION 3.1. FUNDING NOTICES.

(a)(i) Whenever the Borrower desires to make a Borrowing of Revolving Loans with respect to the Revolving Credit Commitments (other than one resulting from a conversion or continuation pursuant to Section 3.1.(b)), it shall give the Agent prior written notice in substantially the same form as set forth in Exhibit L (or telephonic notice promptly confirmed in writing) of such Borrowing (a "Notice of Borrowing"), such Notice of Borrowing to be given at Agent's Payment Office (x) prior to 11:00 a.m. (Nashville, Tennessee time) on the Business Day which is the requested date of such Borrowing in the case of Base Rate Advances, and (y) prior to 11:00 a.m. (Nashville, Tennessee time) three (3) Business Days prior to the requested date of such Borrowing in the case of Eurodollar Advances. Notices received after 11:00 a.m. (Nashville, Tennessee time) shall be deemed received on the next Business Day. Each Notice of Borrowing shall be irrevocable and shall specify the aggregate principal amount of the Borrowing, the date of Borrowing (which shall be a Business Day), and whether the Borrowing is to consist of Base Rate Advances or Eurodollar Advances and (in the case of Eurodollar Advances) the Interest Period to be applicable thereto.

(ii) Whenever Borrower desires to receive Competitive Bids, it shall follow the procedure set forth in Section 2.4.

(b) Whenever Borrower desires to convert all or a portion of an outstanding Borrowing under the Revolving Credit Commitments consisting of Base Rate Advances into a Borrowing consisting of Eurodollar Advances, or to continue outstanding a Borrowing consisting of Eurodollar Advances for a new Interest Period, it shall give the Agent at least three (3) Business Days' prior written notice in substantially the same form as Exhibit M (or telephonic notice promptly confirmed in writing) of each such Borrowing to be converted into or continued as Eurodollar Advances. Such notice (a "Notice of Conversion/Continuation") shall be given prior to 11:00 a.m. (Nashville, Tennessee time) on the date specified at the Payment Office of the Agent. Each such Notice of Conversion/Continuation shall be irrevocable and shall specify the aggregate principal amount of the Advances to be converted or continued, the date of such conversion or continuation and the Interest Period to be applicable thereto. If, upon the expiration of any Interest Period in respect of any Borrowing consisting of Eurodollar Advances, Borrower shall have failed to deliver the Notice of Conversion/ Continuation, Borrower shall be deemed to have elected to convert or continue such Borrowing to a Borrowing consisting of Base Rate Advances. So long as any Executive Officer of Borrower has knowledge that any Default or Event of Default shall have occurred and be continuing, no Borrowing may be converted into or continued as (upon expiration of the current Interest Period) Eurodollar Advances unless the Agent and each of the Lenders shall have otherwise consented in writing. No conversion of any Borrowing of Eurodollar Advances shall be permitted except on the last day of the Interest Period in respect thereof.

(c) The Agent shall promptly (and in any event by the same time on the next succeeding Business Day as such notice is received) give each Lender notice by telephone (confirmed in writing) or by telex, telecopy or facsimile transmission of the matters covered by the notices given to the Agent pursuant to this Section 3.1. with respect to the Revolving Credit Commitments.

### SECTION 3.2. DISBURSEMENT OF FUNDS.

(a) No later than 2:00 p.m. (Nashville, Tennessee time), each Lender will make available its Applicable Commitment Percentage of the amount of such Borrowing in immediately available funds at the Payment Office of the Agent. The Agent will make available to Borrower the aggregate of the amounts (if any) so made available by the Lenders to the Agent in a timely manner by crediting such amounts to Borrower's demand deposit account maintained with the Agent or at Borrower's option, by effecting a wire transfer of such amounts to Borrower's account specified by the Borrower, by the close of business on such Business Day. In the event that the Lenders do not make such amounts available to the Agent by the time prescribed above, but such amount is received later that day, such amount may be credited to Borrower in the manner described in the preceding sentence on the next Business Day (with interest on such amount to begin accruing hereunder on such next Business Day).

(b) No later than 2:00 p.m. (Nashville, Tennessee time) on the date of each Competitive Bid Loan, each Lender participating in such Competitive Bid Loan will make available its pro rata share of the amount of such Competitive Bid Loan in immediately available funds at the Payment Office of the Agent. The Agent will make available to Borrower the aggregate of the amounts (if any) so made available by the Lenders to the Agent in a timely manner by crediting such amount to Borrower's demand deposit account maintained with the Agent or at the Borrower's option by effecting a wire transfer of such amounts to Borrower's account specified by the Borrower by the close of business on such Business Day. In the event that Lenders do not make such amounts available to the Agent by the time prescribed above but such amount is received later that day, such amount may be credited to the Borrower in the manner described in the preceding sentence on the next Business Day (with interest on such amount to begin accruing hereunder on such next Business Day).

(c) Unless the Agent shall have been notified by any Lender prior to the date of a Borrowing that such Lender does not intend to make available to the Agent such Lender's portion of the Borrowing to be made on such date, the Agent may assume that such Lender has made such amount available to the Agent on such date and the Agent may make available to Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Agent by such Lender on the date of Borrowing, the Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest at the Federal Funds Rate. If such Lender does not pay such corresponding amount forthwith upon the Agent's demand therefor, the Agent shall promptly notify Borrower, and Borrower shall immediately pay such corresponding amount to the Agent together with interest at the rate specified for the Borrowing which includes such amount paid and any amounts due under Section 3.13. hereof. Nothing in this subsection shall be deemed to relieve any Lender from its obligation to fund its Commitments hereunder or to prejudice any rights which Borrower may have against any Lender as a result of any default by such Lender hereunder.

(d) All Borrowings under the Revolving Credit Commitments shall be loaned by the Lenders on the basis of their Applicable Commitment Percentage on the date of such Borrowing. No Lender shall be responsible for any default by any other Lender in its obligations hereunder, and each Lender shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to fund its Commitment hereunder.

### SECTION 3.3. INTEREST.

(a) Borrower agrees to pay interest in respect of all unpaid principal amounts of the Revolving Loans from the respective dates such principal amounts were advanced to maturity (whether by acceleration, notice of prepayment or otherwise) at rates per annum equal to the applicable rates indicated below:

(i) For Base Rate Advances--The Base Rate in effect from time to time; and

(ii) For Eurodollar Advances--The relevant Adjusted LIBO Rate plus the Applicable Margin.

(b) Borrower agrees to pay interest in respect of all unpaid principal amounts of the Competitive Bid Loans made to Borrower from the respective dates such principal amounts were advanced to maturity (whether by acceleration, notice of prepayment or otherwise) at the Competitive Bid Rate or Rates agreed to by the Borrower and the Lender(s) participating therein for each Competitive Bid Loan.

(c) Overdue principal and, to the extent not prohibited by applicable law, overdue interest, in respect of the Revolving Loans and Competitive Bid Loans, and all other overdue amounts owing hereunder, shall bear interest from each date that such amounts are overdue:

(i) in the case of overdue principal and interest with respect to all Loans outstanding as Eurodollar Advances, at the greater of (A) the rate otherwise applicable for the then-current Interest Period plus an additional two percent (2%) per annum or (B) the rate in effect for Base Rate Advances plus an additional two percent (2%) per annum; and

(ii) in the case of overdue principal and interest with respect to all other Loans outstanding as Base Rate Advances or Competitive Bid Rate Advances, and all other Obligations hereunder (other than Loans), at a rate equal to the Base Rate plus an additional two percent (2%) per annum.

(d) Interest on each Loan shall accrue from and including the date of such Loan to but excluding the date of any repayment thereof, provided that, if a Loan is repaid on the same day made, one day's interest shall be paid on such Loan. Interest on all outstanding Base Rate Advances shall be payable quarterly in arrears on or before twelve



noon (Nashville, Tennessee time) at the Payment Office on the last day of each calendar quarter, commencing on September 30, 1997. Interest on all outstanding Eurodollar Advances and Competitive Bid Rate Advances shall be payable on or before twelve noon (Nashville, Tennessee time) at the Payment Office on the last day of each Interest Period applicable thereto, and, in the case of Eurodollar Advances and Competitive Bid Rate Advances having an Interest Period in excess of three months, on or before twelve noon (Nashville, Tennessee time) at the Payment Office each three month anniversary of the initial date of such Interest Period. Interest on all Loans shall be payable on or before twelve noon (Nashville, Tennessee time) at the Payment Office on any conversion of any Advances comprising such Loans into Advances of another Type (other than in connection with the conversion from a Base Rate Loan), prepayment (on the amount prepaid), at maturity (whether by acceleration, notice of prepayment or otherwise) and, after maturity, on demand. All interest payments shall be paid to Agent in immediately available funds, free and clear of any defenses, set-offs, counterclaims, or withholdings or deduction for taxes.

(e) The Agent shall promptly notify the Borrower and the other Lenders by telephone (confirmed in writing) or in writing, upon determining the Adjusted LIBO Rate for any Interest Period. Any such determination shall, absent manifest error, be final, conclusive and binding for all purposes.

#### SECTION 3.4. INTEREST PERIODS; MAXIMUM NUMBER OF BORROWINGS.

(a) In connection with the making or continuation of, or conversion into, each Borrowing of Eurodollar Advances, Borrower shall select an Interest Period to be applicable to such Eurodollar Advances, which Interest Period shall be either a 1, 2, 3 or 6 month period.

(b) In connection with the submission of each Competitive Bid Request, the Borrower may select an Interest Period to be applicable to such Competitive Bid Loan of not less than seven (7) days nor more than one hundred eighty (180) days.

(c) Notwithstanding paragraphs (a) and (b) of this Section 3.4.:

(i) The initial Interest Period for any Borrowing of Eurodollar Advances, Base Rate Advances, or Competitive Bid Rate Advances shall commence on the date of such Borrowing (including, the date of any conversion from a Borrowing consisting of Base Rate Advances) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(ii) If any Interest Period would otherwise expire on a day which is not a Business Day, such Interest Period shall expire on the next succeeding Business Day, provided that if any Interest Period in respect of Eurodollar Advances would otherwise expire on a day that is not a Business Day but is a day of the month after

which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day;

(iii) Any Interest Period in respect of Eurodollar Advances which begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period shall, subject to part (iv) below, expire on the last Business Day of such calendar month; and

(iv) No Interest Period with respect to the Loans shall extend beyond the Maturity Date,

(d) At no time shall there be more than eight (8) Eurodollar Advances and Competitive Bid Rate Advances outstanding at any one time.

#### SECTION 3.5. FEES.

(a) Borrower shall pay to the Agent, for the ratable benefit of each Lender based upon its respective Applicable Commitment Percentage of the Total Commitments, a facility fee (the "Facility Fee") for the period commencing on the Closing Date to and including the Maturity Date, payable quarterly in arrears on the last day of each calendar quarter, commencing on September 30, 1997, and on the Maturity Date, equal to the Facility Fee Percentage multiplied by the average daily amount of the Revolving Credit Commitments, whether or not utilized.

(b) Borrower shall pay to the Agent the amounts and on the dates agreed to in the Fee Letter.

#### SECTION 3.6. EFFECTIVE DATE FOR ADJUSTMENT TO FACILITY FEE PERCENTAGE AND APPLICABLE MARGIN.

The Facility Fee Percentage and Applicable Margin (collectively "Applicable Percentages") shall be determined and adjusted quarterly on the Business Day next following the date on which the Agent accepts the officer's certificate required to be furnished by the Borrower in accordance with the provisions of Section 6.7.(d) (each a "Calculation Date"). Except as set forth above, each Applicable Percentage shall be effective from one Calculation Date until the next Calculation Date.

#### SECTION 3.7. VOLUNTARY PREPAYMENTS OF BORROWINGS.

(a) Borrower may, at its option, prepay Borrowings consisting of Base Rate Advances at any time in whole, or from time to time in part, in amounts aggregating \$1,000,000 or any greater integral multiple of \$100,000, by paying the principal amount to be prepaid together with interest accrued and unpaid thereon to the date of prepayment. Upon two (2) Business Days' prior written notice given by Borrower to Agent, Borrowings consisting of Eurodollar Advances or Competitive Bid Rate Advances may be prepaid on the last day of any applicable Interest Period, in whole, or from time to time in part, in amounts aggregating \$100,000 or an integral multiple of \$1,000,000 (except that no partial

prepayment may be made if the remaining principal amount outstanding of such Eurodollar Advance which comprises a Revolving Loan or Competitive Bid Rate Advance would be less than \$10,000,000), by paying the principal amount to be prepaid, together with interest accrued and unpaid thereon to the date of prepayment. Prepayment of Eurodollar Advances or Competitive Bid Rate Advances may not be made except on the last day of an Interest Period applicable thereto. Each such optional prepayment shall be applied in accordance with Section 3.7.(b) below.

(b) All voluntary prepayments shall be applied to the payment of interest then due and owing before application to principal.

#### SECTION 3.8. MANNER OF PAYMENT, CALCULATION OF INTEREST, TAXES.

(a) Except as otherwise specifically provided herein, all payments under this Agreement and the other Credit Documents, other than the payments specified in clause 3.8.(b)(iii) below, shall be made without defense, set-off, or counterclaim to the Agent not later than 11:00 a.m. (Nashville, Tennessee time) on the date when due and shall be made in Dollars in immediately available funds at the Agent's Payment Office.

(b)(i) All such payments shall be made free and clear of and without deduction or withholding for any Taxes in respect of this Agreement, the Notes or other Credit Documents, or any payments of principal, interest, fees or other amounts payable hereunder or thereunder (but excluding, except as provided in paragraph (iii) hereof, in the case of each Lender, taxes imposed on or measured by its net income, and franchise taxes and branch profit taxes imposed on it (A) by the jurisdiction under the laws of which such Lender is organized or any political subdivision thereof, and in the case of each Lender, taxes imposed on or measured by its net income, and franchise taxes and branch profit taxes imposed on it, by the jurisdiction of such Lender's appropriate Lending Office or any political subdivision thereof, and (B) by a jurisdiction in which any payments are to be made by any Borrower hereunder, other than the United States of America, or any political subdivision thereof, and that would not have been imposed but for the existence of a connection between such Lender and the jurisdiction imposing such taxes (other than a connection arising as a result of this Agreement or the transactions contemplated by this Agreement), except in the case of taxes described in this clause (B), to the extent such taxes are imposed as a result of a change in the law or regulations of any jurisdiction or any applicable treaty or regulations or in the official interpretation of any such law, treaty or regulations by any government authority charged with the interpretation or administration thereof after the date of this Agreement). If any such Taxes are so levied or imposed, Borrower agrees (A) to pay the full amount of such Taxes, and such additional amounts as may be necessary so that every net payment of all amounts due hereunder and under the Notes and other Credit Documents, after withholding or deduction for or on account of any such Taxes (including additional sums payable under this Section 3.8.), will not be less than the full amount provided for herein had no such deduction or withholding been required, (B) to make such withholding or deduction and (C) to pay the full amount deducted to the relevant authority in accordance with applicable law. Borrower will furnish to the Agent and each Lender, within 30 days after the date the payment of any Taxes is

due pursuant to applicable law, certified copies of tax receipts evidencing such payment by Borrower. Borrower will indemnify and hold harmless the Agent and each Lender and reimburse the Agent and each Lender upon written request for the amount of any such Taxes so levied or imposed and paid by the Agent or Lender and any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes were correctly or illegally asserted. A certificate as to the amount of such payment by such Lender or the Agent, absent manifest error, shall be final, conclusive and binding for all purposes.

(ii) Each Lender that is organized under the laws of any jurisdiction other than the United States of America or any State thereof (including the District of Columbia) agrees to furnish to Borrower and the Agent, prior to the time it becomes a Lender hereunder, two copies of either U.S. Internal Revenue Service Form 4224 or U.S. Internal Revenue Service Form 1001 or any successor forms thereto (wherein such Lender claims entitlement to complete exemption from U.S. Federal withholding tax on interest paid by Borrower hereunder) and to provide to Borrower and the Agent a new Form 4224 or Form 1001 or any successor forms thereto if any previously delivered form is found to be incomplete or incorrect in any Material respect or upon the obsolescence of any previously delivered form; provided, however, that no Lender shall be required to furnish a form under this paragraph (ii) after the date that it becomes a Lender hereunder if it is not entitled to claim an exemption from withholding under applicable law.

(iii) Borrower shall also reimburse the Agent and each Lender, upon written request, for any Taxes imposed (including, without limitation, Taxes imposed on the overall net income of the Agent or Lender or its applicable Lending Office pursuant to the laws of the jurisdiction in which the principal executive office or the applicable Lending Office of the Agent or Lender is located) as the Agent or Lender shall determine are payable by the Agent or Lender in respect of amounts paid by or on behalf of Borrower to or on behalf of the Agent or Lender pursuant to paragraph (i) hereof

(iv) In addition to the documents to be furnished pursuant to Section 3.8.(b)(ii), each Lender shall, promptly upon the reasonable written request of the Borrower to that effect, deliver to the Borrower such other accurate and complete forms or similar documentation as such Lender is legally able to provide and as may be required from time to time by any applicable law, treaty, rule or regulation or any jurisdiction in order to establish such Lender's tax status for withholding purposes or as may otherwise be appropriate to eliminate or minimize any Taxes on payments under this Agreement or the Notes.

(v) The Borrower shall not be required to pay any amounts pursuant to Section 3.8.(b)(i), or (iii) to any Lender for the account of any Lending Officer of such Lender in respect of any United States withholding taxes payable hereunder (and the Borrower, if required by law to do so, shall be entitled to withhold such amounts and pays such amounts to the United States Government) if the obligation

to pay such additional amounts would not have arisen but for a failure by such Lender to comply with its obligations under Section 3.8.(b)(ii), and such Lender shall not be entitled to an exemption from deduction or withholding of United States Federal income tax in respect of the payment of such sum by the Borrower hereunder for the account of such Lending Office for, in each case, any reason other than a change in United States law or regulations by any governmental authority charged with the interpretation or administration thereof (whether or not having the force of law) after the date such Lender became a Lender hereunder.

(vi) Within sixty (60) days of the written request of the Borrower, each Lender shall execute and deliver such certificates, forms or other documents, which can be reasonably furnished consistent with the facts and which are reasonably necessary to assist in applying for refunds of Taxes remitted hereunder.

(vii) To the extent that the payment of any Lender's Taxes by the Borrower gives rise from time to time to a Tax Benefit (as hereinafter defined) to such Lender in any jurisdiction other than the jurisdiction which imposed such Taxes, such Lender shall pay to the Borrower the amount of each such Tax Benefit so recognized or received. The amount of each Tax Benefit and, therefore, payment to the Borrower will be determined from time to time by the relevant Lender in its sole discretion, which determination shall be binding and conclusive on all parties hereto. Each such payment will be due and payable by such Lender to the Borrower within a reasonable time after the filing of the income tax return in which such Tax Benefit is recognized or, in the case of any tax refund, after the refund is received; provided, however if at any time thereafter such Lender is required to rescind such Tax Benefit or such Tax Benefit is otherwise disallowed or nullified, the Borrower shall promptly, after notice thereof from such Lender, repay to Lender the amount of such Tax Benefit previously paid to the Borrower and rescinded, disallowed or nullified. For purposes of this section, "Tax Benefit" shall mean the amount by which any Lender's income tax liability for the taxable period in question is reduced below what would have been payable had the Borrower not been required to pay the Lender's Taxes. In case of any dispute with respect to the amount of any payment the Borrower shall have no right to any offset or withholding of payments with respect to future payments due to any Lender under this Agreement or the Notes.

(c) Subject to Section 3.4.(c)(ii), whenever any payment to be made hereunder or under any Note shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the applicable rate during such extension.

(d) All computations of interest and fees shall be made on the basis of a year of 360 days for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest or fees are payable (to the extent computed on the basis of days elapsed). Interest on Base Rate Advances shall be calculated based on

the Base Rate from and including the date of such Loan to but excluding the date of the repayment or conversion thereof. Interest on Eurodollar Advances and Competitive Bid Rate Advances shall be calculated as to each Interest Period from and including the first day thereof to but excluding the last day thereof. Each determination by the Agent of an interest rate or fee hereunder shall be made in good faith and, except for manifest error, shall be final, conclusive and binding for all purposes.

(e) Payment by the Borrower to the Agent in accordance with the terms of this Agreement shall, as to the Borrower, constitute payment to the Lenders under this Agreement.

#### SECTION 3.9. INTEREST RATE NOT ASCERTAINABLE, ETC.

In the event that the Agent shall have determined (which determination shall be made in good faith and, absent manifest error, shall be final, conclusive and binding upon all parties) that on any date for determining the Adjusted LIBO Rate for any Interest Period, by reason of any changes arising after the date of this Agreement affecting the London interbank market, or the Agent's position in such market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of Adjusted LIBO Rate, then, and in any such event, the Agent shall forthwith give notice (by telephone confirmed in writing) to Borrower and to the Lenders, of such determination and a summary of the basis for such determination. Until the Agent notifies Borrower that the circumstances giving rise to the suspension described herein no longer exist, the obligations of the Lenders to make or permit portions of the Revolving Loans to remain outstanding past the last day of the then current Interest Periods as Eurodollar Advances shall be suspended, and such affected Advances shall bear the same interest as Base Rate Advances.

#### SECTION 3.10. ILLEGALITY.

(a) In the event that any Lender shall have determined (which determination shall be made in good faith and, absent manifest error, shall be final, conclusive and binding upon all parties) at any time that the making or continuance of any Eurodollar Advance or Competitive Bid Rate Advance has become unlawful by compliance by such Lender in good faith with any applicable law, governmental rule, regulation, guideline or order (whether or not having the force of law and whether or not failure to comply therewith would be unlawful), then, in any such event, the Lender shall give prompt notice (by telephone confirmed in writing) to Borrower and to the Agent of such determination and a summary of the basis for such determination (which notice the Agent shall promptly transmit to the other Lenders).

(b) Upon the giving of the notice to Borrower referred to in subsection (a) above, (i) Borrower's right to request and such Lender's obligation to make Eurodollar Advances or Competitive Bid Rate Advances shall be immediately suspended, and such Lender shall make an Advance as part of the requested Borrowing of Eurodollar Advances as a Base Rate Advance, which Base Rate Advance, as the case may be, shall, for all other purposes, be considered part of such Borrowing, and (ii) if the affected Eurodollar Advance or

Advances are then outstanding, Borrower shall immediately, or if subject to applicable law, no later than the date permitted by applicable law, upon at least one Business Day's written notice to the Agent and the affected Lender, convert each such Advance into a Base Rate Advance or Advances, provided that if more than one Lender is affected at any time, then all affected Lenders must be treated the same pursuant to this Section 3.10.(b).

### SECTION 3.11. INCREASED COSTS.

(a) If, by reason of (x) after the date hereof, the introduction of or any change (including, without limitation, any change by way of imposition or increase of reserve requirements) in or in the interpretation of any law or regulation, or (y) the compliance with any guideline or request from any central bank or other governmental authority or quasi-governmental authority exercising control over banks or financial institutions generally (whether or not having the force of law):

(i) any Lender (or its applicable Lending Office) shall be subject to any tax, duty or other charge with respect to its Eurodollar Advances or Competitive Bid Rate Advances, or its obligation to make such Advances, or the basis of taxation of payments to any Lender of the principal of or interest on its Eurodollar Advances or Competitive Bid Rate Advances or its obligation to make Eurodollar Advances shall have changed (except for changes in the tax on the overall net income of such Lender or its applicable Lending Office imposed by the jurisdiction in which such Lender's principal executive office or applicable Lending Office is located); or

(ii) any reserve (including, without limitation, any imposed by the Board of Governors of the Federal Reserve System), special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender's applicable Lending Office shall be imposed or deemed applicable or any other condition affecting its Eurodollar Advances or Competitive Bid Rate Advances or its obligation to make Eurodollar Advances or Competitive Bid Rate Advances shall be imposed on any Lender or its applicable Lending Office or the London interbank market;

and as a result thereof there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining Eurodollar Advances (except to the extent already included in the determination of the applicable Adjusted LIBO Rate for Eurodollar Advances) or Competitive Bid Rate Advances or its obligation to make Eurodollar Advances, or there shall be a reduction in the amount received or receivable by such Lender or its applicable Lending Office, then Borrower shall from time to time (subject, in the case of certain Taxes, to the applicable provisions of Section 3.8.(b)), upon written notice from and demand by such Lender to Borrower (with a copy of such notice and demand to the Agent), pay to the Agent for the account of such Lender within ten (10) Business Days after the date of such notice and demand, additional amounts sufficient to indemnify such Lender against such increased cost. A certificate as to the amount of such increased cost, submitted to Borrower and the Agent by such Lender in good faith and accompanied by a statement prepared by such Lender describing in reasonable detail the basis for

and calculation of such increased cost, shall, except for manifest error, be final conclusive and binding for all purposes.

(b) If any Lender shall advise the Agent that at any time, because of the circumstances described in clauses (x) or (y) in Section 3.11.(a) or any other circumstances beyond such Lender's reasonable control arising after the date of this Agreement affecting such Lender or the London interbank market or such Lender's position in such market, the Adjusted LIBO Rate as determined by the Agent will not adequately and fairly reflect the cost to such Lender of funding its Eurodollar Advances or, if applicable, Competitive Bid Rate Advances, then, and in any such event:

(i) the Agent shall forthwith give notice (by telephone confirmed in writing) to Borrower and to the other Lenders of such advice;

(ii) Borrower's right to request and such Lender's obligation to make or permit portions of the Loans to remain outstanding past the last day of the then current Interest Periods as Eurodollar Advances or Competitive Bid Rate Advances shall be immediately suspended; and

(iii) in the event the affected Loan is a Revolving Loan, such Lender shall make a Loan as part of the requested Borrowing under the Revolving Loan Commitments of Eurodollar Advances as a Base Rate Advance, which such Base Rate Advance shall, for all other purposes, be considered part of such Borrowing.

#### SECTION 3.12. LENDING OFFICES.

(a) Each Lender agrees that, if requested by Borrower, it will use reasonable efforts (subject to overall policy considerations of such Lender) to designate an alternate Lending Office with respect to any of its Eurodollar Advances or Competitive Bid Rate Advances, as the case may be, affected by the matters or circumstances described in Sections 3.8.(b), 3.9., 3.10., 3.11. or 3.17. to reduce the liability of Borrower or avoid the results provided thereunder, so long as such designation is not disadvantageous to such Lender as reasonably determined by such Lender, which determination shall be conclusive and binding on all parties hereto. Nothing in this Section 3.12. shall affect or postpone any of the obligations of Borrower or any right of any Lender provided hereunder.

(b) If any Lender that is organized under the laws of any jurisdiction other than the United States of America or any State thereof (including the District of Columbia) issues a public announcement with respect to the closing of its Lending Offices in the United States such that any withholdings or deductions and additional payments with respect to Taxes may be required to be made by Borrower thereafter pursuant to Section 3.8.(b), such Lender shall use reasonable efforts to furnish Borrower notice thereof as soon as practicable thereafter; provided, however, that no delay or failure to furnish such notice shall in any event release or discharge Borrower from its obligations to such Lender pursuant to Section 3.8.(b) or otherwise result in any liability of such Lender.



### SECTION 3.13. FUNDING LOSSES.

Borrower shall compensate each Lender, upon its written request to Borrower (which request shall set forth the basis for requesting such amounts in reasonable detail and which request shall be made in good faith and, absent manifest error, shall be final, conclusive and binding upon all of the parties hereto), for all actual losses, expenses and liabilities (including, without limitation, any interest paid by such Lender to lenders of funds borrowed by it to make or carry its Eurodollar Advances or Competitive Bid Rate Advances, in either case to the extent not recovered by such Lender in connection with the re-employment of such funds but excluding loss of anticipated profits), which the Lender may sustain: (i) if for any reason (other than a default by such Lender) a borrowing of, or conversion to or continuation of, Eurodollar Advances or Competitive Bid Rate Advances to Borrower does not occur on the date specified therefor in a Notice of Borrowing, Competitive Bid Accept/Reject Letter, or Notice of Conversion/Continuation (whether or not withdrawn), (ii) if any repayment (including mandatory prepayments and any conversions pursuant to Section 3.10.(b)) of any Eurodollar Advances to Borrower occurs on a date which is not the last day of an Interest Period applicable thereto, or (iii), if, for any reason, Borrower defaults in its obligation to repay its Eurodollar Advances when required by the terms of this Agreement.

### SECTION 3.14. ASSUMPTIONS CONCERNING FUNDING OF EURODOLLAR AND COMPETITIVE BID RATE ADVANCES.

Calculation of all amounts payable to a Lender under this Article 3. shall be made as though that Lender had actually funded its relevant Eurodollar Advances or Competitive Bid Rate Advances through the purchase of deposits in the relevant market bearing interest at the rate applicable to such Eurodollar Advances or Competitive Bid Rate Advance in an amount equal to the amount of the Eurodollar Advances or Competitive Bid Rate Advance and having a maturity comparable to the relevant Interest Period and through the transfer of such Eurodollar Advances or Competitive Bid Rate Advance from an offshore office of that Lender to a domestic office of that Lender in the United States of America; provided, however that each Lender may fund each of its Eurodollar Advances or Competitive Bid Rate Advances in any manner it sees fit and the foregoing assumption shall be used only for calculation of amounts payable under this Article 3.

### SECTION 3.15. APPORTIONMENT OF PAYMENTS.

Aggregate principal and interest payments in respect of Loans and payments in respect of Facility Fees shall be apportioned among all outstanding Commitments and Loans to which such payments relate, proportionately to the Lenders' respective pro rata portions of such Commitments and outstanding Loans. The Agent shall promptly distribute to each Lender at its payment office specified by any Lender its share of any such payments received by the Agent on the same Business Day as such payment is deemed to be received by the Agent.

### SECTION 3.16. SHARING OF PAYMENTS, ETC.

If any Lender shall obtain any payment or reduction (including, without limitation, any amounts received as adequate protection of a deposit treated as cash collateral under the Bankruptcy Code) of the Obligations (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its Applicable Commitment Percentage of payments or reductions on account of such obligations obtained by all the Lenders (other than payments of principal, interest and fees with respect to the Competitive Bid Loans which are payable solely to the Lenders participating therein), such Lender shall forthwith (i) notify each of the other Lenders and Agent of such receipt, and (ii) purchase from the other Lenders such participations in the affected obligations as shall be necessary to cause such purchasing Lender to share the excess payment or reduction, net of costs incurred in connection therewith, ratably with each of them, provided that if all or any portion of such excess payment or reduction is thereafter recovered from such purchasing Lender or additional costs are incurred, the purchase shall be rescinded and the purchase price restored to the extent of such recovery or such additional costs, but without interest unless the Lender obligated to return such funds is required to pay interest on such funds. Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 3.16. may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of Borrower in the amount of such participation. Any payment received by the Agent or any Lender following the occurrence and during the continuation of an Event of Default shall be distributed pro rata amongst the Lenders based upon the percentage obtained by dividing the Obligations owing to each Lender by the total amount of Obligations on the date of receipt of such payment, with such amounts to be applied to the outstanding Obligations in accordance with the terms of this Agreement.

### SECTION 3.17. CAPITAL ADEQUACY.

Without limiting any other provision of this Agreement, in the event that any Lender shall have determined that any law, treaty, governmental (or quasi-governmental) rule, regulation, guideline or order regarding capital adequacy not currently in effect or fully applicable as of the Closing Date, or any change therein or in the interpretation or application thereof after the Closing Date, or compliance by such Lender with any request or directive regarding capital adequacy not currently in effect or fully applicable as of the Closing Date (whether or not having the force of law and whether or not failure to comply therewith would be unlawful) from a central bank or governmental authority or body having jurisdiction, does or shall have the effect of reducing the rate of return on such Lender's capital as a consequence of its obligations hereunder to a level below that which such Lender could have achieved but for such law, treaty, rule, regulation, guideline or order, or such change or compliance (taking into consideration such Lender's policies with respect to capital adequacy) by an amount deemed by such Lender to be Material, then within ten (10) Business Days after written notice and demand by such Lender (with copies thereof to the Agent), Borrower shall from time to time pay to such Lender additional amounts sufficient to compensate such Lender for such reduction (but, in the case of outstanding Base Rate Advances, without duplication of any amounts already recovered by such Lender by reason of an adjustment in the applicable Base Rate). Each certificate as to the amount payable under this Section 3.17. (which certificate shall set forth the basis for requesting such amounts in reasonable detail),

submitted to Borrower by any Lender in good faith, shall, absent manifest error, be final, conclusive and binding for all purposes.

#### SECTION 3.18. LIMITATION ON CERTAIN PAYMENT OBLIGATIONS.

(a) Each Lender or the Agent shall make written demand on the Borrower for indemnification or compensation pursuant to Section 3.8.(b) no later than six months after the earlier of (i) on the date on which Lender or the Agent makes payment of any such Taxes and (ii) the date on which the relevant taxing authority or other governmental authority makes written demand upon such Lender or Agent for the payment of such Taxes.

(b) Each Lender or Agent shall make written demand on the Borrower for indemnification or compensation pursuant to Section 3.13. no later than six months after the event giving rise to the claim for indemnification or compensation occurs.

(c) Each Lender or the Agent shall make written demand on the Borrower for indemnification or compensation pursuant to Section 3.11. or Section 3.17. no later than six months after such Lender or Agent receives actual notice or obtains actual knowledge of the promulgation of a law, rule, order, interpretation or occurrence of another event giving rise to a claim pursuant to such provisions.

(d) In the event that the Lenders or Agent fail to give the Borrower notice within the time limitations set forth above, the Borrower shall not have any obligation to pay amounts with respect to such claims accrued prior to six months preceding any written demand therefor.

### **ARTICLE 4. CONDITIONS TO BORROWINGS**

The obligation of each Lender to make Advances to Borrower is subject to the satisfaction of the following conditions:

#### SECTION 4.1. CONDITIONS PRECEDENT TO INITIAL LOANS.

At the time of the making of the initial Loans hereunder on the Closing Date, all obligations of Borrower hereunder incurred prior to the initial Loans (including, without limitation, Borrower's obligations to reimburse the reasonable fees and expenses of counsel to the Agent and any fees and expenses payable to the Agent as previously agreed with Borrower), shall have been paid in full, and the Agent shall have received the following, in form and substance reasonably satisfactory in all respects to the Agent:

- (a) the duly executed counterparts of this Agreement;
- (b) the duly completed Revolving Credit Notes evidencing the Revolving Credit Commitments, and any applicable, duly executed Competitive Bid Notes evidencing the Competitive Bid Facility;
- (c) all required, duly executed Subsidiary Guaranties;
- (d) certificates of the Secretary or Assistant Secretary of the Borrower attaching and certifying copies of the resolutions of the board of directors of the Borrower, and each Subsidiary Guarantor providing a required Subsidiary Guaranty (including Subsidiaries serving as general partners of any Subsidiary), authorizing as applicable the execution, delivery and performance of the Credit Documents;
- (e) certificates of the Secretary or an Assistant Secretary of the Borrower certifying (i) the name, title and true signature of each officer of the Borrower executing the Credit Documents, and (ii) the bylaws of the Borrower and each Subsidiary Guarantor;
- (f) certified copies of the certificate or articles of incorporation of the Borrower and each of its Subsidiaries certified by the Secretary of State and by the Secretary or Assistant Secretary of the Borrower or such Subsidiaries, as appropriate, together with certificates of good standing or existence, as may be available from the Secretary of State of the jurisdiction of incorporation or organization of the Borrower and each of its Subsidiaries, and each other jurisdiction where the ownership of Property or the conduct of its business require the Borrower or its Subsidiaries to be qualified, except where a failure to be so qualified would not have a Materially Adverse Effect;
- (g) certificate of Borrower in substantially the form of Exhibit H attached hereto and appropriately completed;
- (h) the favorable opinion of corporate counsel to the Consolidated Companies as to certain matters, substantially in the form of Exhibit I, in each case addressed to the Agent and each of the Lenders;
- (i) copies of all documents and instruments, including all consents, authorizations and filings, required under the articles or certificate of incorporation and bylaws or other organizational or governing documents, under any Requirement of Law or by any Material Contractual Obligation of the Consolidated Companies, in connection with the execution, delivery, performance, validity and enforceability of the Credit Documents and the other documents to be executed and delivered hereunder, and such consents, authorizations, filings and orders shall be in full force and effect;
- (j) any other document, opinion or certificate reasonably requested by the Agent and the Lenders assuring the Agent and the Lenders that all corporate proceedings and all other legal matters in connection with the authorization, legality, validity and enforceability of the Credit Documents are in form and substance satisfactory to the Lenders; and

(k) a certificate from the Chief Financial Officer of the Borrower certifying that the first Advance under the Revolving Credit Commitments shall be used to cancel and pay in full all Prior Revolving Credit Debt.

#### SECTION 4.2. CONDITIONS TO ALL LOANS.

At the time of the making of all Loans, including the initial Loans hereunder, (before as well as, after giving effect to such Loans and to the proposed use of the proceeds thereon, the following conditions shall have been satisfied or shall exist:

(a) there shall exist no Default or Event of Default;

(b) all representations and warranties by Borrower contained herein shall be true and correct in all Material respects with the same effect as though such representations and warranties had been made on and as of the date of such Loans except to the extent they expressly relate to an earlier date or have been updated to the extent permitted herein;

(c) since the date of the most recent financial statements of the Consolidated Companies described in Section 5.14., there shall have been no change which has had or is reasonably likely to have a Materially Adverse Effect (whether or not any notice with respect to such change has been furnished to the Lenders pursuant to Section 6.7.);

(d) there shall be no action or proceeding instituted or pending before any court or other governmental authority or, to the knowledge of any Executive Officer of Borrower, threatened (i) which is reasonably likely to have a Materially Adverse Effect, or (ii) seeking to prohibit or restrict one or more of the Consolidated Companies' right to own or operate any portion of its business or Properties, or to compel one or more of the Borrower and its Consolidated Companies to dispose of or hold separate all or any portion of its businesses or Properties, where such portion or portions of such business(es) or Properties, as the case may be, constitute a Material portion of the total businesses or Properties, of the Consolidated Companies;

(e) the Loans to be made and the use of proceeds thereof shall not contravene, violate or conflict with, or involve the Agent or any Lender in a violation of, any law, rule, injunction, or regulation, or determination of any court of law or other governmental authority applicable to any Consolidated Company; and

(f) the Agent shall have received such other documents or legal opinions as the Agent or any Lender may reasonably request, all in form and substance reasonably satisfactory to the Agent.

Each request for a Borrowing or Competitive Bid Request and the acceptance by Borrower of the proceeds thereof shall constitute a representation and warranty by Borrower, as of the date of the Loans comprising such Borrowing, that the applicable conditions specified in Sections 4.

1. and 4.2. have been satisfied.

## ARTICLE 5. REPRESENTATIONS AND WARRANTIES

Borrower (as to itself and all other Consolidated Companies) represents and warrants as follows:

### SECTION 5.1. CORPORATE EXISTENCE; COMPLIANCE WITH LAW.

Each of the Consolidated Companies is a corporation duly organized, validly existing, and in good standing under the laws of the jurisdiction of its incorporation. Each of the Consolidated Companies (i) has the corporate power and authority and the legal right to own and operate its Property and to conduct its business, (ii) is duly qualified as a foreign corporation and in good standing under the laws of each jurisdiction where its ownership of Property or the conduct of its business requires such qualification, and (iii) is in compliance with all Requirements of Law, where the failure to so comply is reasonably likely to have a Materially Adverse Effect. The jurisdiction of incorporation or organization, and the ownership of all issued and outstanding capital stock, for each Subsidiary as of the date of this Agreement is accurately described on Schedule 5.1. Schedule 5.1. may be updated from time to time by the Borrower by giving written notice thereof to the Agent.

### SECTION 5.2. CORPORATE POWER; AUTHORIZATION.

Each of the Borrower and its Subsidiary Guarantors has the corporate power and authority to make, deliver and perform the Credit Documents to which it is a party and has taken all necessary corporate action to authorize the execution, delivery and performance of such Credit Documents. No consent or authorization of, or filing with, any Person (including, without limitation, any governmental authority), is required in connection with the execution, delivery or performance by the Borrower or its Subsidiary Guarantors, or the validity or enforceability against the Borrower or its Subsidiary Guarantors, of the Credit Documents, other than such consents, authorizations or filings which have been made or obtained.

### SECTION 5.3. ENFORCEABLE OBLIGATIONS.

This Agreement has been duly executed and delivered, and each other Credit Document will be duly executed and delivered, by the respective Consolidated Companies, as applicable, and this Agreement constitutes, and each other Credit Document when executed and delivered will constitute, legal, valid and binding obligations of the Consolidated Companies executing the same, enforceable against such Consolidated Companies in accordance with their respective terms.

### SECTION 5.4. NO LEGAL BAR.

The execution, delivery and performance by the Consolidated Companies of the Credit Documents do not violate their respective articles or certificates of incorporation, bylaws or other organizational or governing documents, or any Requirement of Law, or any applicable judgment, court order, administrative agency order, or cause a breach or default under any of their respective Material Contractual Obligations.

#### SECTION 5.5. NO MATERIAL LITIGATION.

Except as set forth on Schedule 5.5., no litigation, investigation or proceeding of or before any court, tribunal, arbitrator or governmental authority is pending or, to the knowledge of any Executive Officer of the Borrower, threatened by or against any of the Consolidated Companies, or against any of their respective Properties or revenues, existing or future (a) with respect to any Credit Document, or any of the transactions contemplated hereby or thereby, or (b) which, if adversely determined, is reasonably likely to have a Materially Adverse Effect.

#### SECTION 5.6. INVESTMENT COMPANY ACT, ETC.

Neither of the Consolidated Companies is an "investment company" or a company "controlled" by an "investment company" (as each of the quoted terms is defined or used in the Investment Company Act of 1940, as amended). None of the Consolidated Companies is subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, or any foreign, federal or local statute or regulation limiting its ability to incur Indebtedness for Money Borrowed, guarantee such indebtedness, or pledge its assets to secure such indebtedness, as contemplated hereby or by any other Credit Document.

#### SECTION 5.7. MARGIN REGULATIONS.

No part of the proceeds of any of the Loans will be used for any purpose which violates, or which would be inconsistent or not in compliance with, the provisions of the applicable Margin Regulations.

#### SECTION 5.8. COMPLIANCE WITH ENVIRONMENTAL LAWS.

(a) The Consolidated Companies have received no notices of claims or potential liability under, and are in compliance with, all applicable Environmental Laws, where such claims and liabilities under, and failures to comply with, such statutes, regulations, rules, ordinances, laws or licenses, is reasonably likely to result in penalties, fines, claims or other liabilities to the Consolidated Companies in amounts that would have a Materially Adverse Effect, either individually or in the aggregate (including any such penalties, fines, claims, or liabilities relating to the matters set forth on Schedule 5.8.(a)), except as set forth on Schedule 5.8.(a)).

(b) Except as set forth on Schedule 5.8.(b), none of the Consolidated Companies has received any notice of violation, or notice of any action, either judicial or administrative, from any governmental authority (whether United States or foreign) relating to the actual or alleged violation of any Environmental Law, including, without limitation any notice of any actual or alleged spill, leak, or other release of any Hazardous Substance, waste or hazardous waste by any Consolidated Company or its employees or agents, or as to the existence of any continuation on any Properties owned by any Consolidated Company, where any such violation, spill, leak, release or contamination is reasonably likely to result in penalties, fines, claims or other liabilities to the Consolidated

Companies in amounts that would have a Materially Adverse Effect, either individually or in the aggregate.

(c) Except as set forth on Schedule 5.8.(c), the Consolidated Companies have obtained all necessary governmental permits, licenses and approvals for the operations conducted on their respective Properties, including without limitation, all required Material permits, licenses and approvals for (i) the emission of air pollutants or contaminants, (ii) the treatment or pretreatment and discharge of waste water or storm water, (iii) the treatment, storage, disposal or generation of hazardous wastes, (iv) the withdrawal and usage of ground water or surface water, and (v) the disposal of solid wastes, in any such case where the failure to have such license, permit or approval is reasonably likely to have a Materially Adverse Effect.

#### SECTION 5.9. INSURANCE.

The Consolidated Companies currently maintain such insurance with respect to their Properties and business with financially sound and reputable insurers, and in such amounts and having such coverages against losses and damages which the Borrower in the exercise of its reasonable prudent business judgment has determined to be necessary to prevent the Consolidated Companies from experiencing a loss which would cause a Materially Adverse Effect. The Consolidated Companies have paid all Material amounts of insurance premiums now due and owing with respect to such insurance policies and coverages, and such policies and coverages are in full force and effect.

#### SECTION 5.10. NO DEFAULT.

None of the Consolidated Companies is in default under or with respect to any Contractual Obligation in any respect which has had or is reasonably likely to have a Materially Adverse Effect.

#### SECTION 5.11. NO BURDENSOME RESTRICTIONS.

Except as set forth on Schedule 5.11., none of the Consolidated Companies is a party to or bound by any Contractual Obligation or Requirement of Law or any provision of its respective articles or certificates of incorporation, bylaws, or other organizational or governing documents which has had or is reasonably likely to have a Materially Adverse Effect.

#### SECTION 5.12. TAXES.

The Consolidated Companies have filed all Federal tax returns and, to the knowledge of any Executive Officer of the Borrower, the Consolidated Companies have filed all other tax returns which are required to have been filed in any jurisdiction; the Consolidated Companies have paid all taxes shown to be due and payable on such Federal returns and other returns and all other taxes, assessments, fees and other charges payable by them, in each case, to the extent the same have become due and payable and before they have become delinquent, except for the filing of any such returns or the payment of any taxes, assessments, fees and other charges the amount,



applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which any Consolidated Company has set aside on its books reserves (segregated to the extent required by GAAP) deemed by it in good faith to be adequate. The Borrower has not received written notice of any proposed Material tax assessment with respect to Federal income taxes against any of the Consolidated Companies nor does any Executive Officer of the Borrower know of any Material Federal income tax liability on the part of the Consolidated Companies other than any such assessment or liability which is adequately reserved for on the books of the Consolidated Companies in accordance with GAAP.

#### SECTION 5.13. SUBSIDIARIES.

Except as disclosed on Schedule 5.13., Borrower has no Subsidiaries and neither Borrower nor any Subsidiary is a joint venture partner or general partner in any partnership. Schedule 5.13. may be updated from time to time by the Borrower by giving written notice thereof to the Agent.

#### SECTION 5.14. FINANCIAL STATEMENTS.

Borrower has furnished to the Agent and the Lenders (i) the audited consolidated balance sheets as of January 31, 1997 of the Consolidated Companies and the related consolidated statements of income, shareholders' equity and cash flows for the fiscal years then ended, including in each case the related notes. The foregoing financial statements fairly present in all Material respects the consolidated financial condition of the Consolidated Companies as at the dates thereof and results of operations for such periods in conformity with GAAP consistently applied (subject, in the case of the quarterly financial statements, to normal year-end audit adjustments and the absence of certain notes). The Consolidated Companies taken as a whole did not have any Material contingent obligations, contingent liabilities, or Material liabilities for known taxes, long-term leases or unusual forward or long-term commitments required to be reflected in the foregoing financial statements or the notes thereto that are not so reflected. Since May 2, 1997, there have been no changes with respect to the Consolidated Companies which has had or is reasonably likely to have a Materially Adverse Effect.

#### SECTION 5.15. ERISA.

Except as disclosed on Schedule 5.15.:

(a) Identification of Plans. None of the Consolidated Companies nor any of their respective ERISA Affiliates maintains or contributes to, or has during the past seven years maintained or contributed to, any Plan that is subject to Title IV of ERISA;

(b) Compliance. Each Plan maintained by the Consolidated Companies has at all times been maintained, by their terms and in operation, in compliance with all applicable laws, and the Consolidated Companies are subject to no tax or penalty with respect to any Plan of such Consolidated Company or any ERISA Affiliate thereof, including without limitation, any tax or penalty under Title I or Title IV of ERISA or under Chapter 43 of the Tax Code, or any tax or penalty resulting from a loss of deduction under Sections 162, 404, or 419 of the Tax Code, where the failure to comply with such

laws, and such taxes and penalties, together with all other liabilities referred to in this Section 5.15. (taken as a whole), would in the aggregate have a Materially Adverse Effect;

(c) Liabilities. The Consolidated Companies are subject to no liabilities (including withdrawal liabilities) with respect to any Plans of such Consolidated Companies or any of their ERISA Affiliates, including without limitation, any liabilities arising from Titles I or IV of ERISA, other than obligations to fund benefits under an ongoing Plan and to pay current contributions, expenses and premiums with respect to such Plans, where such liabilities, together with all other liabilities referred to in this Section 5.15. (taken as a whole), would in the aggregate have a Materially Adverse Effect;

(d) Funding. The Consolidated Companies and, with respect to any Plan which is subject to Title IV of ERISA, each of their respective ERISA Affiliates, have made full and timely payment of all amounts (A) required to be contributed under the terms of each Plan and applicable law, and (B) required to be paid as expenses (including PBGC or other premiums) of each Plan, where the failure to pay such amounts (when taken as a whole, including any penalties attributable to such amounts) would have a Materially Adverse Effect. No Plan subject to Title IV of ERISA has an "amount of unfunded benefit liabilities" (as defined in Section 4001(a)(18) of ERISA), determined as if such Plan terminated on any date on which this representation and warranty is deemed made, in any amount which, together with all other liabilities referred to in this Section 5.15. (taken as a whole), would have a Materially Adverse Effect if such amount were then due and payable. The Consolidated Companies are subject to no liabilities with respect to post-retirement medical benefits in any amounts which, together with all other liabilities referred to in this Section 5.15. (taken as a whole), would have a Materially Adverse Effect if such amounts were then due and payable.

#### SECTION 5.16. PATENTS, TRADEMARKS, LICENSES, ETC.

Except as set forth on Schedule 5.16., (i) the Consolidated Companies have obtained and hold in full force and effect all Material governmental authorizations, consents, approvals, patents, trademarks, service marks, franchises, trade names, copyrights, licenses and other such rights, free from burdensome restrictions, which are necessary for the operation of their respective businesses as presently conducted, and (ii) to the best of Borrower's knowledge, no product, process, method, service or other item presently sold by or employed by any Consolidated Company in connection with such business infringes any patents, trademark, service mark, franchise, trade name, copyright, license or other right owned by any other Person and there is not presently pending, or to the knowledge of Borrower, threatened, any claim or litigation against or affecting any Consolidated Company contesting such Person's right to sell or use any such product, process, method, substance or other item where the result of such failure to obtain and hold such benefits or such infringement would have a Materially Adverse Effect.

#### SECTION 5.17. OWNERSHIP OF PROPERTY; LIENS.

(a) Except as set forth on Schedule 5.17., (i) each Consolidated Company has good and marketable fee simple title to or a valid leasehold interest in all of its real property and

good title to all of its other Property, as such Properties are reflected in the consolidated balance sheet of the Consolidated Companies as of May 2, 1997, except where the failure to hold such title, leasehold interest, or possession would not have a Materially Adverse Effect, other than Properties disposed of in the ordinary course of business since such date or as otherwise permitted by the terms of this Agreement, subject to no known Lien or title defect of any kind, except Liens permitted by Section 7.2. and (ii) the Consolidated Companies enjoy peaceful and undisturbed possession under all of their respective leases except where the failure to enjoy peaceful and undisturbed possession would not have a Materially Adverse Effect.

(b) As of the date of this Agreement, the Property owned by each Consolidated Company is not subject to any Lien securing any Indebtedness or other obligation of such Consolidated Company in excess of \$2,500,000 individually or in the aggregate, other than as described on Schedule 5.17. hereof.

#### SECTION 5.18. INDEBTEDNESS.

Other than as described on Schedule 5.18. herein, and as of the date hereof, the Consolidated Companies, on a consolidated basis, are not obligors (singularly or in the aggregate) in respect of any Indebtedness for Borrowed Money in excess of \$2,500,000 or any commitment to create or incur any Indebtedness for Borrowed Money in excess of \$2,500,000.

#### SECTION 5.19. FINANCIAL CONDITION.

On the Closing Date and after giving effect to the transactions contemplated by this Agreement and the other Credit Documents, the Property of each Consolidated Company at fair valuation and based on their present fair saleable value will exceed such Consolidated Company's debts, including contingent liabilities, (ii) the remaining capital of such Consolidated Company will not be unreasonably small to conduct such Consolidated Company's business, and (iii) such Consolidated Company will not have incurred debts, or have intended to incur debts, beyond the Consolidated Company's ability to pay such debts as they mature. For purposes of this Section 5.19., "debt" means any liability on a claim, and "claim" means (a) the right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured, or (b) the right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

#### SECTION 5.20. LABOR MATTERS.

Except as set forth in Schedule 5.20., the Consolidated Companies have experienced no strikes, labor disputes, slow downs or work stoppages due to labor disagreements which is reasonably likely to have, a Materially Adverse Effect, and, to the best knowledge of the Executive Officers of the Borrower, there are no such strikes, disputes, slow downs or work stoppages threatened against any Consolidated Company except as disclosed in writing to the Agent. The hours worked and payment made to employees of the Consolidated Companies have

not been in violation in any Material respect of the Fair Labor Standards Act or any other applicable law dealing with such matters, and all payments due from the Consolidated Companies, or for which any claim may be made against the Consolidated Companies, on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as liabilities on the books of the Consolidated Companies, in each case where the failure to comply with such laws or to pay or accrue such liabilities is reasonably likely to have a Materially Adverse Effect.

#### SECTION 5.21. PAYMENT OF DIVIDEND RESTRICTIONS.

Except as described on Schedule 5.21., none of the Consolidated Companies is party to or subject to any agreement or understanding restricting or limiting the payment of any dividends or other distributions by any such Consolidated Company.

#### SECTION 5.22. DISCLOSURE.

(a) Neither this Agreement nor any financial statements delivered to the Lenders nor in the most recent version of any other document, certificate or written statement furnished to the Lenders by or on behalf of any Consolidated Company in connection with the transactions contemplated hereby contains any untrue statement of a Material fact or omits to state a Material fact necessary in order to make the statements contained therein or herein not misleading, it being understood that the representation set forth in this Section 5.22.(a) shall not apply to any financial projections or other pro forma financial information.

(b) The financial projections and other pro forma financial information contained in the information referred to in subsection (a) above were based on good faith estimates and assumptions believed by the applicable Consolidated Companies to be reasonable at the time made and at the time furnished to the Agent and/or any Lender, it being recognized by the Lenders that such projections and other pro forma financial information as to future events such projections and other pro forma financial information may differ from the projected results for such period or periods.

#### SECTION 5.23. NOTICE OF VIOLATIONS.

The Borrower has not received notice, and no Consolidated Company has received notice, that it is in violation of any Requirement of Law, judgment, court order, rule, or regulation that would be expected to have a Materially Adverse Effect.

#### SECTION 5.24. FILINGS.

The Borrower has filed all reports and statements required to be filed with the Securities and Exchange Commission. As of their respective dates, the reports and statements referred to above complied in all Material respects with all rules and regulations promulgated by the Securities and Exchange Commission and did not contain any untrue statement of a Material fact

or omit to state a Material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

## **ARTICLE 6. AFFIRMATIVE COVENANTS**

So long as any Commitment remains in effect hereunder or any Note shall remain unpaid, Borrower will:

### **SECTION 6.1. CORPORATE EXISTENCE, ETC.**

Preserve and maintain, and cause each of the Consolidated Companies to preserve and maintain, its corporate existence (except as otherwise permitted pursuant to Section 7.3.), its Material rights, franchises, and licenses, and its Material patents and copyrights (for the scheduled duration thereof), trademarks, trade names, service marks, and other intellectual property rights, necessary or desirable in the normal conduct of its business, and its qualification to do business as a foreign corporation in all jurisdictions where it conducts business or other activities making such qualification necessary, where the failure to be so qualified is reasonably likely to have a Materially Adverse Effect.

### **SECTION 6.2. COMPLIANCE WITH LAWS, ETC.**

Comply, and cause each Consolidated Company to comply, with all Requirements of Law (including, without limitation, the Environmental Laws) and all Contractual Obligations applicable to or binding on any of them where the failure to comply with such Requirements of Law and Contractual Obligations is reasonably likely to have a Materially Adverse Effect.

### **SECTION 6.3. PAYMENT OF TAXES AND CLAIMS, ETC.**

File and cause each Consolidated Company to file all Federal, state, local and foreign tax returns that are required to be filed by each of them and pay all taxes that have become due pursuant to such returns or pursuant to any assessment in respect thereof received by any Consolidated Company; and each Consolidated Company will pay or cause to be paid all other taxes, assessments, fees and other governmental charges and levies which, to the knowledge of any of the Executive Officers of any Consolidated Company, are due and payable before the same become delinquent, except any such taxes and assessments as are being contested in good faith by appropriate and timely proceedings and as to which adequate reserves have been established in accordance with GAAP.

### **SECTION 6.4. KEEPING OF BOOKS.**

Keep, and cause each Consolidated Company to keep, proper books of record and account, containing complete and accurate entries of all their respective financial and business transactions.

#### SECTION 6.5. VISITATION, INSPECTION, ETC.

Permit, and cause each Consolidated Company to permit, any representative of the Agent or any Lender, at the Agent's or such Lender's expense, to visit and inspect any of its Property, to examine its books and records and to make copies and take extracts therefrom, and to discuss its affairs, finances and accounts with its officers, all at such reasonable times and as often as the Agent or such Lender may reasonably request after reasonable prior notice to Borrower; provided, however, that at any time following the occurrence and during the continuance of a Default or an Event of Default, no prior notice to Borrower shall be required.

#### SECTION 6.6. INSURANCE; MAINTENANCE OF PROPERTIES.

(a) Maintain or cause to be maintained with financially sound and reputable insurers, such insurance with respect to its Properties and business in such amounts as the Borrower has determined in the exercise of its reasonable prudent business judgment is necessary to prevent the Consolidated Companies, singularly or in the aggregate from experiencing a loss which would cause a Materially Adverse Effect.

(b) Cause, and cause each of the Consolidated Companies to cause, all Properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and cause to be made all necessary repairs, renewals, replacements, settlements and improvements thereof, all as in the reasonable judgment of Borrower may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; provided, however, that nothing in this Section shall prevent Borrower from discontinuing the operation or maintenance of any such Properties if such discontinuance is, in the reasonable judgment of Borrower, desirable in the conduct of its business or the business of any Consolidated Company.

(c) Cause a summary, set forth in format and detail reasonably acceptable to the Agent, of the types and amounts of insurance (property and liability) maintained by the Consolidated Companies to be delivered to the Agent on or before thirty (30) days after the Closing Date.

#### SECTION 6.7. FINANCIAL REPORTS.

The Borrower will furnish to the Agent and each Lender:

(a) Within fifty (50) days after the end of each of the first three quarter-annual periods of each Fiscal Year (and, in any event, in each case as soon as prepared), the quarterly Financial Report of the Borrower as of the end of that period, prepared on a consolidated basis and accompanied by a certificate, dated the date of furnishing, signed by a Financial Officer of the Borrower to the effect that such Financial Report accurately presents in all Material respects the consolidated financial condition of the Consolidated Companies and that such Financial Report has been prepared in accordance with GAAP consistently applied (subject to year end adjustments), except that such Financial Report need not be accompanied by notes.

(b) Within one hundred (100) days after the end of each Fiscal Year (and, in any event, as soon as available), the annual Financial Report of the Borrower (with accompanying notes) for that Fiscal Year prepared on a consolidated basis (which Financial Report shall be reported on by the Borrower's independent certified public accountants, such report to state that such Financial Report fairly presents in all Material respects the consolidated financial condition and results of operation of the Consolidated Companies in accordance with GAAP and to be without any Material qualifications or exceptions). The audit opinion in respect of the consolidated Financial Report shall be the unqualified opinion of one of the nationally recognized "Big Six" firms of independent certified public accountants acceptable to Agent.

(c) Within fifty (50) days after the end of each of its first three quarterly accounting periods and within one hundred (100) days after the end of each Fiscal Year, a statement certified as true and correct by a Financial Officer of the Borrower, substantially in the form of Exhibit J hereto, with back-up material setting forth in reasonable detail such calculations attached thereto and stating whether any Default or Event of Default has occurred and is continuing, and if a Default or Event of Default has occurred and is continuing, stating the Borrower's intentions with respect thereto;

(d) Within fifty (50) days after the end of each of its quarterly accounting periods (including the year end quarterly period), a statement certified as true and correct by a Financial Officer of the Borrower setting forth the Consolidated Funded Debt to Total Capitalization Ratio and the Fixed Charge Coverage Ratio as of the last day of such quarterly accounting period.

(e) Promptly upon the filing thereof or otherwise becoming available, copies of all financial statements, annual, quarterly and special reports (including, without limitation, Borrower's 8-K, 10-K, and 10-Q reports), proxy statements and notices sent or made available generally by Borrower to its public security holders, of all regular and periodic reports and all registration statements and prospectuses, if any, filed by any of them with any securities exchange or with the Securities and Exchange Commission, and of all press releases and other statements made available generally to the public containing Material developments in the business or financial condition of Borrower and the other Consolidated Companies.

(f) Promptly upon receipt thereof, copies of all financial statements of, and all reports submitted by, independent public accountants to Borrower in connection with each annual, interim, or special audit of Borrower's financial statements, including without limitation, the comment letter submitted by such accountants to management in connection with their annual audit.

(g) As soon possible and in any event within thirty (30) days after the Borrower or any Consolidated Company knows or has reason to know that any "Reportable Event" (as defined in Section 4043(b) of ERISA) with respect to any Plan has occurred (other than such a Reportable Event for which the PBGC has waived the 30-day notice requirement under Section 4043(a) of ERISA) and such Reportable Event involves a matter that has

had, or is reasonably likely to have, a Materially Adverse Effect, a statement of a Financial Officer of the applicable Consolidated Company setting forth details as to such Reportable Event and the action which the applicable Consolidated Company proposes to take with respect thereto, together with a copy of the notice of such Reportable Event given to the PBGC if a copy of such notice is available to the applicable Consolidated Company.

(h) With reasonable promptness, such other information relating to the Borrower's performance of this Agreement or its financial condition as may reasonably be requested from time to time by the Agent.

(i) Concurrently with the furnishing of the annual consolidated Financial Report required pursuant to Section 6.7.(b) hereof, furnish or cause to be furnished to Agent and each Lender a certificate of compliance in a form reasonably satisfactory to Agent prepared by one of the nationally recognized "Big Six" accounting firms stating that in making the examination necessary for their audit, they have obtained no knowledge of any Default or Event of Default, or if they have obtained such knowledge, disclosing the nature, details, and period of existence of such event.

#### SECTION 6.8. NOTICES UNDER CERTAIN OTHER INDEBTEDNESS.

Immediately upon its receipt thereof, Borrower shall furnish the Agent a copy of any notice received by it or any other Consolidated Company from the holder(s) of Indebtedness (or from any trustee, agent, attorney, or other party acting on behalf of such holder(s)) in an amount which, in the aggregate, exceeds \$2,500,000.00 where such notice states or claims (i) the existence or occurrence of any default or event of default with respect to such Indebtedness under the terms of any indenture, loan or credit agreement, debenture, note, or other document evidencing or governing such Indebtedness, or (ii) the existence or occurrence of any event or condition which requires or permits holder(s) of any Indebtedness of the Consolidated Companies to exercise rights under any Change in Control Provision.

#### SECTION 6.9. NOTICE OF LITIGATION.

The Borrower shall notify the Agent of any actions, suits or proceedings instituted by any Person against the Consolidated Companies where the uninsured portion of the money damages sought (which shall include any deductible amount to be paid by the Borrower or any Consolidated Company) is singularly in an amount in excess of \$15,000,000.00 or where unreserved amounts in the aggregate are in excess of \$15,000,000.00 or which is reasonably likely to have a Materially Adverse Effect. Said notice is to be given along with the quarterly and annual reports required by Section 6.7. hereof, and is to specify the amount of damages being claimed or other relief being sought, the nature of the claim, the Person instituting the action, suit or proceeding, and any other significant features of the claim.

#### SECTION 6.10. SUBSIDIARY GUARANTIES.

(a) Subject to subsection (c) below, the Borrower shall cause each of the Consolidated Companies existing as of the Closing Date to execute and deliver on or



before the Closing Date a Subsidiary Guaranty in substantially the same form as set forth in Exhibit K. The delivery of such documents shall be accompanied by such other documents as the Agent may reasonably request (e.g., certificates of incorporation, articles of incorporation and bylaws, opinion letters and appropriate resolutions of the Board of Directors of any such Subsidiary Guarantor).

(b) Subject to subsection (c) below, the Borrower shall cause each Consolidated Company not existing as of the Closing Date to execute and deliver a Subsidiary Guaranty in substantially the same form as set forth in Exhibit K, simultaneously with the creation or acquisition of any such Consolidated Company by the Borrower or any other such Consolidated Company. The delivery of such documents shall be accompanied by such other documents as the Agent may reasonably request (e.g., certificates of incorporation, articles of incorporation and bylaws, opinion letters and appropriate resolutions of the Board of Directors of any such Subsidiary Guarantor).

(c) Notwithstanding the foregoing subsections (a) and (b), the Borrower shall not be required to cause any Consolidated Company to deliver a Subsidiary Guaranty if the delivery of such documents would cause such Consolidated Company to violate any Requirement of Law.

#### SECTION 6.11. EXISTING BUSINESS.

Remain and cause each Consolidated Company to remain engaged in business of the same general nature and type as conducted on the Closing Date.

#### SECTION 6.12. ERISA INFORMATION AND COMPLIANCE.

Comply and cause each Consolidated Company to comply with ERISA and all other applicable laws governing any pension or profit sharing plan or arrangement to which any Consolidated Company is a party. The Borrower shall provide and shall cause each Consolidated Company to provide Agent with notice of any "reportable event" or "prohibited transaction" or the imposition of a "withdrawal liability" within the meaning of ERISA.

### **ARTICLE 7. NEGATIVE COVENANTS**

So long as any Commitment remains in effect hereunder or any Note shall remain unpaid:

#### SECTION 7.1. FINANCIAL REQUIREMENTS.

The Borrower shall not:

(a) Fixed Charge Coverage Ratio. Suffer or permit, as of the last day of any fiscal quarter, the ratio of (A) Consolidated EBITR to (B) the sum of (i) Consolidated Interest Expense, plus (ii) Consolidated Rental Expense to be less than 2.0 to 1.0, as

calculated for the most recently concluded quarter and the immediately three (3) preceding fiscal quarters.

(b) Consolidated Funded Debt to Total Capitalization Ratio. Permit, as of the last day of any fiscal quarter, the ratio of Consolidated Funded Debt to Total Capitalization to be greater than .50 to 1.0.

#### SECTION 7.2. LIENS.

The Borrower will not, and will not permit any Consolidated Company to, create, assume or suffer to exist any Lien upon any of their respective Properties whether now owned or hereafter acquired; provided, however, that this Section 7.2. shall not apply to the following:

(a) any Lien for taxes not yet due or taxes or assessments or other governmental charges which are being actively contested in good faith by appropriate proceedings and as to which adequate reserves have been established in accordance with GAAP;

(b) any customary Liens, pledges or deposits in connection with worker's compensation, unemployment insurance, or social security, or deposits incidental to the conduct of the business of any Consolidated Company or the ownership of any of their Properties which were not incurred in connection with the borrowing of money or the obtaining of advances or credit and which do not in the aggregate Materially detract from the value of their Properties or Materially impair the use thereof in the operation of their businesses;

(c) any customary Liens to secure the performance of tenders, statutory obligations, surety and appeal bonds, and similar obligations and as to which adequate reserves have been established in accordance with GAAP;

(d) statutory Liens of carriers, warehousemen, mechanics, materialmen and other Liens imposed by law created in the ordinary course of business for amounts not yet due or which are being contested in good faith by appropriate proceedings and as to which adequate reserves have been established in accordance with GAAP;

(e) Liens consisting of encumbrances in the nature of zoning restrictions, easements, rights and restrictions of record on the use of real property on the date of the acquisition thereof and statutory Liens of landlords and lessors which in any case do not Materially detract from the value of such real property or impair the use thereof;

(f) any Lien in favor of the United States of America or any department or agency thereof, or in favor of any state government or political subdivision thereof, or in favor of a prime contractor under a government contract of the United States, or of any state government or any political subdivision thereof, and, in each case, resulting from acceptance of partial, progress, advance or other payments in the ordinary course of business

under government contracts of the United States, or of any state government or any political subdivision thereof, or subcontracts thereunder;

(g) any Lien existing on the date hereof and disclosed on the consolidated Financial Reports of Borrower;

(h) statutory Liens arising under ERISA created in the ordinary course of business for amounts not yet due and as to which adequate reserves have been established in accordance with GAAP; and

(i) any Lien incurred in connection with Purchase Money Indebtedness and placed upon any Property at the time of its acquisition (or within 60 days thereafter) by any Consolidated Company to secure all or a portion of the purchase price therefor, provided that the aggregate cumulative amount of Indebtedness secured by such purchase money Liens must never exceed an amount equal to five percent (5%) of Consolidated Net Worth (in calculating the amount of any Purchase Money Indebtedness secured by a Lien for the purpose of this Section 7.2.(d), there shall be excluded Purchase Money Indebtedness in an amount up to \$10,000,000 per distribution center under construction by any Consolidated Company with the maximum exclusion, regardless of the number of distribution centers under construction, of no more than \$20,000,000, provided that the Purchase Money Indebtedness incurred in connection with the construction of a distribution center and the purchase money Lien evidenced thereby is repaid and cancelled within 90 days following the issuance of a certificate of occupancy, or similar certification, for such distribution center), and provided, that any such Lien shall not encumber any other Properties of any Consolidated Company.

### SECTION 7.3. MERGER AND SALE OF ASSETS.

The Borrower will not, without the prior written consent of the Required Lenders, merge or consolidate with any other corporation or sell, lease or transfer or otherwise dispose of all or, during any twelve-month period, a Material part of its Property to any Person, nor shall the Borrower permit any Consolidated Company to take any of the above actions; provided that notwithstanding any of the foregoing limitations, if no Default or Event of Default shall then exist or immediately thereafter will exist, Consolidated Companies may take the following actions:

(a) Any Consolidated Company may merge with (i) the Borrower (provided that the Borrower shall be the continuing or surviving corporation) or (ii) any one or more other Subsidiaries provided that either the continuing or surviving corporation shall remain a Consolidated Company;

(b) Any Consolidated Company may sell, lease, transfer or otherwise dispose of any of its assets to (i) the Borrower, or (ii) any other Consolidated Company; and

(c) The Borrower may sell for fair value Scottsville, Kentucky office buildings (exclusive of its Scottsville, Kentucky distribution center).

#### SECTION 7.4. TRANSACTIONS WITH AFFILIATES.

The Borrower will not, and will not permit any Consolidated Company to, enter into or be a party to any transaction or arrangement with any Affiliate (including, without limitation, the purchase from, sale to or exchange of property with, or the rendering of any service by or for, any Affiliates), except in the ordinary course of and pursuant to the reasonable requirements of such Consolidated Company's business and upon fair and reasonable terms no less favorable to such Consolidated Company than such party would obtain in a comparable arm's-length transaction with a Person other than an Affiliate.

#### SECTION 7.5. NATURE OF BUSINESS.

The Borrower will not, and will not permit any Consolidated Company to, engage in any business if, as a result, the general nature of the business, taken on a consolidated basis, which would then be engaged in by any Consolidated Company would be fundamentally changed from the general nature of the business engaged in by the Consolidated Companies on the date of this Agreement.

#### SECTION 7.6. REGULATIONS G, T, U AND X.

The Borrower will not nor will it permit any Consolidated Company to take any action that would result in any non-compliance of the Advances made hereunder with Regulations G, T, U and X of the Board of Governors of the Federal Reserve System.

#### SECTION 7.7. ERISA COMPLIANCE.

The Borrower will not, and will not permit any Consolidated Company to, incur any Material "accumulated funding deficiency" within the meaning of Section 302(a)(2) of ERISA, or any Material liability under Section 4062 of ERISA to the Pension Benefit Guaranty Corporation ("PBGC") established thereunder in connection with any Plan.

SECTION 7.8. INVESTMENTS, LOANS, AND ADVANCES. The Borrower will not, and will not permit any Consolidated Company to, make or permit to remain outstanding any loans or advances to or investments in any Person, except that, subject to all other provisions of this Section 7.8., the foregoing restriction shall not apply to:

- (a) investments in direct obligations of the United States of America or any agency thereof having maturities of less than one year;
- (b) investments in commercial paper maturing within one year from the date of creation thereof of the highest credit rating of a Rating Agency;
- (c) investments in bankers' acceptances and certificates of deposit having maturities of less than one year issued by commercial banks in the United States of America having capital and surplus in excess of \$50,000,000;

- (d) the endorsement of negotiable or similar instruments in the ordinary course of business; and
- (e) investments in stock of any Consolidated Companies;
- (f) investments in stock or assets, or any combination thereof, of any Subsidiary created or acquired after the Closing Date;
- (g) investments received in settlement of debt created in the ordinary course of business; and
- (h) advances to officers and employees of Borrower made in the ordinary course of business and not in excess of amounts customarily and historically loaned to such officers and employees not to exceed \$2,500,000 in the aggregate.

**SECTION 7.9. SALES AND LEASEBACKS.** With regard to any Property owned by the Borrower or any Consolidated Company as of the date of this Agreement, the Borrower will not, and will not permit any Consolidated Company to, enter into any arrangement, directly or indirectly, with any Person by which any Consolidated Entity shall sell or transfer any such Property with a market value in excess of \$35,000,000, and by which any Consolidated Entity shall then or thereafter rent or lease as lessee such Property or any part thereof or other Property that such Consolidated Entity intends to use for substantially the same purpose or purposes as the Property sold or transferred.

With regard to any Property acquired by the Borrower or any Consolidated Company after the date of this Agreement, the Borrower will not, and will not permit any Consolidated Company, to enter into any arrangement, directly or indirectly, with any Person by which any Consolidated Company shall sell or transfer any such Property and by which any Consolidated Company shall then or thereafter rent or lease as lessee such Property or any part thereof or other Property that the Consolidated Company intends to use for substantially the same purpose or purposes as the Property sold or transferred unless any such sale and leaseback transaction is completed within a six-month period from the later of the date the Property is acquired or the date such Property is placed into service.

**SECTION 7.10. GUARANTIES.** The Borrower shall not, and will not permit any Consolidated Company to, enter into any Guaranty, except that, subject to all other provisions of this Article, the foregoing restriction shall not apply to:

- (a) Subsidiary Guaranties;
- (b) the execution by Borrower of a Guaranty for the Synthetic Lease;
- (c) Guaranties executed by one Consolidated Company in favor of or to another Consolidated Company for the obligations of another Consolidated Company;

(d) endorsements of instruments for deposit or collection in the ordinary course of business; and

(e) such other Guaranties that do not cause a breach or violation of the Consolidated Funded Debt to Total Capitalization Ratio.

**SECTION 7.11. LIMITATION ON FUNDED DEBT.** The Borrower will not permit any Consolidated Company and the Consolidated Companies in the aggregate to incur or suffer to exist Funded Debt other than:

(a) Funded Debt of the Consolidated Companies existing on the date of this Agreement and any renewal, extension, refunding, or refinancing thereof;

(b) Seasonal unsecured working capital lines of credit incurred subsequent to the date that the Borrower has used one hundred percent (100%) of the Total Commitments and provided that such seasonal working capital lines of credit may remain outstanding only for so long as one hundred percent (100%) of the Total Commitments remain outstanding;

(c) Purchase Money Indebtedness permitted by Section 7.2(i) herein;

(d) Indebtedness incurred in connection with stand-by letters of credit issued in the ordinary course of business on the account of any Consolidated Company not to exceed for all Consolidated Companies in the aggregate, an outstanding amount in excess of \$15,000,000; and

(e) Indebtedness incurred to First American National Bank in connection with the financing of seasonal working capital needs provided that the aggregate amount of such indebtedness does not exceed \$20,000,000.

**SECTION 7.12. ACQUISITIONS.** The Borrower will not, and will not permit any Consolidated Company to make Acquisitions for a purchase price in excess of \$25,000,000 in the aggregate in any twelve (12) month period. For the purpose hereof, the purchase price shall be determined by the sum of: (A) all cash paid, plus (B) the principal amount of any promissory notes given, plus (C) the value of any stock given, and (D) the value of any other Property given or transferred in respect of such Acquisition.

#### **ARTICLE 8. EVENTS OF DEFAULT**

Upon the occurrence and during the continuance of any of the following specified events (each an "Event of Default"):

#### SECTION 8.1. PAYMENTS.

Borrower shall fail to make promptly when due (including, without limitation, by mandatory prepayment) any principal payment with respect to the Loans, or Borrower shall fail to make any payment of interest, fee or other amount payable hereunder within five (5) Business Days of the due date thereof.

#### SECTION 8.2. COVENANTS WITHOUT NOTICE.

Borrower shall fail to observe or perform any covenant or agreement contained in Sections 6.1., 6.2., 6.3., 6.5., 6.7., 6.8., 6.9., 6.10., 6.11., 6.12., or in Article 7. herein.

#### SECTION 8.3. OTHER COVENANTS.

Borrower shall fail to observe or perform any covenant or agreement contained in this Agreement, other than those referred to in Sections 8.1. and 8.2., and such failure shall remain unremedied for 30 days after the earlier of (i) an Executive Officer of the Borrower obtaining knowledge thereof, or (ii) written notice thereof shall have been given to Borrower by Agent or any Lender;

#### SECTION 8.4. REPRESENTATIONS.

Any representation or warranty made or deemed to be made by Borrower or any other Consolidated Company or by any of its officers under this Agreement or any other Credit Document (including the Schedules attached thereto), or any certificate or other document submitted to the Agent or the Lenders by any such Person pursuant to the terms of this Agreement or any other Credit Document, shall be incorrect in any Material respect when made or deemed to be made or submitted;

#### SECTION 8.5. NON-PAYMENTS OF OTHER INDEBTEDNESS.

Any Consolidated Company shall fail to make when due (whether at stated maturity, by acceleration, on demand or otherwise, and after giving effect to any applicable grace period) any payment of principal of or interest on any Indebtedness (other than the Obligations) exceeding \$2,500,000 individually or in the aggregate;

#### SECTION 8.6. DEFAULTS UNDER OTHER AGREEMENTS.

Any Consolidated Company shall fail to observe or perform within any applicable grace period any covenants or agreements contained in any agreements or instruments relating to any of its Indebtedness (including the Synthetic Lease and any guaranty thereof) exceeding \$2,500,000 individually or in the aggregate, or any other event shall occur if the effect of such failure or other event is to accelerate, or to permit the holder of such Indebtedness or any other Person to accelerate, the maturity of such Indebtedness; or any such Indebtedness shall be required to be prepaid (other than by a regularly scheduled required prepayment) in whole or in part prior to its stated maturity;

## SECTION 8.7. BANKRUPTCY.

Any Consolidated Company shall commence a voluntary case concerning itself under the Bankruptcy Code or applicable foreign bankruptcy laws; or an involuntary case for bankruptcy is commenced against any Consolidated Company and the petition is not controverted within 10 days, or is not dismissed within 60 days, after commencement of the case, or a custodian (as defined in the Bankruptcy Code) or similar official under applicable foreign bankruptcy laws is appointed for, or takes charge of, all or any substantial part of the Property of any Consolidated Company; or any Consolidated Company commences proceedings of its own bankruptcy or to be granted a suspension of payments or any other proceeding under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction, whether now or hereafter in effect, relating to any Consolidated Company or there is commenced against any Consolidated Company any such proceeding which remains undismissed for a period of 60 days; or any Consolidated Company is adjudicated insolvent or bankrupt; or any order of relief or other order approving any such case or proceeding is entered; or any Consolidated Company suffers any appointment of any custodian or the like for it or any substantial part of its Property to continue undischarged or unstayed for a period of 60 days; or any Consolidated Company makes a general assignment for the benefit of creditors; or any Consolidated Company shall fail to pay, or shall state that it is unable to pay, or shall be unable to pay, its debts generally as they become due; or any Consolidated Company shall call a meeting of its creditors with a view to arranging a composition or adjustment of its debts; or any Consolidated Company shall by any act or failure to act indicate its consent to, approval of or acquiescence in any of the foregoing; or any corporate action is taken by any Consolidated Company for the purpose of effecting any of the foregoing;

## SECTION 8.8. ERISA.

A Plan of a Consolidated Company or a Plan subject to Title IV of ERISA of any of its ERISA Affiliates:

(i) shall fail to be funded in accordance with the minimum funding standard required by applicable law, the terms of such Plan, Section 412 of the Tax Code or Section 302 of ERISA for any plan year or a waiver of such standard is sought or granted with respect to such Plan under applicable law, the terms of such Plan or Section 412 of the Tax Code or Section 303 of ERISA; or

(ii) is being, or has been, terminated or the subject of termination proceedings under applicable law or the terms of such Plan; or

(iii) shall require a Consolidated Company to provide security under applicable law, the terms of such Plan, Section 401 or 412 of the Tax Code or Section 306 or 307 of ERISA; or

(iv) results in a liability to a Consolidated Company under applicable law, the terms of such Plan, or Title IV of ERISA;

and there shall result from any such failure, waiver, termination or other event a liability to the PBGC or a Plan that would have a Materially Adverse Effect.



#### SECTION 8.9. MONEY JUDGMENT.

A final judgments or final order for the payment of money in excess of \$2,500,000 individually or in the aggregate or otherwise having a Materially Adverse Effect shall be rendered against Borrower or any other Consolidated Company and such judgment or order shall continue unsatisfied (in the case of a money judgment) and in effect for a period of 30 days during which execution shall not be effectively stayed or deferred (whether by action of a court, by agreement or otherwise);

#### SECTION 8.10. OWNERSHIP OF CREDIT PARTIES.

If Borrower ceases to own all of the Voting Stock of any Subsidiary Guarantor.

#### SECTION 8.11. CHANGE IN CONTROL OF BORROWER.

Any "person" or "group" (within the meaning of Section 13(d) and 14(d)(2) of the Exchange Act) shall become the "beneficial owner(s)" (as defined in Rule 13d-3) of more than thirty percent (30%) of the shares of the outstanding common stock of Borrower entitled to vote for members of Borrower's board of directors, or (b) any event or condition shall occur or exist which, pursuant to the terms of any change of control provision, requires or permits the holder(s) of Indebtedness of any Consolidated Company which individually or in the aggregate is equal to or exceeds \$2,500,000 to require that such Indebtedness be redeemed, repurchased, defeased, prepaid, or repaid, in whole or in part, or the maturity of such Indebtedness to be accelerated in any respect.

#### SECTION 8.12. DEFAULT UNDER OTHER CREDIT DOCUMENTS.

There shall exist or occur any "Event of Default" as provided under the terms of any Credit Document, or any Credit Document ceases to be in full force and effect or the validity or enforceability thereof is disaffirmed by or on behalf of Borrower or any other Consolidated Company, or at any time it is or becomes unlawful for Borrower or any other Consolidated Company to perform or comply with its obligations under any Credit Document, or the obligations of Borrower or any other Consolidated Company, any Credit Document are not or cease to be legal, valid and binding on Borrower or any such Consolidated Company.

Then, and in any such event, and at any time thereafter if any Event of Default shall then be continuing, the Agent may, and upon the written or telex request of the Required Lenders, shall, by written notice to Borrower, take any or all of the following actions, without prejudice to the rights of the Agent, any Lender or the holder of any Note to enforce its claims against Borrower or any Subsidiary Guarantor: (i) declare all Commitments terminated, whereupon the Commitments of each Lender shall terminate immediately and any Facility Fee shall forthwith become due and payable without any other notice of any kind; (ii) declare the principal of and any accrued interest on the Loans, and all other Obligations owing hereunder to be, whereupon the same shall become, forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; provided, that, if an Event

of Default specified in Section 8.7. shall occur, no notice shall be required before those matters set forth herein and in subpart (i) above shall be effective; (iii) may exercise all remedies under any Subsidiary Guaranty; and (iv) may exercise any other rights or remedies available under the Credit Documents, at law or in equity.

## ARTICLE 9. THE AGENT

### SECTION 9.1. APPOINTMENT OF AGENT.

Each Lender hereby designates SunTrust as Agent to administer all matters concerning the Loans and to act as herein specified. Each Lender hereby irrevocably authorizes, and each holder of any Note by the acceptance of a Note shall be deemed irrevocably to authorize, the Agent to take such actions on its behalf under the provisions of this Agreement, the other Credit Documents, and all other instruments and agreements referred to herein or therein, and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of the Agent by the terms hereof and thereof and such other powers as are reasonably incidental thereto. The Agent may perform any of its duties hereunder by or through its agents or employees. The provisions of this Section 9.1. are solely for the benefit of Agent and Lenders, and the Borrower shall not have rights as a third party beneficiary of any provisions hereof.

### SECTION 9.2. NATURE OF DUTIES OF AGENT.

The Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and the other Credit Documents. Neither the Agent nor any of its respective officers, directors, employees or agents shall be liable for any action taken or omitted by it as such hereunder or in connection herewith, unless caused by its or their gross negligence or willful misconduct. The duties of the Agent shall be ministerial and administrative in nature; the Agent shall not have by reason of this Agreement a fiduciary relationship in respect of any Lender; and nothing in this Agreement, express or implied is intended to or shall be so construed as to impose upon the Agent any obligations in respect of this Agreement or the other Credit Documents except as expressly set forth herein.

### SECTION 9.3. LACK OF RELIANCE ON THE AGENT.

(a) Independently and without reliance upon the Agent, each Lender, to the extent it deems appropriate, has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of the Consolidated Companies in connection with the taking or not taking of any action in connection herewith, and (ii) its own appraisal of the creditworthiness of the Consolidated Companies, and, except as expressly provided in this Agreement, the Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter.

(b) The Agent shall not be responsible to any Lender for any recitals, statements, information, representations or warranties herein or in any document, certificate or other writing delivered in connection herewith or for the execution, effectiveness, genuineness, validity, enforceability, collectibility, priority or sufficiency of this Agreement, the Notes, the Subsidiary Guaranties, or any other documents contemplated hereby or thereby, or the financial condition of the Consolidated Companies, or be required to make any inquiry concurring either the performance or observance of any of the terms, provisions or conditions of this Agreement, the Notes, the Subsidiary Guaranties, or the other documents contemplated hereby or thereby, or the financial condition of the Consolidated Companies, or the existence or possible existence of any Default or Event of Default.

#### SECTION 9.4. CERTAIN RIGHTS OF THE AGENT.

If the Agent shall request instructions from the Required Lenders with respect to any action or actions (including the failure to act) in connection with this Agreement, the Agent shall be entitled to refrain from such act or taking such act, unless and until the Agent shall have received instructions from the Required Lenders; and the Agent shall not incur liability to any Person by reason of so refraining. Without limiting the foregoing, no Lender shall have any right of action whatsoever against the Agent as a result of the Agent's acting or refraining from acting hereunder in accordance with the instructions of the Required Lenders.

#### SECTION 9.5. RELIANCE BY AGENT.

The Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, statement, certificate, telex, teletype or telecopier message, cable gram, radiogram, order or other documentary, teletransmission or telephone message believed by it to be genuine and correct and to have been signed, sent or made by the proper Person. The Agent may consult with legal counsel (including counsel for any Consolidated Company), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

#### SECTION 9.6. INDEMNIFICATION OF AGENT.

To the extent the Agent is not reimbursed and indemnified by the Consolidated Companies, each Lender will reimburse and indemnify the Agent, ratably according to the respective amounts of the Loans outstanding under all Facilities (or if no amounts are outstanding, ratably in accordance with the Total Commitments), in either case, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, including counsel fees and disbursements) or disbursements of any suits, costs, expenses (in kind or nature whatsoever which may be imposed on, incurred by or asserted against the Agent in performing its duties hereunder, in any way relating to or arising out of this Agreement or the other Credit Documents; provided that no Lender shall be liable to the Agent for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's gross negligence or willful misconduct.

#### SECTION 9.7. THE AGENT IN ITS INDIVIDUAL CAPACITY.

With respect to its obligation to lend under this Agreement, the Loans made by it and the Notes issued to it, the Agent shall have the same rights and powers hereunder as any other Lender or holder of a Note and may exercise the same as though it were not performing the duties specified herein; and the terms "Lenders", "Required Lenders" "holders of Notes", or any similar terms shall, unless the context clearly otherwise indicates, include the Agent in its individual capacity. The Agent may accept deposits from, lend money to, and generally engage in any kind of banking, trust, financial, advisory, or other business with the Consolidated Companies or any Affiliate of the Consolidated Companies as if it were not performing the duties specified herein, and may accept fees and other consideration from the Consolidated Companies for services in connection with this Agreement and otherwise without having to account for the same to the Lenders.

#### SECTION 9.8. HOLDERS OF NOTES.

The Agent may deem and treat the payee of any Note as the owner thereof for all purposes hereof unless and until a written notice of the assignment or transfer thereof shall have been filed with the Agent. Any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is the holder of any Note shall be conclusive and binding on any subsequent holder, transferee or assignee of such Note or of any Note or Notes issued in exchange therefor.

#### SECTION 9.9. SUCCESSOR AGENT.

(a) The Agent may resign at any time by giving written notice thereof to the Lenders and Borrower and may be removed at any time with or without cause by the Required Lenders; provided, however, the Agent may not resign or be removed until a successor Agent has been appointed and shall have accepted such appointment. Upon any such resignation or removal, the Required Lenders shall have the right to appoint a successor Agent subject to Borrower's prior written approval. If no successor Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within 30 days after the retiring Agent's giving of notice of resignation or the Required Lenders' removal of the retiring Agent, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent subject to Borrower's prior written approval, which shall be a bank which maintains an office in the United States, or a commercial bank organized under the laws of the United States of America or any State thereof, or any Affiliate of such bank, having a combined capital and surplus of at least \$100,000,000. In the event that the Agent is no longer a Lender hereunder, the Agent shall promptly resign as Agent.

(b) Upon the acceptance of any appointment as the Agent hereunder by a successor Agent, such successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under this Agreement. After any retiring Agent's resignation or removal hereunder as Agent, the provisions of this Article 9. shall inure to

its benefit as to any actions taken or omitted to be taken by it while it was an Agent under this Agreement.

## **ARTICLE 10. MISCELLANEOUS**

### **SECTION 10.1. NOTICES.**

All notices, requests and other communications to any party hereunder shall be in writing (including bank wire, telex, telecopy or similar teletransmission or writing) and shall be given to such party at its address or applicable teletransmission number set forth on the signature pages hereof, or such other address or applicable teletransmission number as such party may hereafter specify by notice to the Agent and Borrower. Each such notice, request or other communication shall be effective (i) if given by telex, when such telex is transmitted to the telex number specified in this Section and the appropriate answerback is received, (ii) if given by mail, three (3) Business Days after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid, (iii) if given by telecopy, when such telecopy is transmitted to the telecopy number specified in this Section and the appropriate confirmation is received, or (iv) if given by any other means (including, without limitation, by air courier), when delivered or received at the address specified in this Section provided that notices to the Agent shall not be effective until received.

### **SECTION 10.2. AMENDMENTS, ETC.**

No amendment or waiver of any provision of this Agreement or the other Credit Documents, nor consent to any departure by any Consolidated Company therefrom, shall in any event be effective under the same shall be in writing and signed by the Required Lenders, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that no amendment, waiver or consent shall, unless in writing and signed by all the Lenders, do any of the following: (i) waive any of the conditions specified in Section 4.1. or 4.2., (ii) increase the Commitments or other contractual obligations to Borrower under this Agreement, (iii) reduce the principal of, or interest on, the Notes or any fees hereunder, (iv) postpone any date fixed for the payment in respect of principal of, or interest on, the Notes or any fees hereunder, (v) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Notes, or the number or identity of Lenders which shall be required for the Lenders or any of them to take any action hereunder, (vi) modify the definition of "Required Lenders," (vii) reduce any obligation owed under or release any Subsidiary Guaranty (except as required under Section 6.10.(d). or (viii) modify this Section 10.2. Notwithstanding the foregoing, no amendment, waiver or consent shall, unless in writing and signed by the Agent in addition to the Lenders required hereinabove to take such action, affect the rights or duties of the Agent under this Agreement or under any other Credit Document.

### **SECTION 10.3. NO WAIVER; REMEDIES CUMULATIVE.**

No failure or delay on the part of the Agent, any Lender or any holder of a Note in exercising any right or remedy hereunder or under any other Credit Document, and no course of dealing between any Consolidated Company and the Agent, any Lender or the holder of any Note

shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy hereunder or under any other Credit Document preclude any other or further exercise thereof or the exercise of any other right or remedy hereunder or thereunder. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which the Agent, any Lender, or the holder of any Note would otherwise have. No notice to or demand on any Consolidated Company not required hereunder or under any other Credit Document in any case shall entitle any Consolidated Company to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Agent, the Lenders, or the holder of any Note to any other or further action in any circumstances without notice or demand.

#### SECTION 10.4. PAYMENT OF EXPENSES, ETC.

Borrower shall:

(i) whether or not the transactions hereby contemplated are consummated, pay all reasonable, out-of-pocket costs and expenses of the Agent in connection with the preparation, execution and delivery of, preservation of rights under, enforcement of, and, after a Default or Event of Default or, upon the request of the Borrower, refinancing, renegotiation or restructuring of, this Agreement and the other Credit Documents and the documents and instruments referred to therein, and any amendment, waiver or consent relating thereto (including, without limitation, the reasonable fees actually incurred and disbursements of counsel for the Agent), and in the case of enforcement of this Agreement or any Credit Document after an Event of Default, all such reasonable, out-of-pocket costs and expenses (including, without limitation, the reasonable fees actually incurred and reasonable disbursements and charges of counsel), for any of the Lenders;

(ii) subject, in the case of certain Taxes, to the applicable provisions of Section 3.8.(b), pay and hold each of the Lenders harmless from and against any and all present and future stamp, documentary, and other similar Taxes with respect to this Agreement, the Notes and any other Credit Documents, any collateral described therein, or any payments due thereunder, and hold each Lender harmless from and against any and all liabilities with respect to or resulting from any delay or omission to pay such Taxes; and

(iii) indemnify the Agent and each Lender, and their respective officers, directors, employees, representatives and agents from, and hold each of them harmless against, any and all costs, losses, liabilities, claims, damages or expenses incurred by any of them (whether or not any of them is designated a party thereto) (an "Indemnatee") arising out of or by reason of any investigation, litigation or other proceeding related to any actual or proposed use of the proceeds of any of the Loans or any Consolidated Company entering into and performing of the Agreement, the Notes, or the other Credit Documents, including, without limitation, the reasonable fees actually incurred and disbursements of counsel incurred in connection with any such investigation, litigation or other proceeding, provided, however, Borrower shall not be obligated to indemnify, any Indemnatee for any of the foregoing arising out of such Indemnatee's gross negligence or willful misconduct;

(iv) without limiting the Indemnities set forth in subsection (iii) above, indemnify each Indemnitee for any and all expenses and costs (including without limitation, remedial, removal, response, abatement, cleanup, investigative, closure and monitoring costs), losses, claims (including claims for contribution or indemnity and including the cost of investigating or defending any claim and whether or not such claim is ultimately defeated, and whether such claim arose before, during or after any Consolidated Company's ownership, operation, possession or control of its business, Property or facilities or before, on, or after the date hereof, and including also any amounts paid incidental to any compromise or settlement by the Indemnitee or Indemnitees to the holders of any such claim), lawsuits, liabilities, obligations, actions, judgments, suits, disbursements, encumbrances, liens, damages (including without limitation damages for contamination or destruction of natural resources), penalties and fines of any kind or nature whatsoever (including without limitation in all cases the reasonable fees actually incurred, other charges and disbursements of counsel in connection therewith) incurred, suffered or sustained by that Indemnitee based upon, arising under or relating to Environmental Laws based on, arising out of or relating to in whole or in part, the existence or exercise of any rights or remedies by any Indemnitee under this Agreement, any other Credit Document or any related documents.

If and to the extent that the obligations of Borrower under this Section 10.4. are unenforceable for any reason, Borrower hereby agrees to make the maximum contribution to the payment and satisfaction of such obligations which is permissible under applicable law.

#### SECTION 10.5. RIGHT OF SETOFF.

In addition to and not in limitation of all rights of offset that any Lender or other holder of a Note may have under applicable law, each Lender or other holder of a Note shall, upon the occurrence and during the continuation of any Event of Default and whether or not such Lender or such holder has made any demand or any obligations under the Credit Documents have matured, have the right to appropriate and apply to the payment of any obligations hereunder and under the other Credit Documents, all deposits of any Consolidated Company (general or special, time or demand, provisional or final) then or thereafter held by and other indebtedness or Property then or thereafter owing by such Lender or other holder to any Consolidated Company, whether or not related to this Agreement or any transaction hereunder.

#### SECTION 10.6. BENEFIT OF AGREEMENT; ASSIGNMENTS AND PARTICIPATIONS.

(a) This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto, provided that Borrower may not assign or transfer any of its interest hereunder without the prior written consent of the Lenders.

(b) Any Lender may make, carry or transfer Loans at, to or for the account of, any of its branch offices or the office of an Affiliate of such Lender.

(c) Each Lender may assign all or a portion of its interests, rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it and the Notes held by it) to any Eligible Assignee; provided, however, that (i) the Agent and, except during the continuance of a Default or Event of Default, the Borrower must give their prior written consent to such assignment (which consent shall not be unreasonably withheld or delayed) unless such assignment is to an Affiliate of the assigning Lender, (ii) the amount of the Commitments of the assigning Lender subject to each assignment (determined as of the date the assignment and acceptance with respect to such assignment is delivered to the Agent) shall not be less than an amount equal to \$5,000,000 or greater integral multiples thereof, and (iii) the parties to each such assignment shall execute and deliver to the Agent an Assignment and Acceptance, together with the Note or Notes subject to such assignment and, unless such assignment is to an Affiliate of such Lender, a processing and recordation fee of \$3,000. Borrower shall not be responsible for such processing and recordation fee or any costs or expenses incurred by any Lender or the Agent in connection with such assignment. From and after the effective date specified in each Assignment and Acceptance, which effective date shall be at least five

(5) Business Days after the execution thereof, the assignee there-under shall be a party hereto and to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement. Within five (5) Business Days after receipt of the notice and the Assignment and Acceptance, Borrower, at its own expense, shall execute and deliver to the Agent, in exchange for the surrendered Note or Notes, a new Note or Notes to the order of such assignee in a principal amount equal to the applicable Commitments or Loans assumed by it pursuant to such Assignment and Acceptance and new Note or Notes to the assigning Lender in the amount of its retained Commitment or Commitments or amount of its retained Loans. Such new Note or Notes shall be in aggregate and a principal amount equal to the aggregate principal amount of such surrendered Note or Notes, shall be dated the date of the surrendered Note or Notes which they replace, and shall otherwise be in substantially the form attached hereto.

(d) Each Lender may, without the consent of the Borrower, sell participations to one or more banks or other entities in all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments in the Loans owing to it and the Notes held by it), provided, however, that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the participating bank or other entity shall not be entitled to the benefit (except through its selling Lender) of the cost protection provisions contained in Article 4. of this Agreement, and (iv) Borrower and the Agent and other Lenders shall continue to deal solely and directly with each Lender in connection with such Lender's rights and obligations under this Agreement and the other Credit Documents, and such Lender shall retain the sole right to enforce the obligations of Borrower relating to the Loans and to approve any amendment, modification or waiver of any provisions of this Agreement. Any Lender selling a participation hereunder shall provide prompt written notice to Agent of the name of such participant.



(e) Any Lender or participant may, in connection with the assignment or participation or proposed assignment or participation, pursuant to this Section, disclose to the assignee or participant or proposed assignee or participant any information relating to Borrower or the other Consolidated Companies furnished to such Lender by or on behalf of Borrower or any other Consolidated Company. With respect to any disclosure of confidential, non-public, proprietary information, such proposed assignee or participant shall agree to use the information only for the purpose of making any necessary credit judgments with respect to this credit facility and not to use the information in any manner prohibited by any law, including without limitation, the securities laws of the United States. The proposed participant or assignee shall agree not to disclose any of such information except as permitted by Section 10.15. hereof. The proposed participant or assignee shall further agree to return all documents or other written material and copies thereof received from any Lender, the Agent or Borrower relating to such confidential information unless otherwise properly disposed of by such entity.

(f) Any Lender may at any time assign all or any portion of its rights under this Agreement and the Notes issued to it to a Federal Reserve Bank; provided that no such assignment shall release the Lender from any of its obligations hereunder.

(g) If (i) any Taxes referred to in Section 3.8.(b) have been levied or imposed so as to require withholdings and reductions by the Borrower and payment by the Borrower of additional amounts to any Lender as a result thereof, (ii) or any Lender shall make demand for payment of any material additional amounts as compensation for increased costs pursuant to Section 3.11., or for its reduced rate of return pursuant to Section 4.16., or (iii) any Lender shall decline to consent to a modification or waiver of the terms of this Agreement or the other Credit Documents requested by Borrower, then and in such event, upon request from the Borrower delivered to such Lender and the Agent, such Lender shall assign, in accordance with the provisions of Section 10.6.(c), all of its rights and obligations under this Agreement and the other Credit Documents to another Lender or an Eligible Assignee selected by the Borrower and consented to by the Agent in consideration for the payment by such assignee to the Lender of the principal of and interest on the outstanding Loans accrued to the date of such assignment and the assumption of such Lender's Total Commitment, together with any and all other amounts owing to such Lender under any provisions of this Agreement or the other Credit Documents accrued to the date of such assignment.

#### SECTION 10.7. GOVERNING LAW; SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND UNDER THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF TENNESSEE.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT, THE NOTES OR ANY OTHER COURT DOCUMENT, MAY BE BROUGHT IN ANY FEDERAL OR STATE COURT LOCATED IN DAVIDSON

COUNTY, TENNESSEE, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, BORROWER HEREBY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS.

(c) THE PARTIES HERETO HEREBY IRREVOCABLY WAIVE THEIR RIGHT TO A TRIAL BY JURY, AND BORROWER HEREBY IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE JURISDICTIONS.

(d) Nothing herein shall affect the right of the Agent, any Lender, any holder of a Note or any Consolidated Company to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against Borrower in any other jurisdiction.

#### SECTION 10.8. INDEPENDENT NATURE OF LENDERS' RIGHTS.

The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights pursuant to this Agreement and its Notes, and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

#### SECTION 10.9. COUNTERPARTS.

This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

#### SECTION 10.10. EFFECTIVENESS; SURVIVAL.

(a) This Agreement shall become effective on the date (the "Effective Date") on which all of the parties hereto shall have signed a copy hereof (whether the same or different copies) and shall have delivered the same to the Agent pursuant to Section 11.1. or, in the case of the Lenders, shall have given to the Agent written (which may be delivered by facsimile) or telex notice (actually received) that the same has been signed and mailed to them.

(b) The obligations of Borrower under Sections 3.8.(b), 3.11., 3.13., 3.14., 3.17. and 10.4. hereof shall survive the payment in full of the Notes after the Maturity Date. All representations and warranties made herein, in the certificates, reports, notices, and other documents delivered pursuant to this Agreement shall survive the execution and delivery of this Agreement, the other Credit Documents, and such other agreements and

documents, the making of the Loans hereunder, and the execution and delivery of the Notes.

#### SECTION 10.11. SEVERABILITY.

In case any provision in or obligation under this Agreement or any other Credit Documents shall be invalid, illegal or unenforceable, in whole or in part, in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

#### SECTION 10.12. INDEPENDENCE OF COVENANTS.

All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or be otherwise within the limitation of, another covenant, shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

#### SECTION 10.13. CHANGE IN ACCOUNTING PRINCIPLES, FISCAL YEAR OR TAX LAWS.

If (i) any preparation of the financial statements referred to in Section 6.7. hereafter occasioned by the promulgation of rules, regulations, pronouncements and opinions by or required by the Financial Accounting Standards Board or the American Institute of Certified Public Accounts (or successors thereto or agencies with similar functions) result in a Material change in the method of calculation of financial covenants, standards or terms found in this Agreement, (ii) there is any change in Borrower's fiscal quarter or fiscal year, or (iii) there is a Material change in federal tax laws which Materially affects any of the Consolidated Companies' ability to comply with the financial covenants, standards or terms found in this Agreement, Borrower and the Required Lenders agree to enter into negotiations in order to amend such provisions so as to equitably reflect such changes with the desired result that the criteria for evaluating any of the Consolidated Companies' financial condition shall be the same after such changes as if such changes had not been made. Unless and until such provisions have been so amended, the provisions of this Agreement shall Govern.

#### SECTION 10.14. HEADINGS DESCRIPTIVE; ENTIRE AGREEMENT.

The headings of the several sections and subsections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement. This Agreement, the other Credit Documents, and the agreements and documents required to be delivered pursuant to the terms of this Agreement constitute the entire agreement among the parties hereto and thereto regarding the subject matters hereof and thereof and supersede all prior agreements, representations and understandings related to such subject matters.

#### SECTION 10.15. DISCLOSURE OF CONFIDENTIAL INFORMATION.

The Agent and the Lenders agree to use their best efforts to hold in confidence and not disclose any confidential information (other than information

(i) which was publicly known from

a source other than the Borrower or a Subsidiary, at the time of disclosure (except pursuant to disclosure in connection with this Agreement), (ii) which subsequently becomes publicly known through no act or omission by them, or (iii) which otherwise becomes known to them, other than through disclosure by the Borrower or a Subsidiary or by any other Person whom the Agent or such Lender has reason to believe disclosed such information in violation of or contrary to the confidentiality requirements or policies of the Borrower or a Subsidiary) delivered or made available by or on behalf of the Borrower or any Subsidiary to them (including without limitation any non-public information obtained pursuant to Section 6.5. or 7.7.) in connection with or pursuant to this Agreement which is proprietary in nature and clearly marked or labeled as being confidential information, provided that nothing herein shall prevent the Agent or any Lender from delivery of copies of any financial statements and other documents delivered to the Agent or such Lender, and disclosing any other information disclosed to the Agent or such Lender, by or on behalf of the Borrower or any Subsidiary in connection with or pursuant to this Agreement to (i) the Agent's or such Lender's directors, officers, employees, agents and professional consultants, (ii) any other Lender, (iii) any Person to which such Lender offers to assign its Notes or Commitments or any part thereof (which person agrees to be bound by the provisions of this Section 10.15), (iv) any Person to which such Lender sells or offers to sell a participation in all or any part of its Notes or Commitments (which Person agrees to be bound by the provisions of this Section 10.15), (v) any federal or state regulatory authority having jurisdiction over the Agent or such Lender, and (vi) any other person to which such delivery or disclosure may be necessary (a) to effect compliance with any law, rule, regulation or order applicable to the Agent or such Lender, (b) in response to any subpoena or other local process, (c) in connection with any litigation to which the Agent or such Lender is a party or (d) in order to protect such Lender's investment in its Notes.

**SECTION 10.16. USURY.** The parties to this Agreement intend to conform strictly to applicable usury laws as presently in effect. Accordingly, if the transactions contemplated hereby would be usurious under applicable law (including the laws of the United States of America and the State of Tennessee), then, in that event, notwithstanding anything to the contrary in any Loan Document or agreement executed in connection with the indebtedness described herein, Borrower, Agent, and Lenders agree as follows: (i) the aggregate of all consideration that constitutes interest under applicable law which is contracted for, charged, or received under any of the Loan Documents or agreements, or otherwise in connection with the indebtedness described herein, shall under no circumstance exceed the maximum lawful rate of interest permitted by applicable law, and any excess shall be credited on the indebtedness by the holder thereof (or, if the indebtedness described herein shall have been paid in full, refunded to the Borrower); and (ii) in the event that the maturity of the indebtedness described herein is accelerated as a result of any Event of Default or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest may never include more than the maximum amount of interest permitted by applicable law, and excess interest, if any, for which this Agreement provides, or otherwise, shall be cancelled automatically as of the date of such acceleration or prepayment and, if previously paid, shall be credited on the indebtedness described herein (or, if the indebtedness shall have been paid in full, refunded to the Borrower).

**SECTION 10.17. TIME IS OF THE ESSENCE.** Time is of the essence in interpreting and performing this Agreement and all other Credit Documents.

SECTION 10.18. CONSTRUCTION. Should any provision of this Agreement require judicial interpretation, the parties hereto agree that the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be more strictly construed against the party who itself or its agents prepared the same, it being agreed that Borrower, Agent, and Lenders and their respective agents have participated in the preparation hereof.

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

**BORROWER:**

**DOLLAR GENERAL CORPORATION**

*By: /s/ Phil Richards*

-----

*Title: V.P. CFO*

-----

Address for notice:

104 Woodmont Boulevard Suite 500  
Nashville, Tennessee 37205

[Signatures Continued on Next Page]

**AGENT:**

**SUNTRUST BANK, NASHVILLE, N.A.,  
as Agent**

*By: /s/ Hank Miles*

*Title: SVP*

Address for notice:

201 Fourth Avenue North Nashville, Tennessee 37219

[Signatures Continued on Next Page]

**LENDERS:**

**SUNTRUST BANK, NASHVILLE, N.A.**

*By: /s/ Hank Miles*  
-----

*Title: SVP*  
-----

Address for notice:

201 Fourth Avenue North Nashville, Tennessee 37219

**Payment Office:**

201 Fourth Avenue North  
Nashville, Tennessee 37219

Revolving Credit Commitment: \$31,906,000.00

Applicable Commitment Percentage: 18.233%

[Signatures Continued on Next Page]



**FIRST UNION NATIONAL BANK**

By: Thelma Ferguson

Title: V.P.

Address for notice:

2nd Floor  
150 Fourth Avenue North Nashville, Tennessee 37219

**Payment Office:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Revolving Credit Commitment: \$22,398,000.00

Applicable Commitment Percentage: 12.799%

[Signatures Continued on Next Page]

**WACHOVIA BANK, N.A.**

**By: KENNETH WASHINGTON**

**Title: V.P.**

Address for notice:

191 Peachtree Street, N.E.

Atlanta, Georgia 30303

**Payment Office:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Revolving Credit Commitment: \$22,398,000.00

Applicable Commitment Percentage: 12.799%

[Signatures Continued on Next Page]

**BARNETT BANK, N.A.**

By: /s/ Melinda J. Lemein

Title: \_\_\_\_\_  
\_\_\_\_\_

Address for notice:

50 North Laura 17th Floor  
Jacksonville, Florida 32202

**Payment Office:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Revolving Credit Commitment: \$14,342,000.00

Applicable Commitment Percentage: 8.195%

[Signatures Continued on Next Page]

**MORGAN GUARANTY TRUST COMPANY  
OF NEW YORK**

By: /s/ Patricia Merritt

-----  
Title: V.P.  
-----

Address for notice:

**Payment Office:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Revolving Credit Commitment: \$14,342,000.00

Applicable Commitment Percentage: 8.195%

[Signatures Continued on Next Page]

**THE FIRST NATIONAL BANK OF CHICAGO**

*By: /s/ John Runger*

*Title: Managing Director*

Address for notice:

One First National Plaza Mail Suite 0086 Chicago, Illinois 60670

**Payment Office:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Revolving Credit Commitment: \$14,342,000.00

Applicable Commitment Percentage: 8.195%

[Signatures Continued on Next Page]

**MASTER AGREEMENT**

**Dated as of September 2, 1997**

among

**DOLLAR GENERAL CORPORATION,**  
as a Lessee and Guarantor,

**CERTAIN SUBSIDIARIES OF DOLLAR  
GENERAL CORPORATION, as Lessees,**

**ATLANTIC FINANCIAL GROUP, LTD., as Lessor,**

**CERTAIN FINANCIAL INSTITUTIONS PARTIES HERETO,  
as Lenders**

and

**SUNTRUST BANK, NASHVILLE, N.A., as Agent**

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## **MASTER AGREEMENT**

THIS MASTER AGREEMENT, dated as of September 2, 1997 (as it may be amended or modified from time to time in accordance with the provisions hereof, this "Master Agreement"), is among DOLLAR GENERAL CORPORATION, a Kentucky corporation ("Dollar"), certain Subsidiaries of Dollar that may hereafter become parties hereto pursuant to Section 3.6 (together with Dollar in its capacity as a lessee, individually a "Lessee" and collectively, the "Lessees"), ATLANTIC FINANCIAL GROUP, LTD., a Texas limited partnership (the "Lessor"), certain financial institutions parties hereto as lenders (together with any other financial institution that becomes a party hereto as a lender, collectively referred to as "Lenders" and individually as a "Lender"), and SUNTRUST BANK, NASHVILLE, N.A., a national banking association, as agent for the Lenders (in such capacity, the "Agent").

### **PRELIMINARY STATEMENT**

In accordance with the terms and provisions of this Master Agreement, the Lease, the Loan Agreement and the other Operative Documents, (i) the Lessor contemplates acquiring Land identified by Dollar from time to time, and leasing such Land to a Lessee, (ii) Dollar, as Construction Agent for the Lessor, wishes to construct Buildings on such Land for the Lessor and, when completed, to lease such Buildings, or to cause such Buildings to be leased, from the Lessor as part of the Leased Properties under a Lease, (iii) Dollar, as agent, wishes to obtain, and the Lessor is willing to provide, funding for the acquisition of the Land and the construction of Buildings, (iv) the Lessor wishes to obtain, and Lenders are willing to provide, from time to time, financing of a portion of the funding of the acquisition of the Land and the construction of the Buildings, and (v) Dollar is willing to provide its Guaranty Agreement to the Lenders and the Lessor.

In consideration of the mutual agreements contained in this Master Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **SECTION 1 DEFINITIONS; INTERPRETATION**

Unless the context shall otherwise require, capitalized terms used and not defined herein shall have the meanings assigned thereto in Appendix A hereto for all purposes hereof; and the rules of interpretation set forth in Appendix A hereto shall apply to this Master Agreement.

**SECTION 2 ACQUISITION, CONSTRUCTION AND LEASE; FUNDINGS;  
NATURE OF TRANSACTION**

**SECTION 2.1 Agreement to Acquire, Construct, Fund and Lease.**

(a) Land. Subject to the terms and conditions of this Master Agreement, with respect to each parcel of Land identified by Dollar that is not an IDB Property acquired by an Authority pursuant to the following sentence, on the related Closing Date (i) the Lessor agrees to acquire such interest in the related Land from the applicable Seller as is transferred, sold, assigned and conveyed to the Lessor pursuant to the applicable Purchase Agreement or to lease such interest in the related Land from the applicable Ground Lessor as is leased to the Lessor pursuant to the applicable Ground Lease, (ii) the Lessor hereby agrees to lease, or sublease, as the case may be, such Land to a Lessee pursuant to a Lease, and (iii) the related Lessee hereby agrees to lease, or sublease, as the case may be, such Land from the Lessor pursuant to the related Lease. With respect to each IDB Property, (i) the applicable Authority may acquire such interest in the related Land from the applicable Seller as is transferred, sold, assigned and conveyed to the Authority pursuant to the applicable Purchase Agreement, (ii) the applicable Authority will lease such Land to the Lessor pursuant to the related IDB Lease, and (iii) the related Lessee hereby agrees to sublease such Land from the Lessor pursuant to the related IDB Lease (it being understood that any reference in the Operative Documents to the lease by a Lessee of an IDB Property acquired by an Authority shall be deemed to refer to the sublease thereof pursuant to the related Lease).

(b) Building. With respect to each parcel of Land, subject to the terms and conditions of this Master Agreement, from and after the Closing Date relating to such Land (i) the Construction Agent agrees, pursuant to the terms of the Construction Agency Agreement, to construct and install the Building on such Land for the Lessor prior to the Scheduled Construction Termination Date, (ii) the Lenders and the Lessor agree to fund the costs of such construction and installation (and interest and yield thereon), (iii) the Lessor shall lease, or sublease, as the case may be, such Building as part of such Leased Property to the related Lessee pursuant to the related Lease, and (iv) the related Lessee shall lease, or sublease, as the case may be, such Building from the Lessor pursuant to the related Lease.

**SECTION 2.2 Fundings of Purchase Price, Development Costs and Construction Costs.**

(a) Initial Funding and Payment of Purchase Price for Land and Development Costs on Closing Date. Subject to the terms and conditions of this Master Agreement, on the Closing Date for any Land, each Lender shall make available to the Lessor its initial Loan with respect to such Land in an amount equal to the product of such Lender's Commitment Percentage times the purchase price for the Land, if applicable, and the development, transaction and closing costs incurred by the Lessee through such Closing Date, which funds the Lessor shall use, together with the Lessor's own funds in an amount equal to the product of the Lessor's

Commitment Percentage times the purchase price, if applicable, for the related Land and the development, transaction and closing costs incurred by the Construction Agent, as agent, through such Closing Date, to purchase the Land from the applicable Seller pursuant to the applicable Purchase Agreement or lease the Land from the applicable Ground Lessor pursuant to the applicable Ground Lease and to pay to the Construction Agent the amount of such development, transaction and closing costs, and the Lessor shall lease, or sublease, as the case may be, such Land to the related Lessee pursuant to the Lease.

(b) Subsequent Fundings and Payments of Construction Costs during Construction Term. Subject to the terms and conditions of this Master Agreement, on each Funding Date following the Closing Date for each parcel of Land until the related Construction Term Expiration Date, (i) each Lender shall make available to the Lessor a Loan in an amount equal to the product of such Lender's Commitment Percentage times the amount of Funding requested by the Construction Agent for such Funding Date, which funds the Lessor hereby directs the Lender to pay over to the Construction Agent as set forth in paragraph (d), and (ii) the Lessor shall pay over to the Construction Agent its own funds (which shall constitute a part of and an increase in the Lessor's Invested Amount with respect to such Leased Property) in an amount equal to the product of the Lessor's Commitment Percentage times the amount of Funding requested by the Construction Agent for such Funding Date.

(c) Aggregate Limits on Funded Amounts. The aggregate amount that the Funding Parties shall be committed to provide as Funded Amounts under this Master Agreement and the Loan Agreement shall not exceed (x) with respect to each Leased Property the costs of purchase and construction of such Leased Property and the related closing and financing costs, or (y) \$100,000,000 in the aggregate for all Leased Properties; provided, however, that in the event that any Lessee exercises a Partial Purchase Option, the amount set forth in this clause (y) shall be reinstated to the extent of the Funded Amounts paid by such Lessee in connection with such Partial Purchase Option. The aggregate amount that any Funding Party shall be committed to fund under this Master Agreement and the Loan Agreement shall not exceed the lesser of (i) such Funding Party's Commitment and (ii) such Funding Party's Commitment Percentage of the aggregate Fundings requested under this Master Agreement.

(d) Notice, Time and Place of Fundings. With respect to each Funding, the Construction Agent shall give the Lessor and the Agent an irrevocable prior written notice not later than 11:00 a.m., Nashville, Tennessee time, three Business Days prior to the proposed Closing Date or other Funding Date, as the case may be, pursuant, in each case, to a Funding Request in the form of Exhibit A (a "Funding Request"), specifying the Closing Date or subsequent Funding Date, as the case may be, the amount of Funding requested, whether such Funding shall be a LIBOR Advance, a Base Rate Advance or a combination thereof and the Rent Period(s) therefor. All documents and instruments required to be delivered on such Closing Date pursuant to this Master Agreement shall be delivered at the offices of Mayer, Brown & Platt, 190 South LaSalle Street, Chicago, Illinois 60603, or at such other location as may be determined by the Lessor, the Construction Agent and the Agent. Each Funding shall occur on a Business Day and shall be in an amount equal to \$3,000,000 or an integral multiple of \$100,000 in excess

thereof. All remittances made by any Lender and the Lessor for any Funding shall be made in immediately available funds by wire transfer to or, as is directed by, the Construction Agent, with receipt by the Construction Agent not later than 12:00 noon, Nashville, Tennessee time, on the applicable Funding Date, upon satisfaction or waiver of the conditions precedent to such Funding set forth in Section 3; such funds shall (1) in the case of the initial Funding on a Closing Date, be used to pay the purchase price to the applicable Seller for the related Land and pay the Construction Agent development, transaction and closing costs related to such Land, and (2) in the case of each subsequent Funding be paid to the Construction Agent, for the payment or reimbursement of Construction costs.

(e) Lessees' Deemed Representation for Each Funding. Each Funding Request by the Construction Agent shall be deemed a reaffirmation of each Lessee's indemnity obligations in favor of the Indemnitees under the Operative Documents and a representation by Dollar to the Lessor, the Agent, and the Lenders that on the proposed Closing Date or Funding Date, as the case may be, (i) the amount of Funding requested represents amounts owing in respect of the purchase price of the related Land and development, transaction and closing costs in respect of the Leased Property (in the case of the initial Funding on a Closing Date) or amounts that the Construction Agent reasonably believes will be due in the 90 days following such Funding from the Construction Agent to third parties in respect of the Construction, or amounts paid by the Construction Agent to third parties in respect of the Construction for which the Construction Agent has not previously been reimbursed by a Funding (in the case of any Funding), (ii) no Event of Default or Potential Event of Default exists, and (iii) the representations of the Lessees set forth in Section 4.1 are true and correct in all Material respects as though made on and as of such Funding Date, except to the extent such representations or warranties relate solely to an earlier date, in which case such representations and warranties shall have been true and correct in all Material respects on and as of such earlier date.

(f) Not Joint Obligations. Notwithstanding anything to the contrary set forth herein or in the other Operative Documents, each Lender's and the Lessor's commitments shall be several, and not joint. In no event shall any Funding Party be obligated to fund an amount in excess of such Funding Party's Commitment Percentage of any Funding, or to fund amounts in the aggregate in excess of such Funding Party's Commitment.

(g) Non-Pro Rata Fundings. Notwithstanding anything to the contrary set forth in this Master Agreement, at the Agent's option, Fundings may be made by drawing on the Lessor's Commitment until such Commitment is fully funded before drawing on the Lenders' Commitments. In such event, when the Lessor's Commitment is fully funded, the Lenders will fund, on a pro rata basis as among themselves, 100% of the amount of the Fundings thereafter. In no event shall any Funding Party have any obligation to fund any amount hereunder in excess of the amount of such Funding Party's Commitment.

(h) Pre-Funded Amount. The Construction Agent may request, by delivery of an irrevocable prior written notice to the Lessor and the Agent not later than 11:00 a.m. Nashville, Tennessee time, three Business Days prior to the proposed funding date, that the Funding Parties



prefund amounts to the Construction Agent for anticipated acquisitions (the "Pre-Funded Amount"), provided that at no time shall the Pre-Funded Amount exceed \$5,000,000. The Pre-Funded Amount may be comprised of LIBOR Advances, Base Rate Advances or a combination thereof, as set forth on the related Funding Request. The Pre-Funded Amount shall accrue interest or Yield, as the case may be, commencing on the date such amount is funded to the Construction Agent. The Funding Parties shall not be obligated to make such Funding if (i) any Event of Default or Potential Event of Default has occurred and is continuing or (ii) the representations of the Lessees set forth in Section 4.1 are not true and correct in all Material respects as of the date of deposit, except to the extent such representations and warranties related solely to an earlier date, in which case such representations and warranties shall have been true in all Material respects as of such earlier date. The Construction Agent may disburse the Pre-Funded Amount, which date of disbursement shall be a Closing Date or a Funding Date, as applicable, provided that all of the conditions precedent set forth herein with respect to such Closing Date or Funding Date, as the case may be, have been satisfied. If any portion of the Pre-Funded Amount has not been disbursed on the date that is 120 days from the date of the funding thereof by the Funding Parties to the Construction Agent, such funds, together with accrued interest and Yield thereon, shall be returned to the Funding Parties.

### SECTION 2.3 Funded Amounts and Interest and Yield Thereon; Facility Fee.

(a) The Lessor's Invested Amount for any Leased Property outstanding from time to time shall accrue yield ("Yield") at the Lessor Rate, computed using the actual number of days elapsed and a 360 day year. If all or a portion of the principal amount of or yield on the Lessor's Invested Amounts shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall, without limiting the rights of the Lessor under any Lease, to the maximum extent permitted by law, accrue yield at the Overdue Rate, from the date of nonpayment until paid in full (both before and after judgment).

(b) Each Lender's Funded Amount for any Leased Property outstanding from time to time shall accrue interest as provided in the Loan Agreement.

(c) During the Construction Term, in lieu of the payment of accrued interest, on each Payment Date, each Lender's Funded Amount in respect of a Construction Land Interest shall automatically be increased by the amount of interest accrued and unpaid on the related Loans pursuant to the Loan Agreement during the Rent Period ending immediately prior to such Payment Date (except to the extent that at any time such increase would cause such Lender's Funded Amount to exceed such Lender's Commitment, in which event the related Lessee shall pay such excess amount to such Lender in immediately available funds on such Payment Date). Similarly, in lieu of the payment of accrued Yield, on each Payment Date, the Lessor's Invested Amount in respect of such Construction Land Interest shall automatically be increased by the amount of Yield accrued on the Lessor's Invested Amount in respect of such Land during the Rent Period ending immediately prior to such Payment Date (except to the extent that at any time such increase would cause the Lessor's Invested Amount to exceed the Lessor's Commitment, in which event the related Lessee shall pay such excess amount to the Lessor in

immediately available funds on such Payment Date). Such increases in Funded Amounts shall occur without any disbursement of funds by the Funding Parties.

(d) Three Business Days prior to the last day of each Rent Period, Dollar shall deliver to the Lessor and the Agent a notice substantially in the form of Exhibit I (each, a "Payment Date Notice"), appropriately completed, specifying the allocation of the Funded Amounts related to such Rent Period to LIBOR Advances and Base Rate Advances and the Rent Periods therefor, provided that no such allocation shall be in an amount less than \$1,000,000. Each such Payment Date Notice shall be irrevocable. If no such notice is given, the Funded Amounts shall be allocated to a LIBOR Advance with a Rent Period of three (3) months.

(e) Dollar hereby agrees to pay to each Funding Party a facility fee for each day from the date hereof until the Funding Termination Date equal to (i) the applicable Facility Fee Percentage per annum times (ii) the amount of such Funding Party's Commitment, whether used or unused, times (iii) 1/360. Such facility fee shall be payable in arrears on each Quarterly Payment Date.

**SECTION 2.4 Lessee Owner for Tax Purposes.** With respect to each Leased Property, it is the intent of the related Lessee and the Funding Parties that the related Lease shall constitute and be interpreted as a true leasing transaction, except that for federal, state and local tax purposes the related Lease shall be treated as the repayment and security provisions of a loan by the Lessor to such Lessee, and that such lessee shall be treated as the legal and beneficial owner entitled to any and all benefits of ownership of such Leased Property and all payments of Basic Rent during the Lease Term shall be treated as payments of interest and principal. Each of the related Lessee and each Funding Party agrees to file tax returns consistent with such intent. Nevertheless, each Lessee acknowledges and agrees that no Funding Party or any other Person has made any representations or warranties concerning the tax, financial, accounting or legal characteristics or treatment of the Operative Documents and that each Lessee has obtained and relied solely upon the advice of its own tax, accounting and legal advisors concerning the Operative Documents and the accounting, tax, financial and legal consequences of the transactions contemplated therein.

**SECTION 2.5 Amounts Due Under Lease.** With respect to each Leased Property, anything else herein or elsewhere to the contrary notwithstanding, it is the intention of the Lessees and the Funding Parties that: (i) the amount and timing of Basic Rent due and payable from time to time from the Lessee under the related Lease shall be equal to the aggregate payments due and payable with respect to interest on, and principal of, the Loans in respect of such Leased Property and Yield on, and principal of, the Lessor's Invested Amounts, if any, in respect of such Leased Property on each Payment Date; (ii) if the related Lessee elects the Purchase Option or the Partial Purchase Option with respect to a Leased Property or becomes obligated to purchase such Leased Property under the related Lease, the Funded Amounts in respect of such Leased Property, all interest and Yield thereon and all other obligations of such Lessee owing to the Funding Parties in respect of the Leased Property shall be paid in full by such Lessee, (iii) if the related Lessee properly elects the Remarketing Option or the Surrender

Option, the principal amount of, and accrued interest on, the A Loans in respect of such Leased Property, will be paid out of the Recourse Deficiency Amount, and such Lessee shall only be required to pay to the Lenders in respect of the principal amount of the B Loans in respect of such Leased Property and to the Lessor in respect of the Lessor's Invested Amounts in respect of such Leased Property, the proceeds of the sale of such Leased Property; and (iv) upon an Event of Default resulting in an acceleration of the related Lessee's obligation to purchase such Leased Property under the related Lease, the amounts then due and payable by such Lessee under such Lease shall include all amounts necessary to pay in full the Loans in respect of such Leased Property, and accrued interest thereon, the Lessor's Invested Amounts in respect of such Leased Property and accrued Yield thereon and all other obligations of such Lessee owing to the Funding Parties in respect of such Leased Property.

### SECTION 3 CONDITIONS PRECEDENT; DOCUMENTS

SECTION 3.1 Conditions to the Obligations of the Funding Parties on each Closing Date. The obligations of the Lessor and each Lender to carry out their respective obligations under Section 2 of this Master Agreement to be performed on the Closing Date with respect to any Leased Property shall be subject to the fulfillment to the satisfaction of, or waiver by, each such party hereto (acting directly or through its counsel) on or prior to such Closing Date of the following conditions precedent, provided that the obligations of any Funding Party shall not be subject to any conditions contained in this Section 3.1 which are required to be performed by such Funding Party:

(a) Documents. The following documents shall have been executed and delivered by the respective parties thereto:

(i) Deed and Purchase Agreement. The related original Deed duly executed by the applicable Seller and in recordable form, and copies of the related Purchase Agreement, duly executed by such Seller and the Lessor, shall each have been delivered to the Agent by Dollar, with copies thereof to each other Funding Party or the related Ground Lease duly executed by the Lessor and the related Ground Lessor shall have been delivered to the Agent, with copies thereof to each other Funding Party, as applicable (it being understood, that each Purchase Agreement and each Ground Lease shall be satisfactory in form and substance to the Lessor and the Lenders). If such Leased Property is an IDB Property, the IDB Documentation therefor shall be satisfactory in form and substance to the Lessor and the Lenders.

(ii) Lease Supplement. The original of the related Lease Supplement, duly executed by the related Lessee and the Lessor and in recordable form, shall have been delivered to the Agent by the related Lessee.

(iii) Mortgage and Assignment of Lease and Rents. Counterparts of the Mortgage (substantially in the form of Exhibit D attached hereto), duly executed by the Lessor and in recordable form, shall have been delivered to the Agent (which Mortgage shall secure all of the debt to the Agent unless such mortgage is subject to a tax based on the amount of indebtedness secured thereby, in which case the amount secured will be limited to debt in an amount equal to 125% of the projected cost of acquisition and construction of such Leased Property); and the Assignment of Lease and Rents (substantially in the form of Exhibit B attached hereto) in recordable form, duly executed by the Lessor, shall have been delivered to the Agent by the Lessor.

(iv) Security Agreement and Assignment. If such Leased Property is a Major Property, counterparts of the Security Agreement and Assignment (substantially in the form of Exhibit C attached hereto), duly executed by the Construction Agent, with an acknowledgment and consent thereto satisfactory to the Lessor and the Agent duly executed by the related General Contractor and the related Architect, as applicable, and complete copies of the related Construction Contract and the related Architect's Agreement certified by the Construction Agent, shall have been delivered to the Lessor and the Agent (it being understood and agreed that if no related Construction Contract or Architect's Agreement exists on such Closing Date, such delivery shall not be a condition precedent to the Funding on such Closing Date, and in lieu thereof the Construction Agent shall deliver complete copies of such Security Agreement and Assignment and consents concurrently with the Construction Agent's entering into such contracts).

(v) Survey. If such Leased Property is a Major Property, the related Lessee shall have delivered, or shall have caused to be delivered, to the Lessor and the Agent, at such Lessee's expense, an accurate survey certified to the Lessor and the Agent in a form reasonably satisfactory to the Lessor and the Agent and showing no state of facts unsatisfactory to the Lessor or the Agent and prepared within ninety (90) days of the Closing Date by a Person reasonably satisfactory to the Lessor and the Agent. Such survey shall

(1) be acceptable to the Title Insurance Company for the purpose of providing extended coverage to the Lessor and a lender's comprehensive endorsement to the Agent, (2) show no encroachments on such Land by structures owned by others, and no encroachments from any part of such Leased Property onto any land owned by others, and (3) disclose no state of facts reasonably objectionable to the Lessor, the Agent or the Title Insurance Company, and be reasonably acceptable to each such Person.

(vi) Title and Title Insurance. On such Closing Date, the Lessor shall receive from a title insurance company acceptable to the Lessor and the Agent an ALTA Owner's Policy of Title Insurance issued by such title insurance company and the Agent shall receive from such title insurance company an ALTA

Mortgagee's Policy of Title Insurance issued by such title insurance company, in each case, in the amount of the projected cost of acquisition and construction of such Leased Property, reasonably acceptable in form and substance to the Lessor and the Agent, respectively (collectively, the "Title Policy"). The Title Policy shall be dated as of the Closing Date, and, to the extent permitted under Applicable Law, shall include such affirmative endorsements as the Lessor or the Agent shall reasonably request.

(vii) Appraisal. If such Leased Property is a Major Property or if requested by the Agent (provided that the Agent shall not be entitled to so request an Appraisal with respect to more than five Minor Properties) each Funding Party shall have received a report of the Appraiser (an "Appraisal"), paid for by the related Lessee, which shall meet the requirements of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, shall be satisfactory to such Funding Party and shall state in a manner satisfactory to such Funding Party the estimated "as vacant" value of such Land and the Building to be constructed thereon. Such Appraisal must show that the "as vacant" value of the Leased Property (determined as if the Building had already been completed in accordance with the related Plans and Specifications and by excluding from such value the amount of assessments on such Leased Property) is at least 45% of the total cost of the Leased Property, including the trade fixtures, equipment and personal property utilized in connection with the Leased Property and to be funded by the Funding Parties. Upon request by the related Lessee, the Funding Parties agree to waive delivery on such Closing Date of an Appraisal, provided that no subsequent Funding with respect to such Leased Property shall occur until such Appraisal has been delivered.

(viii) Environmental Audit and related Reliance Letter. The Lessor and the Agent shall have received an Environmental Audit for such Leased Property, which shall be conducted in accordance with ASTM standards and shall not include a recommendation for further investigation and is otherwise satisfactory to the Lessor and the Agent; and the firm that prepared the Environmental Audit for such Leased Property shall have delivered to the Lessor and the Agent a letter (substantially in the form of Exhibit F attached hereto) stating that the Lessor, the Agent and the Lenders may rely upon such firm's Environmental Audit of such Land, it being understood that the Lessor's and the Agent's acceptance of any such Environmental Audit shall not release or impair any Lessee's obligations under the Operative Documents with respect to any environmental liabilities relating to such Leased Property.

(ix) Evidence of Insurance. If such Leased Property is a Major Property, the Lessor and the Agent shall have received from the related Lessee certificates of insurance evidencing compliance with the provisions of Article VIII of the related Lease (including the naming of the Lessor, the Agent and the Lenders as

additional insured or loss payee with respect to such insurance as their interests may appear), in form and substance reasonably satisfactory to the Lessor and the Agent.

(x) Officer's Certificate. Each of the Agent and the Lessor shall have received an Officer's Certificate of the related Lessee and the Guarantor stating that, to the best of such officer's knowledge, (A) each and every representation and warranty of such Lessee and of the Guarantor contained in the Operative Documents is true and correct in all Material respects on and as of such Closing Date as though made on and as of such Closing Date, except to the extent such representations or warranties relate solely to an earlier date, in which case such representations and warranties were true and correct in all Material respects on and as of such earlier date; (B) no Event of Default, Potential Event of Default or Construction Force Majeure Event has occurred and is continuing; (C) each Operative Document to which such Lessee or the Guarantor is a party is in full force and effect with respect to it; and (D) no event that could reasonably be expected to have a Materially Adverse Effect has occurred since January 31, 1997.

(xi) UCC Financing Statement; Recording Fees; Transfer Taxes. Each Funding Party shall have received satisfactory evidence of (i) the execution and delivery to Agent of a UCC-1 and, if required by applicable law, UCC-2 financing statement to be filed with the Secretary of State of the applicable State (or other appropriate filing office) and the county where the related Land is located, respectively, and such other Uniform Commercial Code financing statements as any Funding Party deems necessary or desirable in order to perfect such Funding Party's interests and (ii) the payment of all recording and filing fees and taxes with respect to any recordings or filings made of the related Deed, the related Lease, the related Lease Supplement, the related Mortgage and the related Assignment of Lease and Rents.

(xii) Opinions. If such Leased Property is a Major Property or if such Leased Property is the first Leased Property to be located in a particular state, the opinion of local counsel for the related Lessee qualified in the jurisdiction in which such Leased Property is located, substantially in the form set forth in Exhibit G-2 attached hereto, and containing such other matters as the parties to whom they are addressed shall reasonably request, shall have been delivered and addressed to each of the Lessor, the Agent and the Lenders. To the extent requested by the Agent, opinions supplemental to those delivered under Section 3.2(vii) and reasonably satisfactory to the Agent shall have been delivered and addressed to each of the Lessor, the Agent and the Lenders.

(xiii) Officer's Certificate. The Agent shall have received an Officer's Certificate of the Lessor stating that, to the best of such officer's knowledge,

(A) each and every representation and warranty of the Lessor contained in the Operative Documents is true and correct in all Material respects on and as of the Closing Date as though made on and as of the Closing Date, except to the extent such representations or warranties relate solely to an earlier date, in which case such representations and warranties shall have been true and correct in all Material respects on and as of such earlier date; (B) no Event of Default or Potential Event of Default has occurred and is continuing; (C) each Operative Document to which the Lessor is a party is in full force and effect with respect to it; and (D) no event that could have a Materially Adverse Effect has occurred since the date of the most recent financial statements of the Lessor delivered or required to be delivered to the Agent.

(xiv) Good Standing Certificates. If such Leased Property is a Major Property or if such Leased Property is the first Leased Property to be located in a particular state by the related Lessee, the Agent shall have received good standing certificates for the Lessor and the related Lessee from the appropriate offices of the state where the related Land is located.

(b) Litigation. No action or proceeding shall have been instituted or, to the knowledge of any Funding Party, threatened nor shall any governmental action, suit, proceeding or investigation be instituted or threatened before any Governmental Authority, nor shall any order, judgment or decree have been issued or proposed to be issued by any Governmental Authority, to set aside, restrain, enjoin or prevent the performance of this Master Agreement or any transaction contemplated hereby or by any other Operative Document or which is reasonably likely to Materially adversely affect the Leased Property or any transaction contemplated by the Operative Documents or which could reasonably be expected to result in a Materially Adverse Effect.

(c) Legality. In the opinion of such Funding Party or its counsel, the transactions contemplated by the Operative Documents shall not violate any Applicable Law, and no change shall have occurred or been proposed in Applicable Law that would make it illegal for such Funding Party to participate in any of the transactions contemplated by the Operative Documents.

(d) No Events. (i) No Event of Default, Potential Event of Default, Event of Loss or Event of Taking relating to such Leased Property shall have occurred and be continuing, (ii) no action shall be pending or threatened by a Governmental Authority to initiate a Condemnation or an Event of Taking, and (iii) there shall not have occurred any event that could reasonably be expected to have a Materially Adverse Effect since January 31, 1997.

(e) Representations. Each representation and warranty of the parties hereto or to any other Operative Document contained herein or in any other Operative Document shall be true and correct in all Material respects as though made on and as of the Closing Date, except to the extent such representations or warranties relate solely to an earlier date, in which case such

representations and warranties shall have been true and correct in all Material respects on and as of such earlier date.

(f) Cutoff Date. No Closing Date shall occur after the Funding Termination Date.

(g) Transaction Expenses. The related Lessee shall have paid the Transaction Costs then accrued and invoiced which such Lessee has agreed to pay pursuant to Section 8.8.

**SECTION 3.2 Additional Conditions for the Initial Closing Date.** The obligations of the Lessor and each Lender to carry out their respective obligations under Section 2 of this Master Agreement to be performed on the initial Closing Date shall be subject to the satisfaction of, or waiver by, each such party hereto (acting directly or through its counsel) on or prior to the initial Closing Date of the following conditions precedent in addition to those set forth in Section 3.1, provided that the obligations of any Funding Party shall not be subject to any conditions contained in this Section 3.2 which are required to be performed by such Funding Party:

(i) Guaranty. Counterparts of the Guaranty Agreement, duly executed by Dollar, shall have been delivered to each Funding Party.

(ii) Loan Agreement. Counterparts of the Loan Agreement, duly executed by the Lessor, the Agent and each Lender shall have been delivered to each of the Lessor and the Agent. An A Note and a B Note, duly executed by the Lessor, shall have been delivered to each Lender.

(iii) Master Agreement. Counterparts of this Master Agreement, duly executed by the parties hereto, shall have been delivered to each of the parties hereto.

(iv) Construction Agency Agreement. Counterparts of the Construction Agency Agreement, duly executed by the parties thereto shall have been delivered to each of the parties hereto.

(v) Lease. Counterparts of each Lease, duly executed by each Lessee party hereto on the Initial Closing Date, respectively, and the Lessor, shall have been delivered to each Funding Party and the original, chattel paper copy of each such Lease shall have been delivered to the Agent.

(vi) Lessee's Resolutions and Incumbency Certificate, etc. Each of the Agent and the Lessor shall have received (x) a certificate of the Secretary or an Assistant Secretary of each Lessee party hereto on the Initial Closing Date, attaching and certifying as to (i) the Board of Directors' (or appropriate committee's) resolution duly authorizing the execution, delivery and performance by it of each Operative Document to which it is or will be a party, (ii) the



incumbency and signatures of persons authorized to execute and deliver such documents on its behalf, (iii) its articles or certificate of incorporation, certified as of a recent date by the Secretary of State of the state of its incorporation and (iv) its by-laws, and (y) good standing certificates for such Lessee from the appropriate offices of the States of such Person's incorporation and principal place of business.

(vii) Opinions of Counsel. The opinion of Larry Wilcher, dated the initial Closing Date, substantially in the form set forth in Exhibit G-1 attached hereto, and containing such other matters as the parties to whom it is addressed shall reasonably request, shall have been delivered and addressed to each of the Lessor, the Agent and the Lenders. The opinion of Grogan & Browner PC, dated the initial Closing Date, substantially in the form set forth in Exhibit G-3 attached hereto, and containing such other matters as the parties to whom it is addressed shall reasonably request, shall have been delivered to each of the Agent and the Lenders.

(viii) Good Standing Certificate. The Agent shall have received a good standing certificate for the Lessor from the appropriate offices of the State of Texas.

(ix) Lessor's Consents and Incumbency Certificate, etc. The Agent shall have received a certificate of the Secretary or an Assistant Secretary of the General Partner of the Lessor attaching and certifying as to (i) the consents of the partners of the Lessor duly authorizing the execution, delivery and performance by it of each Operative Document to which it is or will be a party, (ii) the incumbency and signatures of persons authorized to execute and deliver such documents on its behalf, and (iii) the Partnership Agreement.

**SECTION 3.3 Conditions to the Obligations of Lessee.** The obligations of any Lessee to lease a Leased Property from the Lessor are subject to the fulfillment on the related Closing Date to the satisfaction of, or waiver by, such Lessee, of the following conditions precedent:

(a) General Conditions. The conditions set forth in Sections 3.1 and 3.2 that require fulfillment by the Lessor or the Lenders shall have been satisfied, including the delivery of good standing certificates by the Lessor pursuant to Sections 3.1(a)(xiv) and 3.2(b)(viii) and the delivery of an opinion of counsel for the Lessor pursuant to Section 3.2(b)(vii).

(b) Legality. In the opinion of such Lessee or its counsel, the transactions contemplated by the Operative Documents shall not violate any Applicable Law, and no change shall have occurred or been proposed in Applicable Law that would make it illegal for such Lessee to participate in any of the transactions contemplated by the Operative Documents.

(c) Purchase Agreement; Ground Lease. The Purchase Agreement and, if applicable, the Ground Lease shall be reasonably satisfactory to such Lessee.

SECTION 3.4 Conditions to the Obligations of the Funding Parties on each Funding Date. The obligations of the Lessor and each Lender to carry out their respective obligations under Section 2 of this Master Agreement to be performed on each Funding Date shall be subject to the fulfillment to the satisfaction of, or waiver by, each such party hereto (acting directly or through their respective counsel) on or prior to each such Funding Date of the following conditions precedent, provided that the obligations of any Funding Party shall not be subject to any conditions contained in this Section 3.4 which are required to be performed by such Funding Party:

(a) Funding Request. The Lessor and the Agent shall have received from the Construction Agent the Funding Request therefor pursuant to Section 2.2(d).

(b) Condition Fulfilled. As of such Funding Date, the condition set forth in Section 3.1(d)(i) shall have been satisfied.

(c) Representations. As of such Funding Date, both before and after giving effect to the Funding requested by the Construction Agent on such date, the representations and warranties that the Lessees are deemed to make pursuant to Section 2.2(e) shall be true and correct in all Material respects on and as of such Funding Date as though made on and as of such Funding Date, except to the extent such representations or warranties relate solely to an earlier date, in which case such representations and warranties shall have been true and correct in all Material respects on and as of such earlier date.

(d) No Bonded Stop Notice or Filed Mechanics Lien. As of each Funding Date, and as to any Funded Amount requested for any Leased Property on each such Funding Date, (i) neither the Lessor, the Agent nor any Lender has received (with respect to such Leased Property) a bonded notice to withhold Loan funds that has not been discharged by the related Lessee or the Construction Agent, and (ii) no mechanic's liens or materialman's liens have been filed against such Leased Property that have not been discharged by the related Lessee, bonded over in a manner reasonably satisfactory to the Agent or insured over by the Title Insurance Company.

(e) Lease Supplement. If the Funding relates to a Building that will be leased under a Lease Supplement separate from the Lease Supplement for the related Land, the original of such separate Lease Supplement, duly executed by the related Lessee and the Lessor and in recordable form, shall have been delivered to the Agent.

SECTION 3.5 Completion Date Conditions. The occurrence of the Completion Date with respect to any Leased Property shall be subject to the fulfillment to the satisfaction of, or waiver by, each party hereto (acting directly or through its counsel) of the following conditions precedent:

(a) Title Policy Endorsements; Architect's Certificate. If such Leased Property is a Major Property, the Construction Agent shall have furnished to each Funding Party (1) the following endorsements to the related Title Policy (each of which shall be subject to no exceptions other than those reasonably acceptable to the Agent): a date-down endorsement (redating and confirming the coverage provided under the Title Policy and each endorsement thereto) and a "Form 9" endorsement (if available in the applicable jurisdiction), in each case, effective as of a date not earlier than the date of completion of the Construction, and (2) a certificate of the Architect dated at or about the Completion Date, in form and substance reasonably satisfactory to the Agent, the Lessor and the Lenders, and stating that (i) the related Building has been completed substantially in accordance with the Plans and Specifications therefor, and such Leased Property is ready for occupancy, (ii) such Plans and Specifications comply in all Material respects with all Material Applicable Laws in effect at such time, and (iii) to the best of the Architect's knowledge, such Leased Property, as so completed, complies in all Material respects with all Material Applicable Laws in effect at such time. If such Leased Property is a Major Property, the Construction Agent shall also deliver to the Agent true and complete copies of: (A) an "as built" or "record" set of the Plans and Specifications, (B) a plat of survey of such Leased Property "as built" to a standard reasonably acceptable to the Agent showing all easements, paving, driveways, fences and exterior improvements, and (C) copies of a certificate or certificates of occupancy for such Leased Property or other legally equivalent permission to occupy such Leased Property.

(b) Construction Completion. The related Construction shall have been completed substantially in accordance with the related Plans and Specifications, the related Deed and all Applicable Laws, and such Leased Property shall be ready for occupancy and operation. All fixtures, equipment and other property contemplated under the Plans and Specifications to be incorporated into or installed in such Leased Property shall have been substantially incorporated or installed, free and clear of all Liens except for Permitted Liens.

(c) Construction Agent Certification. The Construction Agent shall have furnished the Lessor, the Agent and each Lender with a certification of the Construction Agent (substantially in the form of Exhibit H) that:

(i) all amounts owing to third parties for the related Construction have been paid in full (other than contingent obligations for which the Construction Agent has made adequate reserves), and no litigation or proceedings are pending, or to the best of the Construction Agent's knowledge, are threatened, against such Leased Property or the Construction Agent or the related Lessee which could reasonably be expected to have a Materially Adverse Effect;

(ii) all Material consents, licenses and permits and other governmental authorizations or approvals required for such Construction and operation of such Leased Property have been obtained and are in full force and effect;

(iii) such Leased Property has available all services of public facilities and other utilities necessary for use and operation of such Leased Property for its intended purposes including, without limitation, adequate water, gas and electrical supply, storm and sanitary sewerage facilities, telephone, other required public utilities and means of access between the related Building and public highways for pedestrians and motor vehicles;

(iv) all Material agreements, easements and other rights, public or private, which are necessary to permit the lawful use and operation of such Leased Property as the related Lessee intends to use the Leased Property under the related Lease and which are necessary to permit the lawful intended use and operation of all then intended utilities, driveways, roads and other means of egress and ingress to and from the same have been obtained and are in full force and effect and neither the Construction Agent nor the related Lessee has any knowledge of any pending modification or cancellation of any of the same; and the use of such Leased Property does not depend on any variance, special exception or other municipal approval, permit or consent that has not been obtained and is in full force and effect for its continuing legal use;

(v) all of the requirements and conditions set forth in Section 3.5(b) hereof have been completed and fulfilled with respect to such Leased Property and the related Construction; and

(vi) such Leased Property is in compliance in all Material respects with all applicable zoning laws and regulations.

SECTION 3.6 Addition of Lessees. After the date hereof, additional Subsidiaries of Dollar may become Lessees hereunder and under the other Operative Documents upon satisfaction of the following conditions precedent:

(a) such Subsidiary and the Guarantor shall have executed and delivered to the Agent and the Lessor a Joinder Agreement, substantially in the form of Exhibit E;

(b) such Subsidiary shall have delivered to each of the Agent and the Lessor (x) a certificate of the Secretary or an Assistant Secretary of such Subsidiary, attaching and certifying as to (i) the Board of Directors' resolution duly authorizing the execution, delivery and performance by it of each Operative Document to which it is or will be a party, (ii) the incumbency and signatures of persons authorized to execute and deliver such documents on its behalf, (iii) its certificate of incorporation, certified as of a recent date by the Secretary of State of its incorporation and (iv) its by-laws, and (y) good standing certificates from the appropriate offices of the States of such Subsidiary's incorporation and principal place of business;

(c) such Subsidiary shall have delivered an opinion of Larry Wilcher, addressed to each of the Lessor, the Agent and the Lenders, substantially in the form set forth in Exhibit G-1;

(d) such Subsidiary shall have executed and delivered a Lease to each Funding Party and the original, chattel paper copy of such Lease shall have been delivered to the Agent; and

(e) the Agent, the Lessor and the Lenders shall have received such other documents, certificates and information as any of them shall have reasonably requested.

#### SECTION 4 REPRESENTATIONS

SECTION 4.1 Representations of Lessee. Effective as of the date of execution hereof (or as of the related Joinder Agreement, as applicable), as of each Closing Date and as of each Funding Date, each Lessee represents and warrants to each of the other parties hereto as follows:

(a) Organization; Corporate Powers. Each of such Lessee and each of its Subsidiaries (i) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization,

(ii) is duly qualified as a foreign corporation and in good standing (A) in each jurisdiction where a Leased Property is located, in the case of such Lessee, and (B) under the laws of each other jurisdiction where such qualification is required and where the failure to be duly qualified and in good standing would have a Materially Adverse Effect, in the case of such Lessee and each of its Subsidiaries, and (iii) has all requisite corporate power and authority to own, operate and encumber its property and assets and to conduct its business as presently conducted and as proposed to be conducted in connection with and following the consummation of the transactions contemplated by the Operative Documents.

(b) Authority. (i) Such Lessee has the requisite corporate power and authority to execute, deliver and perform the Operative Documents executed by it, or to be executed by it.

(ii) The execution, delivery and performance (or recording or filing, as the case may be) of the Operative Documents, and the consummation of the transactions contemplated thereby, have been duly approved by the Board of Directors of such Lessee, or an appropriate committee thereof, and no other corporate proceedings on the part of such Lessee are necessary to consummate the transactions so contemplated.

(c) Binding Obligations. The Operative Documents executed by such Lessee, have been duly executed and delivered (or recorded or filed, as the case may be) by such Lessee, and constitute its legal, valid and binding obligation, enforceable against it in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or limiting creditors' rights generally or by equitable principles generally.

(d) No Conflict. The execution, delivery and performance by such Lessee of each Operative Document to which it is a party and each of the transactions contemplated thereby do not and will not (i) violate any Applicable Law or Contractual Obligation of any Person the consequences of which violation, singly or in the aggregate, would have a Materially Adverse Effect, (ii) result in or require the creation or imposition of any Lien whatsoever on any Leased Property or upon any of the properties or assets of such Lessee or any of its Subsidiaries (other than Permitted Liens), or (iii) require any approval of stockholders of such Lessee which has not been obtained.

(e) Governmental Consents. Except as have been made, obtained or given, and are in full force and effect, and except for routine filings with the SEC to be made in a timely fashion, no filing or registration with, consent or approval of, notice to, with or by any Governmental Authority, is required to authorize, or is required in connection with, the execution, delivery and performance by such Lessee of the Operative Documents, the use of the proceeds of the Fundings made to effect the purchase of the Land and the Construction, or the legality, validity, binding effect or enforceability of any Operative Document.

(f) Governmental Regulation. Neither such Lessee nor any Subsidiary of such Lessee is an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended. Such Lessee is not a "holding company" or a "subsidiary company," or an "affiliate" of a "holding company" or of a "subsidiary company" of a "holding company", within the meaning of the Public Utility Company Act of 1935, as amended, nor subject to regulation under the Federal Power Act, or any foreign, federal or local statute or regulation limiting its ability to incur Indebtedness for Money Borrowed, Guaranty such indebtedness, pledge its assets to secure such indebtedness or enter into lease arrangements.

(g) Requirements of Law. Such Lessee and each Subsidiary of such Lessee and each Person acting on behalf of any of them is in compliance with all Requirements of Law applicable to them and their respective businesses, in each case where the failure to so comply would have a Materially Adverse Effect, either individually or together with other such cases.

(h) Rights in Respect of the Leased Property. Such Lessee is not a party to any contract or agreement to sell any interest in any Leased Property or any part thereof, other than pursuant to the Operative Documents.

(i) Hazardous Materials - Leased Properties. (i) To the best knowledge of such Lessee, except as described in the related Environmental Audit, on the Closing Date for each Leased Property, there are no Hazardous Materials present at, upon, under or within such Leased Property or released or transported to or from such Leased Property (except in compliance in all Material respects with all Applicable Law).

(ii) On the related Closing Date, no Governmental Actions have been taken or, to the best knowledge of such Lessee, are in process or have been threatened,

which could reasonably be expected to subject such Leased Property, any Lender or the Lessor with respect to such Leased Property to any Claims or Liens under any Environmental Law which would have a Materially Adverse Effect, or would have a Materially adverse effect on the Lessor or any Lender.

(iii) Such Lessee has, or will obtain on or before the date required by Applicable Law, all Environmental Permits necessary to operate such Leased Property in accordance with Environmental Laws and is complying with and has at all times complied with all such Environmental Permits, except to the extent the failure to obtain such Environmental Permits or to so comply would not have a Materially Adverse Effect.

(iv) Except as set forth in the related Environmental Audit or in any notice subsequently furnished by such Lessee to the Agent and approved by the Agent in writing prior to the respective times that the representations and warranties contained herein are made or deemed made hereunder, no notice, notification, demand, request for information, citations, summons, complaint or order has been issued or filed to or with respect to such Lessee, no penalty has been assessed on such Lessee and no investigation or review is pending or, to its best knowledge, threatened by any Governmental Authority or other Person in each case relating to the Leased Property with respect to any alleged Material violation or liability of such Lessee under any Environmental Law. To the best knowledge of such Lessee, no Material notice, notification, demand, request for information, citations, summons, complaint or order has been issued or filed to or with respect to any other Person, no Material penalty has been assessed on any other Person and no investigation or review is pending or threatened by any Governmental Authority or other Person relating to such Leased Property with respect to any alleged Material violation or liability under any Environmental Law by any other Person.

(v) Such Leased Property and each portion thereof are presently in compliance in all Material respects with all Environmental Laws, and, to the best knowledge of such Lessee, there are no present or past facts, circumstances, activities, events, conditions or occurrences regarding such Leased Property (including without limitation the release or presence of Hazardous Materials) that could reasonably be anticipated to (A) form the basis of a Material Claim against such Leased Property, any Funding Party or such Lessee, (B) cause such Leased Property to be subject to any Material restrictions on ownership, occupancy, use or transferability under any Environmental Law, (C) require the filing or recording of any notice or restriction relating to the presence of Hazardous Materials in the real estate records in the county or other appropriate municipality in which such Leased Property is located, or (D) prevent or Materially interfere with the continued operation and maintenance of such Leased Property as contemplated by the Operative Documents.

(j) Leased Property. The present condition and use of such Leased Property conforms in all Material respects with all conditions or requirements of all existing Material permits and approvals issued with respect to such Leased Property, and the present use of such

Leased Property and such Lessee's future intended use of such Leased Property under the related Lease does not, in any Material respect, violate any Applicable Law. To the best knowledge of such Lessee, no Material notices, complaints or orders of violation or non-compliance have been issued or threatened or contemplated by any Governmental Authority with respect to such Leased Property or any present or intended future use thereof. All Material agreements, easements and other rights, public or private, which are necessary to permit the lawful use and operation of such Leased Property as such Lessee intends to use such Leased Property under the related Lease and which are necessary to permit the lawful intended use and operation of all presently intended utilities, driveways, roads and other means of egress and ingress to and from the same have been, or to such Lessee's best knowledge will be, obtained and are or will be in full force and effect, and such Lessee has no knowledge of any pending Material modification or cancellation of any of the same.

(k) True and Complete Disclosure. All factual information relating to such Lessee, or any of its assets or its financial condition, or any of the Leased Properties heretofore or contemporaneously furnished by such Lessee or on its behalf in writing to any Funding Party (including without limitation all information contained in the Operative Documents) for purposes of or in connection with any transaction contemplated by this Master Agreement is, and all other such factual information hereafter furnished by such Lessee or on its behalf in writing to any Funding Party will be, true and accurate in all Material respects on the date as of which such information is dated or certified and not incomplete by omitting to state any Material fact necessary to make such information, together with past written information supplied hereunder (taken as a whole) not misleading at such time in light of the circumstances under which such information was provided.

(l) Financial Statements. The consolidated statement of financial position of Dollar as of January 31, 1997 and the related statements of income, shareholders' equity and cash flows for the fiscal year then ended, reported on by Coopers and Lybrand and the consolidated statements of financial position of Dollar as of May 2, 1997 and the related statements of income, shareholders' equity and cash flows for the three months then ended, in each case, a copy of which has been delivered to each of the Funding Parties, present fairly in all Material respects, in conformity with GAAP (subject, in the case of the quarterly financial statements, to normal year-end audit adjustments and the absence of certain notes), the consolidated financial position of Dollar and its Subsidiaries as of such dates and the results of operations and cash flows of Dollar and its Subsidiaries for such fiscal year or other period then ended. The Consolidated Companies taken as a whole did not have any Material contingent obligations, contingent liabilities or Material liabilities for known taxes, long-term leases or unusual forward or long-term commitments required to be reflected in the foregoing financial statements or the notes thereto that are not so reflected.

(m) No Material Litigation. Except as set forth in Schedule 4.1(m), no litigation, investigations or proceedings of or before any court, tribunal, arbitrator or governmental authority is pending or, to the knowledge of any Executive Officer of such Lessee, threatened by or against any of the Consolidated Companies, or against any of their respective Properties or



revenues, existing or future (a) with respect to any Operative Document, or any of the transactions contemplated hereby or thereby, or (b) which, if adversely determined, is reasonably likely to have a Materially Adverse Effect.

(n) Margin Regulations. No part of the proceeds of any of the Fundings will be used for any purpose which violates, or which would be inconsistent or not in compliance with, the provisions of the applicable Margin Regulations.

(o) Subsidiaries. The jurisdiction of incorporation or organization, and the ownership of all issued and outstanding capital stock, for each Subsidiary of Dollar as of the date of this Master Agreement is accurately described on Schedule 4.1(o). Schedule 4.1(o) may be updated from time to time by Dollar by giving written notice thereof to the Agent.

(p) Compliance With Environmental Laws.

(i) The Consolidated Companies have received no notices of claims or potential liability under, and are in compliance with, all applicable Environmental Laws, where such claims and liabilities under, and failures to comply with, such statutes, regulations, rules, ordinances, laws or licenses, is reasonably likely to result in penalties, fines, claims or other liabilities to the Consolidated Companies in amounts that would have a Materially Adverse Effect, either individually or in the aggregate (including any such penalties, fines, claims, or liabilities relating to the matters set forth on Schedule 4.1(p)), except as set forth on Schedule 4.1(p)).

(ii) Except as set forth on Schedule 4.1(p), none of the Consolidated Companies has received any notice of violation, or notice of any action, either judicial or administrative, from any governmental authority (whether United States or foreign) relating to the actual or alleged violation of any Environmental Law, including, without limitation any notice of any actual or alleged spill, leak, or other release of any Hazardous Substance, waste or hazardous waste by any Consolidated Company or its employees or agents, or as to the existence of any continuation on any Properties owned by any Consolidated Company, where any such violation, spill, leak, release or contamination is reasonably likely to result in penalties, fines, claims or other liabilities to the Consolidated Companies in amounts that would have a Materially Adverse Effect, either individually or in the aggregate.

(iii) Except as set forth on Schedule 4.1(p), the Consolidated Companies have obtained all necessary governmental permits, licenses and approvals for the operations conducted on their respective Properties, including without limitation, all required Material permits, licenses and approvals for (i) the emission of air pollutants or contaminants, (ii) the treatment or pretreatment and discharge of waste water or storm water, (iii) the treatment, storage, disposal or generation of hazardous wastes, (iv) the withdrawal and usage of ground water or surface water,

and (v) the disposal of solid wastes, in any such case where the failure to have such license, permit or approval is reasonably likely to have a Materially Adverse Effect.

(q) Insurance. The Consolidated Companies currently maintain such insurance with respect to their Properties and business with financially sound and reputable insurers, and in such amounts and having such coverages against losses and damages which the Lessee in the exercise of its reasonable prudent business judgment has determined to be necessary to prevent the Consolidated Companies from experiencing a loss which would cause a Materially Adverse Effect. The Consolidated Companies have paid all Material amounts of insurance premiums now due and owing with respect to such insurance policies and coverages, and such policies and coverages are in full force and effect.

(r) No Default. None of the Consolidated Companies is in default under or with respect to any Contractual Obligation in any respect which has had or is reasonably likely to have a Materially Adverse Effect.

(s) No Burdensome Restrictions. Except as set forth on Schedule 4.1(s), none of the Consolidated Companies is a party to or bound by any Contractual Obligation or Requirement of Law or any provision of its respective articles or certificates of incorporation, bylaws, or other organizational or governing documents which has had or is reasonably likely to have a Materially Adverse Effect.

(t) Taxes. The Consolidated Companies have filed all Federal tax returns and, to the knowledge of any Executive Officer of the Lessee, the Consolidated Companies have filed all other tax returns which are required to have been filed in any jurisdiction; the Consolidated Companies have paid all taxes shown to be due and payable on such Federal returns and other returns and all other taxes, assessments, fees and other charges payable by them, in each case, to the extent the same have become due and payable and before they have become delinquent, except for the filing of any such returns or the payment of any taxes, assessments, fees and other charges the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which any Consolidated Company has set aside on its books reserves (segregated to the extent required by GAAP) deemed by it in good faith to be adequate. Such Lessee has not received written notice of any proposed Material tax assessment with respect to Federal income taxes against any of the Consolidated Companies nor does any Executive Officer of such Lessee know of any Material Federal income tax liability on the part of the Consolidated Companies other than any such assessment or liability which is adequately reserved for on the books of the Consolidated Companies in accordance with GAAP.

(u) Subsidiaries. Except as disclosed on Schedule 4.1(u), Dollar has no Subsidiaries and neither Dollar nor any Subsidiary is a joint venture partner or general partner in any partnership. Schedule 4.1(u) may be updated from time to time by Dollar by giving written notice thereof to the Agent.

(v) ERISA. Except as disclosed on Schedule 4.1(v):

(i) Identification of Plans. None of the Consolidated Companies nor any of their respective ERISA Affiliates maintains or contributes to, or has during the past seven years maintained or contributed to, any Plan that is subject to Title IV of ERISA;

(ii) Compliance. Each Plan maintained by the Consolidated Companies has at all times been maintained, by their terms and in operation, in compliance with all applicable laws, and the Consolidated Companies are subject to no tax or penalty with respect to any Plan of such Consolidated Company or any ERISA Affiliate thereof, including without limitation, any tax or penalty under Title I or Title IV of ERISA or under Chapter 43 of the Tax Code, or any tax or penalty resulting from a loss of deduction under Sections 162, 404, or 419 of the Tax Code, where the failure to comply with such laws, and such taxes and penalties, together with all other liabilities referred to in this Section 4.1(v) (taken as a whole), would in the aggregate have a Materially Adverse Effect;

(iii) Liabilities. The Consolidated Companies are subject to no liabilities (including withdrawal liabilities) with respect to any Plans of such Consolidated Companies or any of their ERISA Affiliates, including without limitation, any liabilities arising from Titles I or IV of ERISA, other than obligations to fund benefits under an ongoing Plan and to pay current contributions, expenses and premiums with respect to such Plans, where such liabilities, together with all other liabilities referred to in this Section 4.1(v) (taken as a whole), would in the aggregate have a Materially Adverse Effect;

(iv) Funding. The Consolidated Companies and, with respect to any Plan which is subject to Title IV of ERISA, each of their respective ERISA Affiliates, have made full and timely payment of all amounts (A) required to be contributed under the terms of each Plan and applicable law, and (B) required to be paid as expenses (including PBGC or other premiums) of each Plan, where the failure to pay such amounts (when taken as a whole, including any penalties attributable to such amounts) would have a Materially Adverse Effect. No Plan subject to Title IV of ERISA has an "amount of unfunded benefit liabilities" (as defined in Section 4001(a)(18) of ERISA), determined as if such Plan terminated on any date on which this representation and warranty is deemed made, in any amount which, together with all other liabilities referred to in this Section 4.1(v). (taken as a whole), would have a Materially Adverse Effect if such amount were then due and payable. The Consolidated Companies are subject to no liabilities with respect to post-retirement medical benefits in any amounts which, together with all other liabilities referred to in this Section 4.1(v)(taken as a whole), would have a Materially Adverse Effect if such amounts were then due and payable.

(w) Patents, Trademarks, Licenses, Etc. Except as set forth on Schedule 4.1(w), (i) the Consolidated Companies have obtained and hold in full force and effect all Material governmental authorizations, consents, approvals, patents, trademarks, service marks, franchises, trade names, copyrights, licenses and other such rights, free from burdensome restrictions, which are necessary for the operation of their respective businesses as presently conducted, and (ii) to the best of Lessee's knowledge, no product, process, method, service or other item presently sold by or employed by any Consolidated Company in connection with such business infringes any patents, trademark, service mark, franchise, trade name, copyright, license or other right owned by any other Person and there is not presently pending, or to the knowledge of Lessee, threatened, any claim or litigation against or affecting any Consolidated Company contesting such Person's right to sell or use any such product, process, method, substance or other item where the result of such failure to obtain and hold such benefits or such infringement would have a Materially Adverse Effect.

(x) Ownership of Property; Liens.

(i) Except as set forth on Schedule 4.1(x), (i) each Consolidated Company has good and marketable fee simple title to or a valid leasehold interest in all of its real property and good title to all of its other Property, as such Properties are reflected in the consolidated balance sheet of the Consolidated Companies as of May 2, 1997, except where the failure to hold such title, leasehold interest, or possession would not have a Materially Adverse Effect, other than Properties disposed of in the ordinary course of business since such date or as otherwise permitted by the terms of this Master Agreement, subject to no known Lien or title defect of any kind, except Liens permitted hereunder and (ii) the Consolidated Companies enjoy peaceful and undisturbed possession under all of their respective leases except where the failure to enjoy peaceful and undisturbed possession would not have a Materially Adverse Effect.

(ii) As of the date of this Master Agreement, the Property owned by each Consolidated Company is not subject to any Lien securing any Indebtedness or other obligation of such Consolidated Company in excess of \$2,500,000 individually or in the aggregate, other than as described on Schedule 4.1(x) hereof.

(y) Indebtedness. Other than as described on Schedule 4.1(y), and as of the date hereof, the Consolidated Companies, on a consolidated basis, are not obligors (singularly or in the aggregate) in respect of any Indebtedness for Borrowed Money in excess of \$2,500,000 or any commitment to create or incur any Indebtedness for Borrowed Money in excess of \$2,500,000.

(z) Financial Condition. On the Initial Closing Date and after giving effect to the transactions contemplated by this Master Agreement and the other Operative Documents, the Property of each Consolidated Company at fair valuation and based on their present fair saleable

value will exceed such Consolidated Company's debts, including contingent liabilities, (ii) the remaining capital of such Consolidated Company will not be unreasonably small to conduct such Consolidated Company's business, and (iii) such Consolidated Company will not have incurred debts, or have intended to incur debts, beyond the Consolidated Company's ability to pay such debts as they mature. For purposes of this Section 4.1(z), "debt" means any liability on a claim, and "claim" means (a) the right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured, or (b) the right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

(aa) Labor Matters. Except as set forth in Schedule 4.1(aa), the Consolidated Companies have experienced no strikes, labor disputes, slow downs or work stoppages due to labor disagreements which is reasonably likely to have, a Materially Adverse Effect, and, to the best knowledge of the Executive Officers of such Lessee, there are no such strikes, disputes, slow downs or work stoppages threatened against any Consolidated Company except as disclosed in writing to the Agent. The hours worked and payment made to employees of the Consolidated Companies have not been in violation in any Material respect of the Fair Labor Standards Act or any other applicable law dealing with such matters, and all payments due from the Consolidated Companies, or for which any claim may be made against the Consolidated Companies, on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as liabilities on the books of the Consolidated Companies, in each case where the failure to comply with such laws or to pay or accrue such liabilities is reasonably likely to have a Materially Adverse Effect.

(bb) Payment or Dividend Restrictions. Except as described on Schedule 4.1(bb), none of the Consolidated Companies is party to or subject to any agreement or understanding restricting or limiting the payment of any dividends or other distributions by any such Consolidated Company.

(cc) Financial Projections. The financial projections and other pro forma financial information delivered to the Agent or any Lender above were based on good faith estimates and assumptions believed by the applicable Consolidated Companies to be reasonable at the time made and at the time furnished to the Agent and/or any Lender, it being recognized by the Lenders that such projections and other pro forma financial information as to future events such projections and other pro forma financial information may differ from the projected results for such period or periods.

(dd) Notice of Violations. Such Lessee has not received notice, and no Consolidated Company has received notice, that it is in violation of any Requirement of Law, judgment, court order, rule, or regulation that would be expected to have a Materially Adverse Effect.

(ee) Filings. Such Lessee has filed all reports and statements required to be filed with the Securities and Exchange Commission. As of their respective dates, the reports and statements referred to above complied in all Material respects with all rules and regulations promulgated by the Securities and Exchange Commission and did not contain any untrue statement of a Material fact or omit to state a Material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

SECTION 4.2 Representations of the Lessor. Effective as of the date of execution hereof, as of each Closing Date and as of each Funding Date, in each case, with respect to each of the Leased Properties, the Lessor represents and warrants to the Agent, the Lenders and the Lessees as follows:

(a) Securities Act. The interest being acquired or to be acquired by the Lessor in such Leased Property is being acquired for its own account, without any view to the distribution thereof or any interest therein, provided that the Lessor shall be entitled to assign, convey or transfer its interest in accordance with Section 6.1.

(b) Due Organization, etc. The Lessor is a limited partnership duly organized and validly existing in good standing under the laws of Texas and each state in which a Leased Property is located and has full power, authority and legal right to execute, deliver and perform its obligations under the Lease, this Master Agreement and each other Operative Document to which it is or will be a party.

(c) Due Authorization; Enforceability, etc. This Master Agreement and each other Operative Document to which the Lessor is or will be a party have been or will be duly authorized, executed and delivered by or on behalf of the Lessor and are, or upon execution and delivery will be, legal, valid and binding obligations of the Lessor enforceable against it in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by general equitable principles.

(d) No Conflict. The execution and delivery by the Lessor of the Leases, this Master Agreement and each other Operative Document to which the Lessor is or will be a party, are not or will not be, and the performance by the Lessor of its obligations under each will not be, inconsistent with its Partnership Agreement, do not and will not contravene any Applicable Law and do not and will not contravene any provision of, or constitute a default under, any Contractual Obligation of Lessor, do not and will not require the consent or approval of, the giving of notice to, the registration with or taking of any action in respect of or by, any Governmental Authority, except such as have been obtained, given or accomplished, and the Lessor possesses all requisite regulatory authority to undertake and perform its obligations under the Operative Documents.

(e) **Litigation.** There are no pending or, to the knowledge of the Lessor, threatened actions or proceedings against the Lessor before any court, arbitrator or administrative agency with respect to any Operative Document or that would have a Material adverse effect upon the ability of the Lessor to perform its obligations under this Master Agreement or any other Operative Documents to which it is or will be a party.

(f) **Lessor Liens.** No Lessor Liens (other than those created by the Operative Documents) exist on any Closing Date on the Leased Property, or any portion thereof, and the execution, delivery and performance by the Lessor of this Master Agreement or any other Operative Document to which it is or will be a party will not subject the Leased Property, or any portion thereof, to any Lessor Liens (other than those created by the Operative Documents).

(g) **Employee Benefit Plans.** The Lessor is not and will not be making its investment hereunder, and is not performing its obligations under the Operative Documents, with the assets of an "employee benefit plan" (as defined in Section 3(3) of ERISA) which is subject to Title I of ERISA, or "plan" (as defined in Section 4975(e)(1)) of the Code.

(h) **General Partner.** The sole general partner of the Lessor is Atlantic Financial Managers, Inc.

(i) **Financial Information.** (A) The unaudited balance sheet of the Lessor as of December 31, 1996 and the related statements of income, partners' capital and cash flows for the year then ended, copies of which have been delivered to the Agent, fairly present, in conformity with sound accounting principles, the financial condition of the Lessor as of such dates and the results of operations and cash flows for such periods.

(B) Since December 31, 1996, there has been no event, act, condition or occurrence having a Material adverse effect upon the financial condition, operations, performance or properties of the Lessor, or the ability of the Lessor to perform in any Material respect under the Operative Documents.

(j) **No Offering.** The Lessor has not offered the Notes to any Person in any manner that would subject the issuance thereof to registration under the Securities Act.

**SECTION 4.3 Representations of each Lender.** Effective as of the date of execution hereof, as of each Closing Date and as of each Funding Date, each Lender represents and warrants to the Lessor and to the Lessees as follows:

(a) **Securities Act.** The interest being acquired or to be acquired by such Lender in the Funded Amounts is being acquired for its own account, without any view to the distribution thereof or any interest therein, provided that such Lender shall be entitled to assign, convey or transfer its interest in accordance with Section 6.2. Such Lender is an accredited investor as that term is defined in Rule 501(a) under the Securities Act.

(b) Employee Benefit Plans. Such Lender is not and will not be making its investment hereunder, and is not performing its obligations under the Operative Documents, with the assets of an "employee benefit plan" (as defined in Section 3(3) of ERISA) which is subject to Title I of ERISA, or "plan" (as defined in Section 4975(e)(1)) of the Code.

## SECTION 5 COVENANTS OF THE LESSEES AND THE LESSOR

### SECTION 5.1 Affirmative Covenants. Each Lessee will:

- (a) Corporate Existence, Etc. Preserve and maintain, and cause each of the Consolidated Companies to preserve and maintain, its corporate existence, its Material rights, franchises, and licenses, and its Material patents and copyrights (for the scheduled duration thereof), trademarks, trade names, and service marks, necessary or desirable in the normal conduct of its business, and its qualification to do business as a foreign corporation in all jurisdictions where it conducts business or other activities making such qualification necessary, where the failure to be so qualified would reasonably be expected to have a Materially Adverse Effect.
- (b) Compliance with Laws, Etc. Comply, and cause each Consolidated Company to comply, with all Requirements of Law and Contractual Obligations applicable to or binding on any of them where the failure to comply with such Requirements of Law and Contractual Obligations would reasonably be expected to have a Materially Adverse Effect.
- (c) Payment of Taxes and Claims, Etc. File and cause each Consolidated Company to file all Federal, state, local and foreign tax returns that are required to be filed by each of them and pay all taxes that have become due pursuant to such returns or pursuant to any assessment in respect thereof received by any Consolidated Company; and each Consolidated Company will pay or cause to be paid all other taxes, assessments, fees and other governmental charges and levies which, to the knowledge of any of the Executive Officers of any Consolidated Company, are due and payable before the same become delinquent, except any such taxes and assessments as are being contested in good faith by appropriate and timely proceedings and as to which adequate reserves have been established in accordance with GAAP.
- (d) Keeping of Books. Keep, and cause each Consolidated Company to keep, proper books of record and account, containing complete and accurate entries of all their respective financial and business transactions.



(e) Visitation, Inspection, Etc. Permit, and cause each Consolidated Company to permit, any representative of the Lessor, the Agent or any Lender, at the Lessor's, the Agent's or such Lender's expense, to visit and inspect any of its Property, to examine its books and records and to make copies and take extracts therefrom, and to discuss its affairs, finances and accounts with its officers, all at such reasonable times and as often as the Lessor, the Agent or such Lender may reasonably request after reasonable prior notice to Dollar; provided, however, that at any time following the occurrence and during the continuance of a Potential Event of Default or an Event of Default, no prior notice to Dollar shall be required.

(f) Insurance; Maintenance of Properties.

(i) Maintain or cause to be maintained with financially sound and reputable insurers, such insurance with respect to its Properties and business in such amounts as Dollar has determined in the exercise of its reasonable prudent business judgment is necessary to prevent the Consolidated Companies, singularly or in the aggregate from experiencing a loss which would cause a Materially Adverse Effect.

(ii) Cause, and cause each of the Consolidated Companies to cause, all Properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and cause to be made all necessary repairs, renewals, replacements, settlements and improvements thereof, all as in the reasonable judgment of Dollar may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; provided, however, that nothing in this Section shall prevent Dollar from discontinuing the operation or maintenance of any such Properties if such discontinuance is, in the reasonable judgment of Dollar, desirable in the conduct of its business or the business of any Consolidated Company.

(iii) Cause a summary, set forth in format and detail reasonably acceptable to the Agent, of the types and amounts of insurance (property and liability) maintained by the Consolidated Companies to be delivered to the Agent on or before thirty (30) days after the Initial Closing Date.

(g) Financial Reports. Furnish to the Lessor, the Agent and each Lender:

(i) Within fifty (50) days after the end of each of the first three quarter-annual periods of each Fiscal Year (and, in any event, in each case as soon as prepared), the quarterly Financial Report of Dollar as of the end of that period, prepared on a consolidated basis and accompanied by a certificate, dated the date of furnishing, signed by a Financial Officer of Dollar to the effect that such Financial Report accurately presents in all Material respects the consolidated financial condition of the Consolidated Companies and that such Financial Report has been prepared in accordance with GAAP consistently applied (subject to year end adjustments), except that such Financial Report need not be accompanied by notes.

(ii) Within one hundred (100) days after the end of each Fiscal Year (and, in any event, as soon as available), the annual Financial Report of Dollar (with accompanying notes) for that Fiscal Year prepared on a consolidated basis (which Financial Report shall be reported on by Dollar's independent certified public accountants, such report to state that such Financial Report fairly presents in all Material respects the consolidated financial condition and results of operation of the Consolidated Companies in accordance with GAAP and to be without any Material qualifications or exceptions). The audit opinion in respect of the consolidated Financial Report shall be the unqualified opinion of one of the nationally recognized "Big Six" firms of independent certified public accountants acceptable to Agent.

(iii) Within fifty (50) days after the end of each of its first three quarterly accounting periods and within one hundred (100) days after the end of each Fiscal Year, a statement certified as true and correct by a Financial Officer of Dollar, substantially in the form of Exhibit K hereto, with back-up material setting forth in reasonable detail such calculations attached thereto and stating whether any Potential Event of Default or Event of Default has occurred and is continuing, and if a Default or Event of Default has occurred and is continuing, stating Dollar's intentions with respect thereto;

(iv) Within fifty (50) days after the end of each of its quarterly accounting periods (including the year end quarterly period), a statement certified as true

and correct by a Financial Officer of Dollar setting forth the Consolidated Funded Debt to Total Capitalization Ratio and the Fixed Charge Coverage Ratio as of the last day of such quarterly accounting period.

(v) Promptly upon the filing thereof or otherwise becoming available, copies of all financial statements, annual, quarterly and special reports (including, without limitation, Dollar's 8-K, 10-K, and 10-Q reports), proxy statements and notices sent or made available generally by Dollar to its public security holders, of all regular and periodic reports and all registration statements and prospectuses, if any, filed by any of them with any securities exchange or with the Securities and Exchange Commission, and of all press releases and other statements made available generally to the public containing Material developments in the business or financial condition of Dollar and the other Consolidated Companies.

(vi) Promptly upon receipt thereof, copies of all financial statements of, and all reports submitted by, independent public accountants to Dollar in connection with each annual, interim, or special audit of Dollar's financial statements, including without limitation, the comment letter submitted by such accountants to management in connection with their annual audit.

(vii) As soon possible and in any event within thirty (30) days after Dollar or any Consolidated Company knows or has reason to know that any "Reportable Event" (as defined in Section 4043(b) of ERISA) with respect to any Plan has occurred (other than such a Reportable Event for which the PBGC has waived the 30-day notice requirement under Section 4043(a) of ERISA) and such Reportable Event involves a matter that has had, or is reasonably likely to have, a Materially Adverse Effect, a statement of a Financial Officer of the applicable Consolidated Company setting forth details as to such Reportable Event and the action which the applicable Consolidated Company proposes to take with respect thereto, together with a copy of the notice of such Reportable Event given to the PBGC if a copy of such notice is available to the applicable Consolidated Company.

(viii) With reasonable promptness, such other information relating to Dollar's performance of this Master Agreement or its financial condition as may reasonably be requested from time to time by the Agent.

(ix) Concurrently with the furnishing of the annual consolidated Financial Report required pursuant to Section 5.1(g)(ii) hereof, furnish or cause to be furnished to the Lessor, the Agent and each Lender a certificate of compliance in a form reasonably satisfactory to Agent prepared by one of the nationally recognized "Big Six" accounting firms stating that in making the examination necessary for their audit, they have obtained no knowledge of any Potential Event of Default or Event of Default, or if they have obtained such knowledge, disclosing the nature, details and period of existence of such event.

(h) Notices Under Certain Other Indebtedness. Immediately upon its receipt thereof, furnish the Agent a copy of any notice received by it or any other Consolidated Company from the holder(s) of Indebtedness (or from any trustee, agent, attorney, or other party acting on behalf of such holder(s)) in an amount which, in the aggregate, exceeds \$2,500,000.00 where such notice states or claims (i) the existence or occurrence of any default or event of default with respect to such Indebtedness under the terms of any indenture, loan or credit agreement, debenture, note, or other document evidencing or governing such Indebtedness, or (ii) the existence or occurrence of any event or condition which requires or permits holder(s) of any Indebtedness of the Consolidated Companies to exercise rights under any Change in Control Provision.

(i) Notice of Litigation. Notify the Agent of any actions, suits or proceedings instituted by any Person against the Consolidated Companies where the uninsured portion of the money damages sought (which shall include any deductible amount to be paid by Dollar or any Consolidated Company) is singularly in an amount in excess of \$15,000,000.00 or where unreserved amounts in the aggregate are in excess of \$15,000,000.00 or which is reasonably likely to have a Materially Adverse Effect. Said notice is to be given along with the quarterly and annual reports required by Section 5.1(g) hereof, and is to specify the amount of damages being claimed or other relief being sought, the nature of the claim, the Person instituting the action, suit or proceeding, and any other significant features of the claim.

(j) Subsidiary Guaranties.

(i) Subject to subsection (iii) below, Dollar shall cause all of the Consolidated Companies existing as of the Initial Closing Date to execute and deliver on or before the Initial Closing Date a Subsidiary Guaranty in substantially the same form as set forth in Exhibit L. The delivery of such documents shall be accompanied by such other documents as the Agent may

reasonably request (e.g., certificates of incorporation, articles of incorporation and bylaws, membership operating agreements, opinion letters and appropriate resolutions of the Board of Directors of any such Subsidiary Guarantor).

(ii) Subject to subsection (iii) below, Dollar shall cause each Consolidated Company not existing as of the Initial Closing Date to execute and deliver Subsidiary Guaranties in substantially the same form as set forth in Exhibit L simultaneously with the creation or acquisition of any such Consolidated Company by Dollar or any other such Consolidated Company. The delivery of such documents shall be accompanied by such other documents as the Agent may reasonably request (e.g., certificates of incorporation, articles of incorporation and bylaws, membership operating agreements, opinion letters and appropriate resolutions of the Board of Directors of any such Subsidiary Guarantor).

(iii) Notwithstanding the foregoing subsections (i) and (ii), Dollar shall not be required to cause any Consolidated Company to deliver a Subsidiary Guaranty if the delivery of such documents would cause such Consolidated Company to violate any Requirement of Law.

(k) Existing Business. Remain and cause each Consolidated Company to remain engaged in business of the same general nature and type as conducted on the Initial Closing Date.

(l) ERISA information and Compliance. Comply and cause each Consolidated Company to comply with ERISA and all other applicable laws governing any pension or profit sharing plan or arrangement to which any Consolidated Company is a party. Dollar shall provide and shall cause each Consolidated Company to provide Agent with notice of any "reportable event" or "prohibited transaction" or the imposition of a "withdrawal liability" within the meaning of ERISA.

(m) Financial Requirements. Not:

(i) Fixed Charge Coverage Ratio. Suffer or permit, as of the last day of any fiscal quarter, the ratio of (A) Consolidated EBITR to (B) the sum of (i) Consolidated Interest Expense, plus (ii) Consolidated Rental Expense to be less than 2.0 to 1.0, as calculated for the most recently concluded quarter and the immediately three (3) preceding fiscal quarters.

(ii) Consolidated Funded Debt to Total Capitalization Ratio. Permit, as of the last day of any fiscal quarter, the ratio of Consolidated Funded Debt to Total Capitalization to be greater than .50 to 1.0.

(n) Liens. Not, and will not permit any Consolidated Company to, create, assume or suffer to exist any Lien upon any of their respective Properties whether now owned or hereafter acquired; provided, however, that this Section 5.1(n) shall not apply to the following:

(i) any Lien for taxes not yet due or taxes or assessments or other governmental charges which are being actively contested in good faith by appropriate proceedings and as to which adequate reserves have been established in accordance with GAAP;

(ii) any customary Liens, pledges or deposits in connection with worker's compensation, unemployment insurance, or social security, or deposits incidental to the conduct of the business of any Consolidated Company or the ownership of any of their Properties which were not incurred in connection with the borrowing of money or the obtaining of advances or credit and which do not in the aggregate Materially detract from the value of their Properties or Materially impair the use thereof in the operation of their businesses;

(iii) any customary Liens to secure the performance of tenders, statutory obligations, surety and appeal bonds, and similar obligations and as to which adequate reserves have been established in accordance with GAAP;

(iv) any Lien incurred in connection with Purchase Money Indebtedness and placed upon any Property at the time of its acquisition (or within 60 days thereafter) by any Consolidated Company to secure all or a portion of the purchase price therefor, provided that the aggregate cumulative amount of Indebtedness secured by such purchase money Liens must never exceed an amount equal to five percent (5%) of Consolidated Net Worth (in calculating the amount of any Purchase Money Indebtedness secured by a Lien for the purpose of this Section 5.1 (n), there shall be excluded Purchase Money Indebtedness in an amount up to \$10,000,000 per distribution center under construction by any Consolidated Company with the maximum exclusion, regardless of the number of distribution centers under construction, of no more than \$20,000,000, provided

that the Purchase Money Indebtedness incurred in connection with the construction of a distribution center and the purchase money Lien evidenced thereby is repaid and cancelled within 90 days following the issuance of a certificate of occupancy, or similar certification, for such distribution center), and provided, that any such Lien shall not encumber any other Properties of any Consolidated Company;

(v) statutory Liens of carriers, warehousemen, mechanics, materialmen and other Liens imposed by law created in the ordinary course of business for amounts not yet due or which are being contested in good faith by appropriate proceedings and as to which adequate reserves have been established in accordance with GAAP;

(vi) Liens consisting of encumbrances in the nature of zoning restrictions, easements, rights and restrictions of record on the use of real property on the date of the acquisition thereof and statutory Liens of landlords and lessors which in any case do not Materially detract from the value of such real property or impair the use thereof;

(vii) any Lien in favor of the United States of America or any department or agency thereof, or in favor of any state government or political subdivision thereof, or in favor of a prime contractor under a government contract of the United States, or of any state government or any political subdivision thereof, and, in each case, resulting from acceptance of partial, progress, advance or other payments in the ordinary course of business under government contracts of the United States, or of any state government or any political subdivision thereof, or subcontracts thereunder;

(viii) any Lien existing on the date hereof and disclosed on the consolidated Financial Reports of Dollar; and

(ix) statutory Liens arising under ERISA created in the ordinary course of business for amounts not yet due and as to which adequate reserves have been established in accordance with GAAP.

(o) Merger and Sale of Assets. Not, without the prior written consent of the Required Lenders, merge or consolidate with any other corporation or sell, lease or transfer or otherwise dispose of all or, during any twelve-month period, a Material part of its Property to any Person, nor permit any

Consolidated Company to take any of the above actions; provided that notwithstanding any of the foregoing limitations, if no Potential Event of Default or Event of Default shall then exist or immediately thereafter will exist, Consolidated Companies may take the following actions:

(i) Any Consolidated Company may merge with (i) Dollar (provided that Dollar shall be the continuing or surviving corporation) or (ii) any one or more other Subsidiaries provided that either the continuing or surviving corporation shall remain a Consolidated Company;

(ii) Any Consolidated Company may sell, lease, transfer or otherwise dispose of any of its assets to (i) Dollar, or (ii) any other Consolidated Company; and

(iii) Dollar may sell for fair value Scottsville, Kentucky office buildings (exclusive of its Scottsville, Kentucky distribution center).

(p) Transactions with Affiliates. Not, and will not permit any Consolidated Company to, enter into or be a party to any transaction or arrangement with any Affiliate (including, without limitation, the purchase from, sale to or exchange of property with, or the rendering of any service by or for, any Affiliates), except in the ordinary course of and pursuant to the reasonable requirements of such Consolidated Company's business and upon fair and reasonable terms no less favorable to such Consolidated Company than such party would obtain in a comparable arm's-length transaction with a Person other than an Affiliate.

(q) Nature of Business. Not, and will not permit any Consolidated Company to, engage in any business if, as a result, the general nature of the business, taken on a consolidated basis, which would then be engaged in by any Consolidated Company would be fundamentally changed from the general nature of the business engaged in by the Consolidated Companies on the date of this Master Agreement.

(r) Regulations G, T, U and X. Not, nor permit any Consolidated Company to take any action that would result in any non-compliance of the Advances made hereunder with Regulations G, T, U and X of the Board of Governors of the Federal Reserve System.

(s) ERISA Compliance. Not, and will not permit any Consolidated Company to, incur any Material "accumulated funding deficiency" within the meaning of Section 302(a)(2) of ERISA, or any Material liability under Section 4062 of ERISA to the PBGC established thereunder in connection with any Plan.



(t) Investments, Loans, and Advances. Not, and will not permit any Consolidated Company to, make or permit to remain outstanding any loans or advances to or investments in any Person, except that, subject to all other provisions of this Section 5.1(t), the foregoing restriction shall not apply to:

- (i) investments in direct obligations of the United States of America or any agency thereof having maturities of less than one year;
  - (ii) investments in commercial paper maturing within one year from the date of creation thereof of the highest credit rating of a Rating Agency;
  - (iii) investments in bankers' acceptances and certificates of deposit having maturities of less than one year issued by commercial banks in the United States of America having capital and surplus in excess of \$50,000,000;
  - (iv) the endorsement of negotiable or similar instruments in the ordinary course of business;
  - (v) investments in stock of any of the Consolidated Companies;
  - (vi) investments in stock or assets, or any combination thereof, of any Subsidiary created or acquired after the Initial Closing Date;
  - (vii) investments received in settlement of debt created in the ordinary course of business; and
  - (viii) advances to officers and employees of Dollar made in the ordinary course of business and not in excess of amounts customarily and historically loaned to such officers and employees not to exceed \$2,500,000 in the aggregate.
- (u) Sales and Leasebacks. With regard to any Property owned by Dollar or any Consolidated Company as of the date of this Master Agreement, Not, and will not permit any Consolidated Company to, enter into any arrangement, directly or indirectly, with any Person by which any Consolidated Entity shall sell or transfer any such Property with a market value in excess of \$35,000,000, and by which any Consolidated Entity shall then or thereafter rent or lease as lessee such Property or any part thereof or other Property that such Consolidated Entity intends to use for substantially the same purpose or purposes as the Property sold or transferred.

With regard to any Property acquired by Dollar or any Consolidated Company after the date of this Master Agreement, Dollar will not, and will not permit any Consolidated Company, to enter into any arrangement, directly or indirectly, with any Person by which any Consolidated Company shall sell or transfer any such Property and by which any Consolidated Company shall then or thereafter rent or lease as lessee such Property or any part thereof or other Property that the Consolidated Company intends to use for substantially the same purpose or purposes as the Property sold or transferred unless any such sale and leaseback transaction is completed within a six-month period from the later of the date the Property is acquired or the date such Property is placed into service.

(v) Guaranties. Not, and will not permit any Consolidated Company to, enter into any Guaranty, except that, subject to all other provisions of this Section 5, the foregoing restriction shall not apply to:

(i) Subsidiary Guaranties;

(ii) the execution by Dollar of a Guaranty for the Synthetic Lease;

(iii) Guaranties executed by one Consolidated Company in favor of or to another Consolidated Company for the obligations of another Consolidated Company;

(iv) endorsements of instruments for deposit or collection in the ordinary course of business; and

(v) such other Guaranties that do not cause a breach or violation of the Consolidated Funded Debt to Total Capitalization Ratio.

(w) Limitation on Funded Debt. Not permit any Consolidated Company and the Consolidated Companies in the aggregate to incur or suffer to exist Funded Debt other than:

(i) Funded Debt of the Consolidated Companies existing on the date of this Master Agreement and any renewal, extension, refunding, or refinancing thereof;

(ii) Seasonal unsecured working capital lines of credit incurred subsequent to the date that Dollar has used one hundred percent (100%) of the Total Commitments (as defined in the Credit Agreement) and provided that such seasonal working capital lines of credit may remain outstanding only for so long as one hundred percent (100%) of the Total Commitments (as defined in the Credit Agreement) remain outstanding;

(iii) Purchase Money Indebtedness permitted by Section 5.1(n);

(iv) Indebtedness incurred in connection with stand-by letters of credit issued in the ordinary course of business on the account of any Consolidated Company not to exceed for all Consolidated Companies in the aggregate, an outstanding amount in excess of \$15,000,000; and

(v) Indebtedness incurred to First American National Bank in connection with the financing of seasonal working capital needs provided that the aggregate amount of such indebtedness does not exceed \$20,000,000.

(x) Acquisitions. Not permit any Consolidated Company to make Acquisitions for a purchase price in excess of \$25,000,000 in the aggregate in any twelve (12) month period. For the purpose hereof, the purchase price shall be determined by the sum of: (A) all cash paid, plus (B) the principal amount of any promissory notes given, plus (C) the value of any stock given, and (D) the value of any other Property given or transferred in respect of such Acquisition.

SECTION 5.2 Further Assurances. Upon the written request of the Lessor or the Agent, each Lessee, at its own cost and expense, will cause all financing statements (including precautionary financing statements), fixture filings and other similar documents, to be recorded or filed at such places and times in such manner, as may be necessary to preserve, protect and perfect the interest of the Lessor, the Agent and the Lenders in the related Leased Property as contemplated by the Operative Documents.

SECTION 5.3 Additional Required Appraisals. If, as a result of any change in Applicable Law after the date hereof, an appraisal of all or any of the Leased Property is required during the Lease Term under Applicable Law with respect to any Funding Party's interest therein, such Funding Party's Funded Amount with respect thereto or the Operative Documents, then the related Lessee or Lessees shall pay the reasonable cost of such appraisal.

SECTION 5.4 Lessor's Covenants. The Lessor covenants and agrees that, unless the Agent and the Lenders shall have otherwise consented in writing:

(a) it shall not amend its Partnership Agreement, except to admit limited partners in connection with lease transactions similar to the Transactions;

(b) it shall not incur any indebtedness or other monetary obligation or liability, other than (i) non-recourse indebtedness incurred in connection with the Transactions or

similar transactions and (ii) operating expenses incurred in the ordinary course of business that are not delinquent;

(c) the proceeds of the Loans received from the Lenders will be used by the Lessor solely to acquire the Leased Property and to pay the Construction Agent for certain closing and transaction costs associated therewith and for the costs of Construction. No portion of the proceeds of the Loans will be used by the Lessor (i) in connection with, whether directly or indirectly, any tender offer for, or other acquisition of, stock of any corporation with a view towards obtaining control of such other corporation, (ii) directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of purchasing or carrying any Margin Stock, or (iii) for any purpose in violation of any Applicable Law;

(d) it shall not engage in any business or activity, or invest in any Person, except for activities similar to its activities conducted on the date hereof, the Transactions and lease transactions similar to the Transactions;

(e) it will maintain tangible net worth in an amount no less than the sum of (i) \$100,000 plus (ii) 3% of its total assets (calculated assuming no reduction in the value of any leased property from its original cost to the Lessor);

(f) it will deliver to the Agent, as soon as available and in any event within 90 days after the end of each fiscal year, a balance sheet of the Lessor as of the end of such fiscal year and the related statements of income, partners' capital and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, together with copies of its tax returns, all certified by an officer of the general partner (and if the Lessor ever prepares audited financial statements, it shall deliver copies thereto the Agent);

(g) it will permit the Agent and its representatives to examine, and make copies from, the Lessor's books and records, and to visit the offices and properties of the Lessor for the purpose of examining such materials, and to discuss the Lessor's performance hereunder with any of its, or its general partner's, officers and employees;

(h) it shall not consent to or suffer or permit any Lien against the Leased Property, other than as expressly contemplated pursuant to the Operative Documents;

(i) it shall not consent to or suffer or permit the creation of any easement or other restriction against the Leased Property other than as permitted pursuant to Article VI of the Leases; and

(j) it shall promptly discharge each Lessor Lien and shall indemnify the Lenders and the related Lessee for any diminution in value of any Leased Property resulting from such Lessor Liens.

## SECTION 6 TRANSFERS BY LESSOR AND LENDERS

SECTION 6.1 Lessor Transfers. The Lessor shall not assign, convey or otherwise transfer all or any portion of its right, title or interest in, to or under any Leased Property or any of the Operative Documents without the prior written consent of the Lenders and Dollar. Any proposed transferee of the Lessor shall make the representation set forth in Section 4.2(b) to the other parties hereto.

### SECTION 6.2 Lender Transfers.

(a) Any Lender may make, carry or transfer Loans at, to or for the account of, any of its branch offices or the office of an Affiliate of such Lender.

(b) Each Lender may assign all or a portion of its interests, rights and obligations under this Master Agreement and the Loan Agreement (including all or a portion of its Commitment and the Loans at the time owing to it and the Notes held by it) to any Eligible Assignee; provided, however, that (i) the Agent and, except during the continuance of a Potential Event of Default or Event of Default, Dollar must give its prior written consent to such assignment (which consent shall not be unreasonably withheld or delayed) unless such assignment is to an Affiliate of the assigning Lender, (ii) the amount of the Commitments of the assigning Lender subject to each assignment (determined as of the date the assignment and acceptance with respect to such assignment is delivered to the Agent) shall not be less than an amount equal to \$5,000,000 or greater integral multiples thereof, and (iii) the parties to each such assignment shall execute and deliver to the Agent an Assignment and Acceptance, together with the Note or Notes subject to such assignment and, unless such assignment is to an Affiliate of such Lender, a processing and recordation fee of \$3,000. Any such assignment of the loans shall include both the A Loans and the B Loans, on a pro rata basis. No Lessee shall be responsible for such processing and recordation fee or any costs or expenses incurred by any Lender or the Agent in connection with such assignment. From and after the effective date specified in each Assignment and Acceptance, which effective date shall be at least five (5) Business Days after the execution thereof, the assignee thereunder shall be a party hereto and to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and the Loan Agreement. Within five (5) Business Days after receipt of the notice and the Assignment and Acceptance, Lessor, at the expense of Lessees, shall execute and deliver to the Agent, in exchange for the surrendered Note or Notes, a new Note or Notes to the order of such assignee in a principal amount equal to the applicable Commitments or Loans assumed by it pursuant to such Assignment and Acceptance and new Note or Notes to the assigning Lender in the amount of its retained Commitment or Commitments or amount of its retained Loans. Such new Note or Notes shall be in aggregate and a principal amount equal to the aggregate principal amount of such surrendered Note or Notes, shall

be dated the date of the surrendered Note or Notes which they replace, and shall otherwise be in substantially the form attached hereto.

(c) Each Lender may, without the consent of any Lessee, sell participations to one or more banks or other entities in all or a portion of its rights and obligations under this Master Agreement and the Loan Agreement (including all or a portion of its Commitments in the Loans owing to it and the Notes held by it), provided, however, that (i) no Lender may sell a participation in its aggregate Commitments or Loans (after giving effect to any permitted assignment hereof) in an amount in excess of fifty percent (50%) of such aggregate Commitments or Loans, provided, however, sales of participations to an Affiliate of such Lender shall not be included in such calculation; provided, however, no such maximum amount shall be applicable to any such participation sold at any time there exists an Event of Default hereunder, (ii) such Lender's obligations under this Master Agreement and the Loan Agreement shall remain unchanged, (iii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iv) the participating bank or other entity shall not be entitled to the benefit (except through its selling Lender) of the cost protection provisions contained in Section 7.5 of this Master Agreement, and (v) each Lessee, the Agent and the other Lenders shall continue to deal solely and directly with each Lender in connection with such Lender's rights and obligations under this Master Agreement and the other Operative Documents, and such Lender shall retain the sole right to enforce the obligations of Lessor relating to the Loans and to approve any amendment, modification or waiver of any provisions of this Master Agreement and the Loan Agreement. Any Lender selling a participation hereunder shall provide prompt written notice to the Agent of the name of such participant.

(d) Any Lender or participant may, in connection with the assignment or participation or proposed assignment or participation, pursuant to this Section, disclose to the assignee or participant or proposed assignee or participant any information relating to Dollar or the other Consolidated Companies furnished to such Lender by or on behalf of Lessee or any other Consolidated Company. With respect to any disclosure of confidential, non-public, proprietary information, such proposed assignee or participant shall agree to use the information only for the purpose of making any necessary credit judgments with respect to this credit facility and not to use the information in any manner prohibited by any law, including without limitation, the securities laws of the United States. The proposed participant or assignee shall agree not to disclose any of such information except as permitted by this Master Agreement. The proposed participant or assignee shall further agree to return all documents or other written material and copies thereof received from any Lender, the Agent or any Lessee relating to such confidential information unless otherwise properly disposed of by such entity.

(e) Any Lender may at any time assign all or any portion of its rights under this Agreement and the Notes issued to it to a Federal Reserve Bank; provided that no such assignment shall release the Lender from any of its obligations hereunder.

(f) If (i) any Taxes referred to in Section 7.5(a) have been levied or imposed so as to require withholdings and reductions by the Lessees and payment by the Lessees of additional amounts to any Lender as a result thereof, (ii) or any Lender shall make demand for payment of any material additional amounts as compensation for increased costs pursuant to Section 7.5(d), or (iii) any Lender shall decline to consent to a modification or waiver of the terms of this Master Agreement or the other Operative Documents requested by a Lessee, then and in such event, upon request from Dollar delivered to such Lender and the Agent, such Lender shall assign, in accordance with the provisions of Section 6.2 (b), all of its rights and obligations under this Master Agreement and the other Operative Documents to another Lender or an Eligible Assignee selected by the Lessee and consented to by the Agent in consideration for the payment by such assignee to the Lender of the principal of and interest on the outstanding Loans accrued to the date of such assignment and the assumption of such Lender's Commitment, together with any and all other amounts owing to such Lender under any provisions of this Master Agreement or the other Operative Documents accrued to the date of such assignment.

## SECTION 7 INDEMNIFICATION

SECTION 7.1 General Indemnification. Each Lessee, jointly and severally, agrees, whether or not any of the transactions contemplated hereby shall be consummated, to assume liability for, and to indemnify, protect, defend, save and hold harmless each Indemnitee, on an After-Tax Basis, from and against, any and all Claims that may be imposed on, incurred by or asserted, or threatened to be asserted, against such Indemnitee, whether or not such Indemnitee shall also be indemnified as to any such Claim by any other Person and whether or not such Claim arises or accrues prior to any Closing Date or after the Lease Termination Date, in any way relating to or arising out of:

(a) any of the Operative Documents or any of the transactions contemplated thereby, and any amendment, modification or waiver in respect thereof; or

(b) any Land, any Building or any part thereof or interest therein, including any Ground Lease, and any IDB Documentation;

(c) the purchase, design, construction, preparation, installation, inspection, delivery, non-delivery, acceptance, rejection, ownership, management, possession, operation, rental, lease, sublease, repossession, maintenance, repair, alteration, modification, addition, substitution, storage, transfer of title, redelivery, use, financing, refinancing, disposition, operation, condition, sale (including, without limitation, any sale pursuant to the related Lease), return or other disposition of all or any part of any interest in any Leased Property or the imposition of any Lien, other than a Lessor Lien (or incurring of any liability to refund or pay over any amount as a result of any Lien, other than a Lessor Lien) thereon, including, without limitation: (1) Claims or penalties arising

from any violation or alleged violation of law or in tort (strict liability or otherwise), (2) latent or other defects, whether or not discoverable, (3) any Claim based upon a violation or alleged violation of the terms of any restriction, easement, condition or covenant or other matter affecting title to any Leased Property or any part thereof, (4) the making of any Alterations in violation of any standards imposed by any insurance policies required to be maintained by any Lessee pursuant to the related Lease which are in effect at any time with respect to any Leased Property or any part thereof, (5) any Claim for patent, trademark or copyright infringement, (6) Claims arising from any public improvements with respect to any Leased Property resulting in any charge or special assessments being levied against any Leased Property or any Claim for utility "tap-in" fees, and  
(7) Claims for personal injury or real or personal property damage occurring, or allegedly occurring, on any Land, Building or Leased Property;

(d) the offer, issuance, sale or delivery of the Notes by any Lessee;

(e) the breach or alleged breach by any Lessee of any representation or warranty made by it or deemed made by it in any Operative Document or any certificate required to be delivered by any Operative Document;

(f) the retaining or employment of any broker, finder or financial advisor by any Lessee to act on its behalf in connection with this Master Agreement, or the incurring of any fees or commissions to which the Lessor, the Agent or any Lender might be subjected by virtue of their entering into the transactions contemplated by this Master Agreement (other than fees or commissions due to any broker, finder or financial advisor retained by the Lessor, the Agent or any Lender);

(g) the existence of any Lien on or with respect to any Leased Property, the Construction, any Basic Rent or Supplemental Rent, title thereto, or any interest therein, including any Liens which arise out of the possession, use, occupancy, construction, repair or rebuilding of any Leased Property or by reason of labor or materials furnished or claimed to have been furnished to the Construction Agent, any Lessee, or any of its contractors or agents or by reason of the financing of any personalty or equipment purchased or leased by any Lessee or Alterations constructed by any Lessee, except in all cases the Liens listed as items (a) and (b) in the definition of Permitted Liens;

(h) the transactions contemplated hereby or by any other Operative Document, in respect of the application of Parts 4 and 5 of Subtitle B of Title I of ERISA and any prohibited transaction described in Section 4975(c) of the Code; or

(i) any act or omission by any Lessee under any Purchase Agreement or any other Operative Document, and any breach of any requirement, condition, restriction or limitation in any Deed, Purchase Agreement, IDB Documentation or Ground Lease;



provided, however, the Lessees shall not be required to indemnify any Indemnitee under this Section 7.1 for any of the following: (1) any Claim to the extent that such Claim results from the willful misconduct, gross negligence or misrepresentation of such Indemnitee, (2) any Claim resulting from Lessor Liens which the Lessor Indemnitee Group is responsible for discharging under the Operative Documents, or (3) any Claim to the extent attributable to events occurring after the return of all of the Leased Properties to the Lessor in accordance with the Leases. It is expressly understood and agreed that the indemnity provided for herein shall survive the expiration or termination of, and shall be separate and independent from any other remedy under this Master Agreement, the Lease or any other Operative Document.

**SECTION 7.2 Environmental Indemnity.** In addition to and without limitation of Section 7.1, each Lessee, jointly and severally, agrees to indemnify, hold harmless and defend each Indemnitee from and against any and all claims (including without limitation third party claims for personal injury or real or personal property damage), losses (including but not limited to any loss of value of any Leased Property), damages, liabilities, fines, penalties, charges, suits, settlements, demands, administrative and judicial proceedings (including informal proceedings) and orders, judgments, remedial action, requirements, enforcement actions of any kind, and all reasonable costs and expenses actually incurred in connection therewith (including, but not limited to, reasonable attorneys' and/or paralegals' fees and expenses), including, but not limited to, all costs incurred in connection with any investigation or monitoring of site conditions or any clean-up, remedial, removal or restoration work by any federal, state or local government agency, arising directly or indirectly, in whole or in part, out of

(i) the presence on or under any Land of any Hazardous Materials, or any releases or discharges of any Hazardous Materials on, under, from or onto any Land,

(ii) any activity, including, without limitation, construction, carried on or undertaken on or off any Land, and whether by a Lessee or any predecessor in title or any employees, agents, contractors or subcontractors of any Lessee or any predecessor in title, or any other Person, in connection with the handling, treatment, removal, storage, decontamination, clean-up, transport or disposal of any Hazardous Materials that at any time are located or present on or under or that at any time migrate, flow, percolate, diffuse or in any way move onto or under any Land,

(iii) loss of or damage to any property or the environment (including, without limitation, clean-up costs, response costs, remediation and removal costs, cost of corrective action, costs of financial assurance, fines and penalties and natural resource damages), or death or injury to any Person, and all expenses associated with the protection of wildlife, aquatic species, vegetation, flora and fauna, and any mitigative action required by or under Environmental Laws, in each case to the extent related to any Leased Property,

(iv) any claim concerning any Leased Property's lack of compliance with Environmental Laws, or any act or omission causing an environmental condition on or

with respect to any Leased Property that requires remediation or would allow any governmental agency to record a lien or encumbrance on the land records, or

(v) any residual contamination on or under any Land, or affecting any natural resources on any Land, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, storage, transport or disposal of any such Hazardous Materials on or from any Leased Property; in each case irrespective of whether any of such activities were or will be undertaken in accordance with applicable laws, regulations, codes and ordinances;

in any case with respect to the matters described in the foregoing clauses (i) through (v) that arise or occur

(w) prior to or during the Lease Term,

(x) at any time during which any Lessee or any Affiliate thereof owns any interest in or otherwise occupies or possesses any Leased Property or any portion thereof, or

(y) during any period after and during the continuance of any Event of Default;

provided, however, the Lessees shall not be required to indemnify any Indemnitee under this Section 7.2 for any Claim to the extent that such Claim results from the willful misconduct or gross negligence of such Indemnitee. It is expressly understood and agreed that the indemnity provided for herein shall survive the expiration or termination of and shall be separate and independent from any other remedy under this Master Agreement, any Lease or any other Operative Document.

SECTION 7.3 Proceedings in Respect of Claims. With respect to any amount that a Lessee is requested by an Indemnitee to pay by reason of Section 7.1 or 7.2, such Indemnitee shall, if so requested by a Lessee and prior to any payment, submit such additional information to such Lessee as such Lessee may reasonably request and which is in the possession of, or under the control of, such Indemnitee to substantiate properly the requested payment. In case any action, suit or proceeding shall be brought against any Indemnitee, such Indemnitee promptly shall notify Dollar of the commencement thereof (provided that the failure of such Indemnitee to promptly notify Dollar shall not affect any Lessee's obligation to indemnify hereunder except to the extent that such Lessee's ability to contest is Materially prejudiced by such failure), and any Lessee shall be entitled, at its expense, to participate in, and, to the extent that such Lessee desires to, assume and control the defense thereof with counsel reasonably satisfactory to such Indemnitee; provided, however, that such Indemnitee may pursue a motion to dismiss such Indemnitee from such action, suit or proceeding with counsel of such Indemnitee's choice at the Lessees' expense; and provided further that a Lessee may assume and control the defense of such proceeding only if such Lessee shall have acknowledged in writing its obligations to fully indemnify such Indemnitee in respect of such action, suit or proceeding, such Lessee shall pay

all reasonable costs and expenses related to such action, suit or proceeding as and when incurred and such Lessee shall keep such Indemnitee fully apprised of the status of such action suit or proceeding and shall provide such Indemnitee with all information with respect to such action suit or proceeding as such Indemnitee shall reasonably request; and, provided further, that no Lessee shall be entitled to assume and control the defense of any such action, suit or proceeding if and to the extent that, (A) in the reasonable opinion of such Indemnitee, (x) such action, suit or proceeding involves any possibility of imposition of criminal liability or any Material risk of Material civil liability on such Indemnitee or (y) such action, suit or proceeding will involve a Material risk of the sale, forfeiture or loss of, or the creation of any Lien (other than a Permitted Lien) on any Leased Property or any part thereof unless a Lessee shall have posted a bond or other security satisfactory to the relevant Indemnitees in respect to such risk or (z) the control of such action, suit or proceeding would involve an actual or potential conflict of interest, (B) such proceeding involves Claims not fully indemnified by the Lessees which the Lessees and the Indemnitee have been unable to sever from the indemnified claim(s), or (C) an Event of Default has occurred and is continuing. The Indemnitee may participate in a reasonable manner at its own expense and with its own counsel in any proceeding conducted by a Lessee in accordance with the foregoing.

If a Lessee fails to fulfill the conditions to such Lessee's assuming the defense of any claim after receiving notice thereof on or prior to the date that is 15 days prior to the date that an answer or response is required, the Indemnitee may undertake such defense, at the Lessees' expense. No Lessee shall enter into any settlement or other compromise with respect to any Claim in excess of \$1,000,000 which is entitled to be indemnified under Section 7.1 or 7.2 without the prior written consent of the related Indemnitee, which consent shall not be unreasonably withheld. Unless an Event of Default shall have occurred and be continuing, no Indemnitee shall enter into any settlement or other compromise with respect to any claim which is entitled to be indemnified under Section 7.1 or 7.2 without the prior written consent of Dollar, which consent shall not be unreasonably withheld, unless such Indemnitee waives its right to be indemnified under Section 7.1 or 7.2 with respect to such Claim.

Upon payment in full of any Claim by a Lessee pursuant to Section 7.1 or 7.2 to or on behalf of an Indemnitee, such Lessee, without any further action, shall be subrogated to any and all claims that such Indemnitee may have relating thereto (other than claims in respect of insurance policies maintained by such Indemnitee at its own expense), and such Indemnitee shall execute such instruments of assignment and conveyance, evidence of claims and payment and such other documents, instruments and agreements as may be reasonably necessary to preserve any such claims and otherwise cooperate with such Lessee and give such further assurances as are reasonably necessary or advisable to enable such Lessee vigorously to pursue such claims.

Any amount payable to an Indemnitee pursuant to Section 7.1 or 7.2 shall be paid to such Indemnitee promptly upon, but in no event later than 30 days after, receipt of a written demand therefor from such Indemnitee, accompanied by a written statement describing in reasonable detail the basis for such indemnity and the computation of the amount so payable.

If for any reason the indemnification provided for in Section 7.1 or 7.2 is unavailable to an Indemnitee or is insufficient to hold an Indemnitee harmless, then each Lessee, jointly and severally, agrees to contribute to the amount paid or payable by such Indemnitee as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect not only the relative benefits received by such Indemnitee on the one hand and by the Lessees on the other hand but also the relative fault of such Indemnitee as well as any other relevant equitable considerations. It is expressly understood and agreed that the right to contribution provided for herein shall survive the expiration or termination of and shall be separate and independent from any other remedy under this Master Agreement, any Lease or any other Operative Document.

**SECTION 7.4 General Tax Indemnity.** (a) **Tax Indemnity.** Except as otherwise provided in this Section 7.4, each Lessee, jointly and severally, shall pay on an After-Tax Basis, and on written demand shall indemnify and hold each Tax Indemnitee harmless from and against, any and all fees (including, without limitation, documentation, recording, license and registration fees), taxes (including, without limitation, income, gross receipts, sales, rental, use, turnover, value-added, property, excise and stamp taxes), levies, imposts, duties, charges, assessments or withholdings of any nature whatsoever, together with any penalties, fines or interest thereon or additions thereto (any of the foregoing being referred to herein as "Taxes" and individually as a "Tax" (for the purposes of this Section 7.4, the definition of "Taxes" includes amounts imposed on, incurred by, or asserted against each Tax Indemnitee as the result of any prohibited transaction, within the meaning of Section 406 or 407 of ERISA or Section 4975(c) of the Code, arising out of the transactions contemplated hereby or by any other Operative Document)) imposed on or with respect to any Tax Indemnitee, any Lessee, any Leased Property or any portion thereof or any Land, or any sublessee or user thereof, by the United States or by any state or local government or other taxing authority in the United States in connection with or in any way relating to (i) the acquisition, financing, mortgaging, construction, preparation, installation, inspection, delivery, non-delivery, acceptance, rejection, purchase, ownership, possession, rental, lease, sublease, maintenance, repair, storage, transfer of title, redelivery, use, operation, condition, sale, return or other application or disposition of all or any part of any Leased Property or the imposition of any Lien (or incurrence of any liability to refund or pay over any amount as a result of any Lien) thereon, (ii) Basic Rent or Supplemental Rent or the receipts or earnings arising from or received with respect to any Leased Property or any part thereof, or any interest therein or any applications or dispositions thereof, (iii) any other amount paid or payable pursuant to the Notes or any other Operative Documents, (iv) any Leased Property, any Land or any part thereof or any interest therein (including, without limitation, all assessments payable in respect thereof, including, without limitation, all assessments noted on the related Title Policy), (v) all or any of the Operative Documents, any other documents contemplated thereby, any amendments and supplements thereto, and (vi) otherwise with respect to or in connection with the transactions contemplated by the Operative Documents.

(b) Exclusions from General Tax Indemnity. Section 7.4(a) shall not apply to:

(i) Taxes on, based on, or measured by or with respect to net income of the Lessor, the Agent and the Lenders (including, without limitation, minimum Taxes, capital gains Taxes, Taxes on or measured by items of tax preference or alternative minimum Taxes) other than (A) any such Taxes that are, or are in the nature of, sales, use, license, rental or property Taxes, and (B) withholding Taxes imposed by the United States or any state in which Leased Property is located (i) on payments with respect to the Notes, to the extent imposed by reason of a change in Applicable Law occurring after the date on which the holder of such Note became the holder of such Note or (ii) on Rent, to the extent the net payment of Rent after deduction of such withholding Taxes would be less than amounts currently payable with respect to the Funded Amounts;

(ii) Taxes on, based on, or in the nature of or measured by Taxes on doing business, business privilege, franchise, capital, capital stock, net worth, or mercantile license or similar taxes other than (A) any increase in such Taxes imposed on such Tax Indemnitee by any state in which Leased Property is located, net of any decrease in such taxes realized by such Tax Indemnitee, to the extent that such tax increase would not have occurred if on each Funding Date the Lessor and the Lenders had advanced funds to the related Lessee or the Construction Agent in the form of loans secured by the Leased Property in an amount equal to the Funded Amounts funded on such Funding Date, with debt service for such loans equal to the Basic Rent payable on each Payment Date and a principal balance at the maturity of such loans in a total amount equal to the Funded Amounts at the end of the Lease Term, or (B) any Taxes that are or are in the nature of sales, use, rental, license or property Taxes relating to any Leased Property;

(iii) Taxes that are based on, or measured by, the fees or other compensation received by a Person acting as Agent (in its individual capacities) or any Affiliate of any thereof for acting as trustee under the Loan Agreement;

(iv) Taxes that result from any act, event or omission, or are attributable to any period of time, that occurs after the earliest of (A) the expiration of the Lease Term with respect to any Leased Property and, if such Leased Property is required to be returned to the Lessor in accordance with the related Lease, such return and (B) the discharge in full of the related Lessee's obligations to pay the Lease Balance, or any amount determined by reference thereto, with respect to any Leased Property and all other amounts due under the related Lease, unless such Taxes relate to acts, events or matters occurring prior to the earliest of such times or are imposed on or with respect to any payments due under the Operative Documents after such expiration or discharge;

(v) Taxes imposed on a Tax Indemnitee that result from any voluntary sale, assignment, transfer or other disposition or bankruptcy by such Tax Indemnitee or any related Tax Indemnitee of any interest in any Leased Property or any part thereof, or any interest therein or any interest or obligation arising under the Operative Documents,

or from any sale, assignment, transfer or other disposition of any interest in such Tax Indemnitee or any related Tax Indemnitee, it being understood that each of the following shall not be considered a voluntary sale: (A) any substitution, replacement or removal of any of the Leased Property by a Lessee, (B) any sale or transfer resulting from the exercise by a Lessee of any termination option, any purchase option or sale option, (C) any sale or transfer while an Event of Default shall have occurred and be continuing under a Lease, and (D) any sale or transfer resulting from the Lessor's exercise of remedies under any Lease;

(vi) any Tax which is being contested in accordance with the provisions of Section 7.4(c), during the pendency of such contest;

(vii) any Tax that is imposed on a Tax Indemnitee as a result of such Tax Indemnitee's gross negligence or willful misconduct (other than gross negligence or willful misconduct imputed to such Tax Indemnitee solely by reason of its interest in any Leased Property);

(viii) any Tax that results from a Tax Indemnitee engaging, with respect to any Leased Property, in transactions other than those permitted by the Operative Documents;

(ix) to the extent any interest, penalties or additions to tax result in whole or in part from the failure of a Tax Indemnitee to file a return or pay a Tax that it is required to file or pay in a proper and timely manner, unless such failure (A) results from the transactions contemplated by the Operative Documents in circumstances where a Lessee did not give timely notice to such Tax Indemnitee (and such Tax Indemnitee otherwise had no actual knowledge) of such filing or payment requirement that would have permitted a proper and timely filing of such return or payment of such Tax, as the case may be, or (B) results from the failure of a Lessee to supply information necessary for the proper and timely filing of such return or payment of such Tax, as the case may be, that was not in the possession of such Tax Indemnitee; and

(x) any Tax that results from the breach by the Lessor of its representation and warranty made in Section 4.2(b) or the breach of any Lender of its representation and warranty made in Section 4.3(b).

(c) Contests. If any claim shall be made against any Tax Indemnitee or if any proceeding shall be commenced against any Tax Indemnitee (including a written notice of such proceeding) for any Taxes as to which the Lessee may have an indemnity obligation pursuant to Section 7.4, or if any Tax Indemnitee shall determine that any Taxes as to which the Lessees may have an indemnity obligation pursuant to Section 7.4 may be payable, such Tax Indemnitee shall promptly notify Dollar. A Lessee shall be entitled, at its expense, to participate in, and, to the extent that such Lessee desires to, assume and control the defense thereof; provided, however, that such Lessee shall have acknowledged in writing its obligation to fully indemnify

such Tax Indemnitee in respect of such action if requested to do so by such Lessee, suit or proceeding if the contest is unsuccessful; and, provided further, that no Lessee shall be entitled to assume and control the defense of any such action, suit or proceeding (but the Tax Indemnitee shall then contest, at the sole cost and expense of the Lessee, on behalf of the related Lessee with representatives reasonably satisfactory to such Lessee) if and to the extent that, (A) in the reasonable opinion of such Tax Indemnitee, such action, suit or proceeding (x) involves any meaningful risk of imposition of criminal liability or any Material risk of Material civil liability on such Tax Indemnitee or (y) will involve a Material risk of the sale, forfeiture or loss of, or the creation of any Lien (other than a Permitted Lien) on any Leased Property or any part thereof unless the Lessees shall have posted a bond or other security satisfactory to the relevant Tax Indemnitees in respect to such risk, (B) such proceeding involves Claims not fully indemnified by the Lessees which the Lessees and the Tax Indemnitee have been unable to sever from the indemnified claim(s), (C) an Event of Default has occurred and is continuing, (D) such action, suit or proceeding involves matters which extend beyond or are unrelated to the Transaction and if determined adversely could be Materially detrimental to the interests of such Tax Indemnitee notwithstanding indemnification by the Lessees or (E) such action, suit or proceeding involves the federal or any state income tax liability of the Tax Indemnitee. With respect to any contests controlled by a Tax Indemnitee, (i) if such contest relates to the federal or any state income tax liability of such Tax Indemnitee, such Tax Indemnitee shall be required to conduct such contest only if the Lessees shall have provided to such Tax Indemnitee an opinion of independent tax counsel selected by the Tax Indemnitee and reasonably satisfactory to the Lessees stating that a reasonable basis exists to contest such claim or (ii) in the case of an appeal of an adverse determination of any contest relating to any Taxes, an opinion of such counsel to the effect that such appeal is more likely than not to be successful, provided, however, such Tax Indemnitee shall in no event be required to appeal an adverse determination to the United States Supreme Court. The Tax Indemnitee may participate in a reasonable manner at its own expense and with its own counsel in any proceeding conducted by a Lessee in accordance with the foregoing.

Each Tax Indemnitee shall at the Lessees' expense supply the related Lessee with such information and documents in such Tax Indemnitee's possession reasonably requested by such Lessee as are necessary or advisable for such Lessee to participate in any action, suit or proceeding to the extent permitted by this Section 7.4. Unless an Event of Default shall have occurred and be continuing, no Tax Indemnitee shall enter into any settlement or other compromise with respect to any Claim which is entitled to be indemnified under this Section 7.4 without the prior written consent of Dollar, which consent shall not be unreasonably withheld, unless such Tax Indemnitee waives its right to be indemnified under this Section 7.4 with respect to such Claim.

Notwithstanding anything contained herein to the contrary, (a) a Tax Indemnitee will not be required to contest (and no Lessee shall be permitted to contest) a claim with respect to the imposition of any Tax if such Tax Indemnitee shall waive its right to indemnification under this Section 7.4 with respect to such claim (and any related claim with respect to other taxable years the contest of which is precluded as a result of such waiver) and (b) no Tax Indemnitee shall be required to contest any claim if the subject matter thereof shall be of a continuing nature and

shall have previously been decided adversely, unless there has been a change in law which in the opinion of Tax Indemnitee's counsel creates substantial authority for the success of such contest. Each Tax Indemnitee and each Lessee shall consult in good faith with each other regarding the conduct of such contest controlled by either.

(d) Reimbursement for Tax Savings. If (x) a Tax Indemnitee shall obtain a credit or refund of any Taxes paid by a Lessee pursuant to this Section 7.4 or (y) by reason of the incurrence or imposition of any Tax for which a Tax Indemnitee is indemnified hereunder or any payment made to or for the account of such Tax Indemnitee by a Lessee pursuant to this Section 7.4, such Tax Indemnitee at any time realizes a reduction in any Taxes for which the Lessees are not required to indemnify such Tax Indemnitee pursuant to this Section 7.4, which reduction in Taxes was not taken into account in computing such payment by a Lessee to or for the account of such Tax Indemnitee, then such Tax Indemnitee shall promptly pay to such Lessee (xx) the amount of such credit or refund, together with the amount of any interest received by such Tax Indemnitee on account of such credit or refund or (yy) an amount equal to such reduction in Taxes, as the case may be; provided that no such payment shall be made so long as an Event of Default shall have occurred and be continuing and, provided, further, that the amount payable to a Lessee by any Tax Indemnitee pursuant to this Section 7.4(d) shall not at any time exceed the aggregate amount of all indemnity payments made by such Lessee under this Section 7.4 to such Tax Indemnitee with respect to the Taxes which gave rise to the credit or refund or with respect to the Tax which gave rise to the reduction in Taxes less the amount of all prior payments made to such Lessee by such Tax Indemnitee under this Section 7.4(d). Each Tax Indemnitee agrees to act in good faith to claim such refunds and other available Tax benefits, and take such other actions as may be reasonable to minimize any payment due from the Lessees pursuant to this Section 7.4. The disallowance or reduction of any credit, refund or other tax savings with respect to which a Tax Indemnitee has made a payment to a Lessee under this Section 7.4(d) shall be treated as a Tax for which the Lessees are obligated to indemnify such Tax Indemnitee hereunder without regard to Section 7.4(b) hereof.

(e) Payments. Any Tax indemnifiable under this Section 7.4 shall be paid by the Lessees directly when due to the applicable taxing authority if direct payment is practicable and permitted. If direct payment to the applicable taxing authority is not permitted or is otherwise not made, any amount payable to a Tax Indemnitee pursuant to Section 7.4 shall be paid within thirty (30) days after receipt of a written demand therefor from such Tax Indemnitee accompanied by a written statement describing in reasonable detail the amount so payable, but not before the date that the relevant Taxes are due. Any payments made pursuant to Section 7.4 shall be made to the Tax Indemnitee entitled thereto or a Lessee, as the case may be, in immediately available funds at such bank or to such account as specified by the payee in written directions to the payor, or, if no such direction shall have been given, by check of the payor payable to the order of the payee by certified mail, postage prepaid at its address as set forth in this Master Agreement. Upon the request of any Tax Indemnitee with respect to a Tax that a Lessee is required to pay, such Lessee shall furnish to such Tax Indemnitee the original or a certified copy of a receipt for the Lessee's payment of such Tax or such other evidence of payment as is reasonably acceptable to such Tax Indemnitee.



(f) Reports. If any Lessee knows of any report, return or statement required to be filed with respect to any Taxes that are subject to indemnification under this Section 7.4, such Lessee shall, if such Lessee is permitted by Applicable Law, timely file such report, return or statement (and, to the extent permitted by law, show ownership of the applicable Leased Property in such Lessee); provided, however, that if such Lessee is not permitted by Applicable Law or does not have access to the information required to file any such report, return or statement, such Lessee will promptly so notify the appropriate Tax Indemnitee, in which case Tax Indemnitee will file such report. In any case in which the Tax Indemnitee will file any such report, return or statement, a Lessee shall, upon written request of such Tax Indemnitee, prepare such report, return or statement for filing by such Tax Indemnitee or, if such Tax Indemnitee so requests, provide such Tax Indemnitee with such information as is reasonably available to such Lessee.

(g) Verification. At a Lessee's request, the amount of any indemnity payment by the Lessees or any payment by a Tax Indemnitee to a Lessee pursuant to this Section 7.4 shall be verified and certified by an independent public accounting firm selected by Dollar and reasonably acceptable to the Tax Indemnitee. Unless such verification shall disclose an error in the Lessees' favor of 5% or more of the related indemnity payment, the costs of such verification shall be borne by the Lessees. In no event shall the Lessee have the right to review the Tax Indemnitee's tax returns or receive any other confidential information from the Tax Indemnitee in connection with such verification. The Tax Indemnitee agrees to cooperate with the independent public accounting firm performing the verification and to supply such firm with all information reasonably necessary to permit it to accomplish such verification, provided that the information provided to such firm by such Tax Indemnitee shall be for its confidential use. The parties agree that the sole responsibility of the independent public accounting firm shall be to verify the amount of a payment pursuant to this Master Agreement and that matters of interpretation of this Master Agreement are not within the scope of the independent accounting firm's responsibilities.

#### SECTION 7.5 Increased Costs, etc.

(a) Taxes.

(i) Except as otherwise specifically provided herein, all payments under this Master Agreement and the other Operative Documents, other than the payments specified in clause (ii)(c) below, shall be made without defense, set-off, or counterclaim.

(ii) (a) All such payments shall be made free and clear of and without deduction or withholding for any Taxes in respect of this Master Agreement, the Notes or other Operative Documents, or any payments of principal, interest, fees or other amounts payable hereunder or thereunder (but excluding, except as provided in paragraph (iii) hereof, in the case of each Lender, taxes imposed on or measured by

its net income, and franchise taxes and branch profit taxes imposed on it (A) by the jurisdiction under the laws of which such Lender is organized or any political subdivision thereof, and in the case of each Lender, taxes imposed on or measured by its net income, and franchise taxes and branch profit taxes imposed on it, by the jurisdiction of such Lender's appropriate Lending Office or any political subdivision thereof, and (B) by a jurisdiction in which any payments are to be made by any Lessee under the Operative Documents, other than the United States of America, or any political subdivision thereof, and that would not have been imposed but for the existence of a connection between such Lender and the jurisdiction imposing such taxes (other than a connection arising as a result of this Agreement or the transactions contemplated by this Agreement), except in the case of taxes described in this clause (B), to the extent such taxes are imposed as a result of a change in the law or regulations of any jurisdiction or any applicable treaty or regulations or in the official interpretation of any such law, treaty or regulations by any government authority charged with the interpretation or administration thereof after the date of this Master Agreement). If any such Taxes are so levied or imposed, the Lessees, jointly and severally agree (A) to pay the full amount of such Taxes, and such additional amounts as may be necessary so that every net payment of all amounts due hereunder and under the Notes and other Operative Documents, after withholding or deduction for or on account of any such Taxes (including additional sums payable under this Section 7.5(a)), will not be less than the full amount provided for herein had no such deduction or withholding been required, (B) to make such withholding or deduction and (C) to pay the full amount deducted to the relevant authority in accordance with applicable law. Dollar will furnish to the Agent and each Lender, within 30 days after the date the payment of any Taxes is due pursuant to applicable law, certified copies of tax receipts evidencing such payment by a Lessee. The Lessees, jointly and severally, will indemnify and hold harmless the Agent and each Lender and reimburse the Agent and each Lender upon written request for the amount of any such Taxes so levied or imposed and paid by the Agent or Lender and any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes were correctly or illegally asserted. A certificate as to the amount of such payment by such Lender or the Agent, absent manifest error, shall be final, conclusive and binding for all purposes.

(b) Each Lender that is organized under the laws of any jurisdiction other than the United States of America or any State thereof (including the District of

Columbia) agrees to furnish to Dollar and the Agent, prior to the time it becomes a Lender hereunder, two copies of either U.S. Internal Revenue Service Form 4224 or U.S. Internal Revenue Service Form 1001 or any successor forms thereto (wherein such Lender claims entitlement to complete exemption from U.S. Federal withholding tax on Rent paid by the Lessees) and to provide to Dollar and the Agent a new Form 4224 or Form 1001 or any successor forms thereto if any previously delivered form is found to be incomplete or incorrect in any Material respect or upon the obsolescence of any previously delivered form; provided, however, that no Lender shall be required to furnish a form under this paragraph (ii) after the date that it becomes a Lender hereunder if it is not entitled to claim an exemption from withholding under applicable law.

(c) The Lessees, jointly and severally, shall also reimburse the Agent and each Lender, upon written request, for any Taxes imposed (including, without limitation, Taxes imposed on the overall net income of the Agent or Lender or its applicable Lending Office pursuant to the laws of the jurisdiction in which the principal executive office or the applicable Lending Office of the Agent or Lender is located) as the Agent or Lender shall determine are payable by the Agent or Lender in respect of amounts paid by or on behalf of a Lessee to or on behalf of the Agent or Lender pursuant to paragraph (i) hereof.

(d) In addition to the documents to be furnished pursuant to Section 7.5(a)(ii), each Lender shall, promptly upon the reasonable written request of Dollar to that effect, deliver to Dollar such other accurate and complete forms or similar documentation as such Lender is legally able to provide and as may be required from time to time by any applicable law, treaty, rule or regulation or any jurisdiction in order to establish such Lender's tax status for withholding purposes or as may otherwise be appropriate to eliminate or minimize any Taxes on payments under this Agreement or the Notes.

(e) No Lessee shall be required to pay any amounts pursuant to Section 7.5(a)(iii) to any Lender for the account of any Lending Officer of such Lender in respect of any United States withholding taxes payable hereunder (and the Lessees, if required by law to do so, shall be entitled to withhold such amounts and pays such amounts to the United States Government) if the obligation to pay such additional amounts would not have arisen but for a failure by such Lender to comply with its obligations under Section 7.5(a)(ii)(b), and such Lender shall not be entitled to an exemption from deduction or withholding of United States Federal income tax in respect of the payment of such sum by the Lessees hereunder for the account of such Lending Office for, in each case, any reason other than a change in United States law or regulations by any governmental authority charged with the interpretation or administration thereof (whether or not having the force of law) after the date such Lender became a Lender hereunder.

(f) Within sixty (60) days of the written request of Dollar, each Lender shall execute and deliver such certificates, forms or other documents, which can be reasonably furnished consistent with the facts and which are reasonably necessary to assist in applying for refunds of Taxes remitted hereunder.

(g) To the extent that the payment of any Lender's Taxes by any Lessee gives rise from time to time to a Tax Benefit (as hereinafter defined) to such Lender in any jurisdiction other than the jurisdiction which imposed such Taxes, such Lender shall pay to Dollar the amount of each such Tax Benefit so recognized or received. The amount of each Tax Benefit and, therefore, payment to Dollar will be determined from time to time by the relevant Lender in its sole discretion, which determination shall be binding and conclusive on all parties hereto. Each such payment will be due and payable by such Lender to Dollar within a reasonable time after the filing of the income tax return in which such Tax Benefit is recognized or, in the case of any tax refund, after the refund is received; provided, however if at any time thereafter such Lender is required to rescind such Tax Benefit or such Tax Benefit is otherwise disallowed or nullified, the Lessees, jointly and severally shall promptly, after notice thereof from such Lender, repay to Lender the amount of such Tax Benefit previously paid to the Borrower and rescinded, disallowed or nullified. For purposes of this section, "Tax Benefit" shall mean the amount by which any Lender's income tax liability for the taxable period in question is reduced below what would have been payable had the Borrower not been required to pay the Lender's Taxes. In case of any dispute with respect to the amount of any payment no Lessee shall have any right to any offset or withholding of payments with respect to future payments due to any Lender under the Operative Documents.

(b) Interest Rate Not Ascertainable, etc. In the event that the Agent shall have determined (which determination shall be made in good faith and, absent manifest error, shall be final, conclusive and binding upon all parties) that on any date for determining the Adjusted LIBO Rate for any Rent Period, by reason of any changes arising after the date of this Master Agreement affecting the London interbank market, or the Agent's position in such market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of Adjusted LIBO Rate, then, and in any such event, the Agent shall forthwith give notice (by telephone confirmed in writing) to Dollar and to the Lenders, of such determination and a summary of the basis for such determination. Until the Agent notifies Dollar that the circumstances giving rise to the suspension described herein no longer exist, the obligations of the Lenders to make or permit portions of the Fundings to remain outstanding past the last day of the then current Rent Periods as LIBOR Advances shall be suspended, and such affected Advances shall bear the same interest as Base Rate Advances.

(c) Illegality.

(i) In the event that any Lender shall have determined (which determination shall be made in good faith and, absent manifest error, shall be final, conclusive and binding upon all parties) at any time that the making or continuance of any LIBOR Advance has become unlawful by compliance by such Lender in good faith with any applicable law, governmental rule, regulation, guideline or order (whether or not having the force of law and whether or not failure to comply therewith would be unlawful), then, in any such event, the Lender shall give prompt notice (by telephone confirmed in writing) to Dollar and to the Agent of such determination and a summary of the basis for such determination (which notice the Agent shall promptly transmit to the other Lenders).

(ii) Upon the giving of the notice to Dollar referred to in subsection (i) above, (i) each Lessee right to request and such Lender's obligation to make LIBOR Advances shall be immediately suspended, and such Lender shall make an Advance as part of the requested Funding of LIBOR Advances as a Base Rate Advance, which Base Rate Advance, as the case may be, shall, for all other purposes, be considered part of such Funding, and (ii) if the affected LIBOR Advance or Advances are then outstanding, each Lessee shall immediately, or if subject to applicable law, no later than the date permitted by applicable law, upon at least one Business Day's written notice to the Agent and the affected Lender, convert each such Advance into a Base Rate Advance or Advances, provided that if more than one Lender is affected at any time, then all affected Lenders must be treated the same pursuant to this Section 7.5(c)(ii).

(d) Increased Costs.

(i) If, by reason of (x) after the date hereof, the introduction of or any change (including, without limitation, any change by way of imposition or increase of reserve requirements) in or in the interpretation of any law or regulation, or (y) the compliance with any guideline or request from any central bank or other governmental authority or quasi-governmental authority exercising control over banks or financial institutions generally (whether or not having the force of law):

(a) any Lender (or its applicable Lending Office) shall be subject to any tax, duty or other charge with respect to its LIBOR Advances, or its obligation to make such Advances, or the basis of taxation of payments to any Lender of the principal of or interest on its LIBOR Advances or its obligation to make LIBOR Advances shall have changed (except for changes in the tax on the overall net income of such Lender or its applicable Lending Office imposed by the jurisdiction in which such Lender's principal executive office or applicable Lending Office is located); or

(b) any reserve (including, without limitation, any imposed by the Board of Governors of the Federal Reserve System), special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender's applicable Lending Office shall be imposed or deemed applicable or any other condition affecting its LIBOR Advances or its obligation to make LIBOR Advances shall be imposed on any Lender or its applicable Lending Office or the London interbank market;

and as a result thereof there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining LIBOR Advances (except to the extent already included in the determination of the applicable Adjusted LIBO Rate for LIBOR Advances) or its obligation to make LIBOR Advances, or there shall be a reduction in the amount received or receivable by such Lender or its applicable Lending Office, then the Lessees, jointly and severally, shall from time to time, upon written notice from and demand by such Lender to Dollar (with a copy of such notice and demand to the Agent), pay to the Agent for the account of such Lender within ten (10) Business Days after the date of such notice and demand, additional amounts sufficient to indemnify such Lender against such increased cost. A certificate as to the amount of such increased cost, submitted to Dollar and the Agent by such Lender in good faith and accompanied by a statement prepared by such Lender describing in reasonable detail the basis for and calculation of such increased cost, shall, except for manifest error, be final conclusive and binding for all purposes.

(ii) If any Lender shall advise the Agent that at any time, because of the circumstances described in clauses (x) or (y) in Section 7.5(c)(i) or any other circumstances beyond such Lender's reasonable control arising after the date of this Agreement affecting such Lender or the London interbank market or such Lender's position in such market, the Adjusted LIBO Rate as determined by the Agent will not adequately and fairly reflect the cost to such Lender of funding its LIBOR Advances then, and in any such event:

(a) the Agent shall forthwith give notice (by telephone confirmed in writing) to Dollar and to the other Lenders of such advice;

(b) each Lessee's right to request and such Lender's obligation to make or permit portions of the Loans to remain outstanding past the last day of the then current Rent Periods as LIBOR Advances shall be immediately suspended; and

(c) such Lender shall make a Loan as part of the requested Funding of LIBOR Advances as a Base Rate Advance, which such Base Rate Advance shall, for all other purposes, be considered part of such Funding.

(e) Lending Offices.

(i) Each Lender agrees that, if requested by Dollar, it will use reasonable efforts (subject to overall policy considerations of such Lender) to designate an alternate Lending Office with respect to any of its LIBOR Advances affected by the matters or circumstances described in Section 7.5(a), (b), (c) or (d) to reduce the liability of the Lessees or avoid the results provided thereunder, so long as such designation is not disadvantageous to such Lender as reasonably determined by such Lender, which determination shall be conclusive and binding on all parties hereto. Nothing in this Section 7.5(e) shall affect or postpone any of the obligations of any Lessee or any right of any Lessee any Lender provided hereunder or under the other Operative Documents.

(ii) If any Lender that is organized under the laws of any jurisdiction other than the United States of America or any State thereof (including the District of Columbia) is sued a public announcement with respect to the closing of its Lending Offices in the United States such that any withholdings or deductions and additional payments with respect to Taxes may be required to be made by a Lessee thereafter pursuant to Section 7.5(a)(ii), such Lender shall use reasonable efforts to furnish Borrower notice thereof as soon as practicable thereafter; provided, however, that no delay or failure to furnish such notice shall in any event release or discharge any Lessee from its obligations to such Lender pursuant to Section 7.5(a) or otherwise result in any liability of such Lender.

(f) Funding Losses. The Lessees, jointly and severally, shall compensate each Lender, upon its written request to Dollar (which request shall set forth the basis for requesting such amounts in reasonable detail and which request shall be made in good faith and, absent manifest error, shall be final, conclusive and binding upon all of the parties hereto), for all actual losses, expenses and liabilities (including, without limitation, any interest paid by such Lender to lenders of funds borrowed by it to make or carry its LIBOR Advances to the extent not recovered by such Lender in connection with the re-employment of such funds but excluding loss of anticipated profits), which the Lender may sustain: (i) if for any reason (other than a default by such Lender) a funding of, or conversion to or continuation of, LIBOR Advances does not occur on the date specified therefor in a Funding Request or Payment Date Notice (whether or not withdrawn), (ii) if any repayment (including mandatory prepayments and any conversions) of any LIBOR Advances occurs on a date which is not the last day of a Rent Period applicable thereto, (iii), if, for any reason, any Lessee defaults in its obligation to pay Basic Rent when required by the terms of any Lease or (iv) if any Lender is required to make an assignment pursuant to Section 6.2(f)..

(g) Assumptions Concerning Funding of LIBOR Advances. Calculation of all amounts payable to a Lender under this Section 7.5 shall be made as though that Lender had actually funded its relevant LIBOR Advances through the purchase of deposits in the relevant market bearing interest at the rate applicable to such LIBOR Advances in an amount equal to the amount of the LIBOR Advances and having a maturity comparable to the relevant Rent Period and through the transfer of such LIBOR Advances from an offshore office of that Lender to a domestic office of that Lender in the United States of America; provided, however that each

Lender may fund each of its LIBOR Advances in any manner it sees fit and the foregoing assumption shall be used only for calculation of amounts payable under this Section 7.5.

(h) Capital Adequacy. Without limiting any other provision of this Master Agreement, in the event that any Lender shall have determined that any law, treaty, governmental (or quasi-governmental) rule, regulation, guideline or order regarding capital adequacy not currently in effect or fully applicable as of the Initial Closing Date, or any change therein or in the interpretation or application thereof after the Initial Closing Date, or compliance by such Lender with any request or directive regarding capital adequacy not currently in effect or fully applicable as of the Initial Closing Date (whether or not having the force of law and whether or not failure to comply therewith would be unlawful) from a central bank or governmental authority or body having jurisdiction, does or shall have the effect of reducing the rate of return on such Lender's capital as a consequence of its obligations hereunder to a level below that which such Lender could have achieved but for such law, treaty, rule, regulation, guideline or order, or such change or compliance (taking into consideration such Lender's policies with respect to capital adequacy) by an amount deemed by such Lender to be Material, then within ten (10) Business Days after written notice and demand by such Lender (with copies thereof to the Agent), the Lessees, jointly and severally, shall from time to time pay to such Lender additional amounts sufficient to compensate such Lender for such reduction (but, in the case of outstanding Base Rate Advances, without duplication of any amounts already recovered by such Lender by reason of an adjustment in the applicable Base Rate). Each certificate as to the amount payable under this Section 7.5(h) (which certificate shall set forth the basis for requesting such amounts in reasonable detail), submitted to Dollar by any Lender in good faith, shall, absent manifest error, be final, conclusive and binding for all purposes.

(i) Limitation on Certain Payment Obligations.

(a) Each Lender or the Agent shall make written demand on Dollar for indemnification or compensation pursuant to Section 7.5(a)(ii) no later than six months after the earlier of (i) on the date on which Lender or the Agent makes payment of any such Taxes and (ii) the date on which the relevant taxing authority or other governmental authority makes written demand upon such Lender or Agent for the payment of such Taxes.

(b) Each Lender or Agent shall make written demand on Dollar for in demnification or compensation pursuant to Section 7.5(e) no later than six months after the event giving rise to the claim for indemnification or compensation occurs.

(c) Each Lender or the Agent shall make written demand on Dollar for identification or compensation pursuant to Section 7.5(d) or Section 7.5 (g) no later than six months after such Lender or Agent receives actual notice or obtains actual knowledge of the promulgation of a law, rule, order, interpretation or occurrence of another event giving rise to a claim pursuant to such provisions.



(d) In the event that the Lenders or Agent fail to give Dollar notice within the time limitations set forth above, no Lessee shall have any obligation to pay amounts with respect to such claims accrued prior to six months preceding any written demand therefor.

SECTION 7.6 End of Term Indemnity. In the event that at the end of the Lease Term for a Leased Property: (i) the related Lessee elects the option set forth in Section 14.6 of the related Lease, and (ii) after the Lessor receives the sales proceeds from such Leased Property under Section 14.6 or 14.7 of such Lease, together with such Lessee's payment of the Recourse Deficiency Amount, the Lessor shall not have received the entire Lease Balance, then, within 90 days after the end of the Lease Term, the Lessor or the Agent may obtain, at the Lessees' sole cost and expense, a report from the Appraiser (or, if the Appraiser is not available, another appraiser reasonably satisfactory to the Lessor or the Agent, as the case may be, and approved by Dollar, such approval not to be unreasonably withheld) in form and substance satisfactory to the Lessor and the Agent (the "Report") to establish the reason for any decline in value of such Leased Property from the Lease Balance. The related Lessee or Lessees shall promptly reimburse the Lessor for the amount equal to such decline in value to the extent that the Report indicates that such decline was due to

(w) extraordinary use, failure to maintain, to repair, to restore, to rebuild or to replace, failure to comply with all Applicable Laws, failure to use, workmanship, method of installation or removal or maintenance, repair, rebuilding or replacement, or any other cause or condition within the power of the related Lessee to control or effect resulting in the Building failing to be a store, office building or warehouse, as the case may be, of the type and quality contemplated by the Appraisal (excepting in each case ordinary wear and tear), or

(x) any Alteration made to, or any rebuilding of, the Leased Property or any part thereof by the related Lessee, or

(y) any restoration or rebuilding carried out by the related Lessee or any condemnation of any portion of the Leased Property pursuant to Article X of the related Lease, or

(z) any use of such Leased Property or any part thereof by the related Lessee other than as permitted by the related Lease, or any act or omission constituting a breach of any requirement, condition, restriction or limitation set forth in the related Deed or the related Purchase Agreement.

## SECTION 8 MISCELLANEOUS

**SECTION 8.1 Survival of Agreements.** The representations, warranties, covenants, indemnities and agreements of the parties provided for in the Operative Documents, and the parties' obligations under any and all thereof, shall survive the execution and delivery and the termination or expiration of this Master Agreement and any of the Operative Documents, the transfer of any Land to the Lessor as provided herein (and shall not be merged into any Deed), any disposition of any interest of the Lessor in any Leased Property, the purchase and sale of the Notes, payment therefor and any disposition thereof and shall be and continue in effect notwithstanding any investigation made by any party hereto or to any of the other Operative Documents and the fact that any such party may waive compliance with any of the other terms, provisions or conditions of any of the Operative Documents.

**SECTION 8.2 Notices.** Unless otherwise specified herein, all notices, requests, demands or other communications to or upon the respective parties hereto shall be addressed to such parties at the addresses therefor as set forth in Schedule 8.2, or such other address as any such party shall specify to the other parties hereto, and shall be deemed to have been given (i) the Business Day after being sent, if sent by overnight courier service; (ii) the Business Day received, if sent by messenger; (iii) the day sent, if sent by facsimile and confirmed electronically or otherwise during business hours of a Business Day (or on the next Business Day if otherwise sent by facsimile and confirmed electronically or otherwise); or (iv) three Business Days after being sent, if sent by registered or certified mail, postage prepaid.

**SECTION 8.3 Counterparts.** This Master Agreement may be executed by the parties hereto in separate counterparts (including by facsimile), each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

**SECTION 8.4 Amendments.** No Operative Document nor any of the terms thereof may be terminated, amended, supplemented, waived or modified with respect to the Lessees or any Funding Party, except (a) in the case of a termination, amendment, supplement, waiver or modification to be binding on the Lessees, with the written agreement or consent of Dollar, and (b) in the case of a termination, amendment, supplement, waiver or modification to be binding on the Funding Parties, with the written agreement or consent of the Required Funding Parties; provided, however, that

(x) notwithstanding the foregoing provisions of this Section 8.4, the consent of each Funding Party affected thereby shall be required for any amendment, modification or waiver directly:

(i) modifying any of the provisions of this Section 8.4, changing the definition of "Required Funding Parties" or "Required Lenders", or increasing the Commitment of such Funding Party;

(ii) amending, modifying, waiving or supplementing any of the provisions of Section 3 of the Loan Agreement or the representations of such Funding Party in Section 4.2 or 4.3 or the covenants of such Funding Party in Section 6 of this Master Agreement;

(iii) reducing any amount payable to such Funding Party under the Operative Documents or extending the time for payment of any such amount, including, without limitation, any Rent, any Funded Amount, any fees, any indemnity, the Leased Property Balance, the Lease Balance, any Funding Party Balance, Recourse Deficiency Amount, interest or Yield; or

(iv) consenting to any assignment of any Lease or the extension of the Lease Term, releasing any of the collateral assigned to the Agent and the Lenders pursuant to any Mortgage and any Assignment of Lease and Rents (but excluding a release of any rights that the Lenders may have in any Leased Property, or the proceeds thereof as contemplated in the definition of "Release Date"), releasing any Lessee from its obligations in respect of the payments of Rent and the Lease Balance, releasing Dollar from its obligations under the Guaranty Agreement or the other Operative Documents or changing the absolute and unconditional character of any such obligation; and

(y) no such termination, amendment, supplement, waiver or modification shall, without the written agreement or consent of the Lessor, the Agent and the Lenders, be made to any Lease or any Security Agreement and Assignment; and

(z) subject to the foregoing clauses (x) and (y), so long as no Event of Default has occurred and is continuing, the Lessor, the Agent and the Lenders may not amend, supplement, waive or modify any terms of the Loan Agreement, the Notes, the Mortgages and the Assignments of Lease and Rents without the consent of Dollar (such consent not to be unreasonably withheld or delayed); provided that in no event may the Loan Agreement or the Notes be amended so as to increase the amount of Basic Rent payable by any Lessee without the consent of such Lessee.

SECTION 8.5 Headings, etc. The Table of Contents and headings of the various Articles and Sections of this Master Agreement are for convenience of reference only and shall not modify, define, expand or limit any of the terms or provisions hereof.

SECTION 8.6 Parties in Interest. Except as expressly provided herein, none of the provisions of this Master Agreement is intended for the benefit of any Person except the parties hereto and their respective successors and permitted assigns.

SECTION 8.7 GOVERNING LAW. THIS MASTER AGREEMENT HAS BEEN DELIVERED IN, AND SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TENNESSEE APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY WITHIN

**SUCH STATE, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.**

SECTION 8.8 Expenses. Whether or not the transactions herein contemplated are consummated, each Lessee, jointly and severally, agrees to pay, as Supplemental Rent, all actual, reasonable and documented out-of-pocket costs and expenses of the Lessor, the Agent and the Lenders in connection with the preparation, execution and delivery of the Operative Documents and the documents and instruments referred to therein and any amendment, waiver or consent relating thereto (including, without limitation, the reasonable fees and disbursements of Mayer, Brown & Platt, but not including any fees and disbursements for any other outside counsel representing any Lender) and of the Lessor, the Agent and the Lenders in connection with the enforcement of the Operative Documents and the documents and instruments referred to therein (including, without limitation, the reasonable fees actually incurred and disbursements of counsel for the Lessor, the Agent and the Lenders). All references in the Operative Documents to "attorneys' fees" or "reasonable attorneys fees" shall mean reasonable attorneys' fees actually incurred, without regard to any statutory definition thereof.

SECTION 8.9 Severability. Any provision of this Master Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 8.10 Liabilities of the Funding Parties. No Funding Party shall have any obligation to any other Funding Party or to any Lessee with respect to the transactions contemplated by the Operative Documents except those obligations of such Funding Party expressly set forth in the Operative Documents or except as set forth in the instruments delivered in connection therewith, and no Funding Party shall be liable for performance by any other party hereto of such other party's obligations under the Operative Documents except as otherwise so set forth. No Lender shall have any obligation or duty to any Lessee, any other Funding Parties or any other Person with respect to the transactions contemplated hereby except to the extent of the obligations and duties expressly set forth in this Master Agreement or the Loan Agreement.

SECTION 8.11 Submission to Jurisdiction; Waivers. Each party hereto hereby irrevocably and unconditionally:

(i) submits for itself and its property in any legal action or proceeding relating to this Master Agreement or any other Operative Document, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the Courts of the State of Tennessee sitting in Shelby County, the courts of the United States of America for the Western District of Tennessee, and appellate courts from any thereof;

(ii) consents that any such action or proceedings may be brought to such courts, and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(iii) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such party at its address set forth in Schedule 8.2 or at such other address of which the other parties hereto shall have been notified pursuant to Section 8.2; and

(iv) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law.

**SECTION 8.12 Liabilities of the Agent.** The Agent shall have no duty, liability or obligation to any party to this Master Agreement with respect to the transactions contemplated hereby except those duties, liabilities or obligations expressly set forth in this Master Agreement or the Loan Agreement, and any such duty, liability or obligations of the Agent shall be as expressly limited by this Master Agreement or the Loan Agreement, as the case may be. All parties to this Master Agreement acknowledge that the Agent is not, and will not be, performing any due diligence with respect to documents and information received pursuant to this Master Agreement or any other Operative Agreement including, without limitation, any Environmental Audit, Title Policy or survey. The acceptance by the Agent of any such document or information shall not constitute a waiver by any Funding Party of any representation or warranty of any Lessee or Guarantor even if such document or information indicates that any such representation or warranty is untrue.

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

**DOLLAR GENERAL CORPORATION, as a  
Lessee and as Guarantor**

By:

Name Printed: Philip W. Richards Title: Vice President and Chief Financial Officer

S-1

**ATLANTIC FINANCIAL GROUP, LTD., as  
Lessor**

By: Atlantic Financial Managers, Inc., its General  
Partner

By:

Name Printed: Stephen Brookshire Title: President

S-2

**SUNTRUST BANK, NASHVILLE, N.A., as Agent  
and as a Lender**

By:

Name Printed: J. H. Miles  
Title: Sr. V.P.

By:  
Name Printed: J. Lee Lamprecht  
Title: Sr. V.P.

S-3



**THE FIRST NATIONAL BANK OF CHICAGO, as  
a Lender**

By:

Name Printed: John Runger  
Title: Managing Director

S-4

**KEYBANK NATIONAL ASSOCIATION, as a  
Lender**

By:

Name Printed: Thomas J. Purcell

Title:

S-5

**AMSOUTH BANK, as a Lender**

By:

Name Printed: Andrew P. Grisham  
Title: Vice President

S-6

**FIRST AMERICAN NATIONAL BANK, as a  
Lender**

By:

Name Printed: Scott Bane  
Title: Senior Vice President

S-7

**UNION PLANTERS BANK OF MIDDLE  
TENNESSEE, N.A., as a Lender**

By:

Name Printed: William Collier  
Title: Vice President

S-8

**PNC BANK, KENTUCKY, INC., as a Lender**

By:

Name Printed: Ralph A. Phillips  
Title: Vice President

S-9

**MERCANTILE BANK NATIONAL  
ASSOCIATION, as a Lender**

By:

Name Printed: Donald A. Adam  
Title: Vice President

S-10

**FIRST UNION NATIONAL BANK, as a Lender**

By:

Name Printed: Thelma B. Ferguson  
Title: Vice President

S-11



**MORGAN GUARANTY TRUST COMPANY OF  
NEW YORK, as a Lender**

By:

Name Printed: Patricia Merritt  
Title: Vice President

S-12

**WACHOVIA BANK OF GEORGIA, N.A., as a  
Lender**

By:

Name Printed: Kenneth Washington  
Title: V.P.

S-13

**BARNETT BANK, N.A., as a Lender**

By:

Name Printed: Melinda J. Lemein  
Title: V.P.

S-14

**FIFTH THIRD BANK, as a Lender**

By:

Name Printed: Kevin C.M. Jones

Title: Assistant V.P.

S-15

**SCHEDULE 2.2**

**PAYMENT INSTRUCTIONS AND  
AMOUNT OF EACH FUNDING PARTY'S COMMITMENT**

Lessor Commitment Percentage: 3%

Lessor Commitment: \$3,000,000

**Lender Commitment Percentages:**

SunTrust Bank, Nashville, N.A. % **Lender Commitments:**

SunTrust Bank, Nashville, N.A. \$

**SCHEDULE 8.2**

**ADDRESSES FOR NOTICES**

**Lessee:**

Lessor: Atlantic Financial Group, Ltd.  
1000 Ballpark Way, Suite 304  
Arlington, Texas 76011  
Attn: Stephen Brookshire

Lender and Agent: SunTrust Bank, Nashville, N.A.  
201 Fourth Avenue  
Nashville, Tennessee 37219  
Attn: Hank Miles

with a copy to:

SunTrust Bank, Atlanta  
303 Peachtree Street, 24th Floor  
Mail Code 3943  
Atlanta, Georgia 30308  
Attn: R. Todd Shutley

Lender: The First National Bank of Chicago  
One First National Plaza  
Suite 0086  
Chicago, Illinois 60670  
Attn: John Lunger  
Phone: 312/732-7101  
Fax: 312/732-1117

KeyBank National Association  
127 Public Square  
Mailcode: OH-01-27-0606  
Cleveland, Ohio 44114  
Attn: Kathy Koenig  
Phone: 216/689-4228  
Fax: 216/689-4981

AmSouth Bank 333 Union Street Suite 200 Nashville, Tennessee 38201 Attn: Andrew P. Grisham Phone: 615/291-5298 Fax: 615/291-5257

First American National Bank Fourth and Union Street 3rd Floor Nashville, Tennessee 37237 Attn: Alexis Griffin Phone: 615/748-2823 Fax: 615/736-6206

Union Planters Bank of Middle Tennessee, N.A.

401 Union Street  
Nashville, Tennessee 37219  
Attn: William A. Collier  
Phone: 615/726-4239  
Fax: 615/726-4274

PNC Bank, Kentucky, Inc.  
500 West Jefferson Street  
Louisville, Kentucky 40222  
Attn: Ralph A. Phillips  
Phone: 502/581-4543  
Fax: 502/581-2302

Mercantile Bank National Association  
721 Locust Street  
**TRAM 12-3**  
St. Louis, Missouri 63101  
Attn: Donald A. Adam  
Phone: 314/425-3859  
Fax: 314/425-2420

First Union National Bank  
150 Fourth Avenue North  
2nd Floor  
Nashville, Tennessee 37219  
Attn: Thelma B. Ferguson  
Phone: 615/251-9355

Fax: 615/251-9461

Morgan Guaranty Trust Company of New York 60 Wall Street 22nd Floor New York, New York 10260 Attn: Patricia Merritt Phone: 212/648-6744 Fax: 212/648-5336

Wachovia Bank of Georgia, N.A.

191 Peachtree Street, N.E.  
Atlanta, Georgia 30303

**Attn:**  
**Phone:**  
**Fax:**

Barnett Bank, N.A.

50 North Laura  
17th Floor  
Jacksonville, Florida 32202

**Attn:**  
**Phone:**  
**Fax:**

Fifth Third Bank 38 Fountain Square Plaza Mail Drop 109054 Cincinnati, Ohio 45263 **Attn:**

**Phone:**  
**Fax:**



## ARTICLE 5

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE FINANCIAL STATEMENTS OF DOLLAR GENERAL FOR THE NINE MONTHS ENDED OCTOBER 31, 1997 AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

MULTIPLIER: 1,000

PERIOD TYPE	9 MOS
FISCAL YEAR END	JAN 31 1998
PERIOD END	OCT 31 1997
CASH	13,168
SECURITIES	0
RECEIVABLES	0
ALLOWANCES	0
INVENTORY	737,263
CURRENT ASSETS	775,901
PP&E	378,506
DEPRECIATION	140,404
TOTAL ASSETS	1,019,598
CURRENT LIABILITIES	495,935
BONDS	0
PREFERRED MANDATORY	0
PREFERRED	858
COMMON	66,660
OTHER SE	449,374
TOTAL LIABILITY AND EQUITY	1,019,598
SALES	1,766,234
TOTAL REVENUES	1,766,234
CGS	1,280,439
TOTAL COSTS	355,254
OTHER EXPENSES	0
LOSS PROVISION	0
INTEREST EXPENSE	2,625
INCOME PRETAX	127,916
INCOME TAX	48,288
INCOME CONTINUING	79,628
DISCONTINUED	0
EXTRAORDINARY	0
CHANGES	0
NET INCOME	79,628
EPS PRIMARY	0.58
EPS DILUTED	0.58

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