

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-3

REGISTRATION STATEMENT
Under
THE SECURITIES ACT OF 1933

OMEGA HEALTHCARE INVESTORS, INC.

(Exact name of registrant as specified in its charter)

MARYLAND

(State or other jurisdiction of incorporation or organization)

38-3041398

(I.R.S. Employer Identification No.)

9690 Deereco Road, Suite 100
Timonium, Maryland 21093
(410) 427-1700

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

C. Taylor Pickett
Chief Executive Officer
Omega Healthcare Investors, Inc.
9690 Deereco Road, Suite 100
Timonium, Maryland 21093
(410) 427-1700

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies of communications to:

Eliot W. Robinson, Esq.
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Sixteenth Floor
191 Peachtree Street, N.E.
Atlanta, Georgia 30303
(404) 572-6600

Approximate date of commencement of proposed sale to the public: From time to time or at one time after the effective date of this registration statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered(1)	Proposed Maximum Offering Price Per Unit(2)	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee(3)
Common Stock (par value \$0.10 per share) and associated Preferred Stock Purchase Rights(4)	(5)	(2)	(1)(2)(5)	NA
Preferred Stock (par value \$1.00 per share)	(6)	(2)	(1)(2)(6)	NA
Debt Securities	(7)	(2)	(1)(2)(7)	NA
Securities Warrants	(8)	(2)	(1)(2)(8)	NA
Total	\$345,257,199		\$345,257,199	\$43,744

- (1) In no event will the aggregate maximum offering price of all securities registered pursuant to this Registration Statement exceed \$345,257,199 or, if any Debt Securities are issued with original issue discount, such greater amount as shall result in an aggregate offering price of \$345,257,199. Any securities registered hereunder may be sold separately or as units with other securities registered hereunder.
- (2) The proposed maximum offering price per unit will be determined, from time to time, by the Registrant in connection with the issuance by the Registrant of the securities registered hereunder.
- (3) Calculated pursuant to Rule 457(o) of the rules and regulations under the Securities Act of 1933, as amended.
- (4) The Preferred Stock Purchase Rights (the "Rights") will be attached to the shares of Common Stock being registered hereby and will not be exercisable and will not trade separately from the Common Stock prior to the occurrence of certain events.
- (5) Subject to Footnote (1), this Registration Statement covers (a) an indeterminate number of shares of Common Stock and associated Rights as may be sold, from time to time, by the Registrant, and (b) an indeterminate number of shares of Common Stock and associated Rights as shall be issuable upon conversion of the Preferred Stock or Debt Securities or exercise of Securities Warrants registered hereby.
- (6) Subject to Footnote (1), this Registration Statement covers (a) an indeterminate number of shares of Preferred Stock as may be sold, from time to time, by the Registrant, and (b) an indeterminate number of shares of Preferred Stock as shall be issuable upon conversion of Debt Securities or exercise of Securities Warrants registered hereby.
- (7) Subject to Footnote (1), this Registration Statement covers an indeterminate principal amount of Debt Securities.
- (8) Subject to Footnote (1), this Registration Statement covers an indeterminate number of Common Stock Warrants, Preferred Stock Warrants, and Debt Securities Warrants representing rights to purchase Common Stock, Preferred Stock and Debt Securities, respectively, registered pursuant to this Registration Statement.

Pursuant to Rule 429 under the Securities Act of 1933, as amended, the prospectus included in this Registration Statement is a combined prospectus that also relates to the Registration Statement on Form S-3, Registration No. 333-69675, filed by the Registrant on December 23, 1998, and amended by Post-Effective Amendment No. 1 filed by the Registrant on January 26, 2004. Of the dollar amount of the securities initially registered pursuant to Registration Statement No. 333-69675, \$154,742,801 remain unsold. Pursuant to Rule 429, this Registration Statement shall act, upon effectiveness, as Post-Effective Amendment No. 2 to Registration Statement No. 333-69675.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information contained in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED JULY 26, 2004

PROSPECTUS

\$500,000,000



OMEGA HEALTHCARE INVESTORS, INC.

Debt Securities
Preferred Stock
Common Stock
Warrants

We may from time to time offer and sell in one or more series:

- debt securities;
- warrants to purchase debt securities;
- shares of our preferred stock;
- warrants to purchase shares of our preferred stock;
- shares of our common stock; and
- warrants to purchase shares of our common stock.

The debt securities warrants, the preferred stock warrants and the common stock warrants are collectively referred to herein as the securities warrants. The debt securities, the preferred stock, the common stock and the securities warrants are collectively referred to herein as the securities. The securities offered by this prospectus will have an aggregate public offering price of \$500,000,000. We will provide the specific terms of these securities in supplements to this prospectus prepared in connection with each offering. The debt securities may be convertible into preferred stock, common stock or debt securities of another series. The preferred stock may be convertible into common stock or preferred stock of another series. No securities may be sold under this prospectus without delivery of the applicable prospectus supplement. You should read this prospectus and the prospectus supplements carefully before you invest in the securities.

Securities may be sold directly, through agents from time to time or through underwriters or dealers. If any of our agents or any underwriter is involved in the sale of the securities, the name of the agent or underwriter and any applicable commission or discount will be set forth in the accompanying prospectus supplement. See "Plan of Distribution." The net proceeds to us from the sale also will be set forth in the applicable prospectus supplement.

Our common stock is traded on the New York Stock Exchange under the symbol "OHI". On July 22, 2004, the closing price of our common stock was \$10.05 per share.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is _____, 2004

We have not authorized any dealer, salesman or other person to give any information or to make any representation other than those contained or incorporated by reference in this prospectus. You must not rely upon any information or representation not contained or incorporated by reference in this prospectus or the applicable prospectus supplement. This prospectus does not constitute an offer to sell or the solicitation of an offer to buy any securities other than the registered securities to which they relate, nor do this prospectus nor any applicable prospectus supplement constitute an offer to sell or the solicitation of an offer to buy securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the SEC utilizing a "shelf" registration process. Under this shelf registration process, we may sell any combination of the securities described in this prospectus in one or more offerings up to a total dollar amount of \$500,000,000. This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading "Where You Can Find More Information."

As allowed by SEC rules, this prospectus omits various information you can find in the registration statement or the exhibits to the registration statement. For further information, we refer you to the registration statement, including its exhibits and schedules. Statements contained in this prospectus about the provisions or contents of any contract, agreement or any other document referred to are not necessarily complete. For each of these contracts, agreements or documents filed as an exhibit to the registration statement, we refer you to the actual exhibit for a more complete description of the matters involved. You should not assume that the information in this prospectus or any applicable prospectus supplement is accurate as of any date other than the date on the front of those documents. For further information about us or the securities offered under this prospectus, you should refer to that registration statement, which you can obtain from the SEC as described below under the heading "Where You Can Find More Information."

Unless the context requires otherwise, the words "we," "company," "us" and "our" refer to Omega Healthcare Investors, Inc. and its majority-owned subsidiaries.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document we file with the SEC at its public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549. You may also obtain copies of this information by mail from the public reference section of the SEC, 450 Fifth Street, N.W., Room 1024, Washington, D.C. 20549, at prescribed rates. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference room. Our SEC filings are also available to the public at the web site maintained by the SEC at <http://www.sec.gov>, as well as on our website at <http://www.omegahealthcare.com>. You may inspect information that we file with The New York Stock Exchange at the offices of The New York Stock Exchange at 20 Broad Street, New York, New York 10005. Information on our website is not incorporated by reference herein and our web address is included as an inactive textual reference only.

The SEC allows us to "incorporate by reference" the information we file with the SEC, which means that we can disclose important information to you by referring to the other information we have filed with the SEC. The information that we incorporate by reference is considered a part of this prospectus and information that we file later with the SEC will automatically update and supersede the information contained in this prospectus. We incorporate by reference the following documents (File No. 1-11316) we filed with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, other than information in these documents that is not deemed to be filed with the SEC:

- our Annual Report on Form 10-K for the year ended December 31, 2003, filed on February 20, 2004;
- our Current Report on Form 8-K filed on January 27, 2004;
- our Current Report on Form 8-K filed on January 29, 2004*;

- our Current Report on Form 8-K filed on February 5, 2004;
- our Current Report on Form 8-K filed on February 5, 2004;
- our Current Report on Form 8-K filed on February 10, 2004;
- our Current Report on Form 8-K filed on February 23, 2004;
- our Current Report on Form 8-K filed on March 4, 2004;
- our Current Report on Form 8-K filed on March 8, 2004;
- our Current Report on Form 8-K filed on March 11, 2004;
- our Current Report on Form 8-K filed on March 26, 2004;
- our Current Report on Form 8-K furnished on April 27, 2004*;
- our Quarterly Report on Form 10-Q for the quarter ended March 31, 2004, filed on May 5, 2004;
- our Current Report on Form 8-K filed on May 24, 2004;
- the description of our common stock contained in our Registration Statement on Form 8-A, filed on August 4, 2002, and any amendments or reports filed for the purpose of updating that description; and
- the description of our Preferred Stock Purchase Rights contained in our Registration Statement on Form 8-A, filed on May 14, 1999, and any amendments or reports filed for the purpose of updating that description.

* This report contains information furnished to the SEC under Item 12 of Form 8-K which, pursuant to General Instruction B(6) of Form 8-K, is not deemed to be "filed" for purposes of Section 18 of the Exchange Act and we are not subject to the liabilities imposed by that section. We are not incorporating and will not incorporate by reference into this prospectus past or future information or reports furnished or that will be furnished under Items 9 and/or 12 of Form 8-K.

All documents we file later with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to the date of this prospectus and prior to the termination of the offering of the securities will be deemed to be incorporated by reference into this prospectus, other than information in the documents that is not deemed to be filed with the SEC. A statement contained in this prospectus or in a document incorporated or deemed to be incorporated by reference into this prospectus will be deemed to be modified or superseded to the extent that a statement contained in any subsequently filed document which is incorporated by reference into this prospectus, modifies or supersedes that statement. Any statements so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

We will provide without charge to each person to whom this prospectus is delivered, on the request of any person, a copy of any or all the documents incorporated herein by reference, other than exhibits to the documents, unless the exhibits are specifically incorporated by reference into the documents that this prospectus incorporates. Requests for copies in writing or by telephone should be directed to:

Omega Healthcare Investors, Inc.
9690 Deereco Road
Suite 100
Timonium, Maryland 21093
Attn: Chief Financial Officer
(410) 427-1700

CAUTIONARY LANGUAGE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts included in this prospectus may constitute forward-looking statements. We have based these forward-looking statements on our current expectations and projections about future events. Although we believe that our assumptions made in connection with the forward-looking statements are reasonable, we cannot assure you that our assumptions and expectations will prove to have been correct. Important factors that could cause our actual results to differ materially from our expectations are disclosed in this prospectus. These forward-looking statements are subject to various risks, uncertainties and assumptions including, among other things:

- uncertainties relating to the business operations of the operators of our assets, including those relating to reimbursement by third party payors, regulatory matters and occupancy levels;
- the ability of any operators in bankruptcy to reject unexpired lease obligations, modify the terms of our mortgages, and impede our ability to collect unpaid rent or interest during the process of a bankruptcy proceeding and retain security deposits for the debtors' obligations;
- our ability to sell closed assets on a timely basis and at terms that allow us to realize the carrying value of these assets;
- our ability to negotiate appropriate modifications to the terms of our credit facility;
- our ability to manage, re-lease, or sell any owned and operated facility;
- the availability and cost of capital;
- competition in the financing of healthcare facilities;
- regulatory and other changes in the healthcare sector;
- the effect of economic and market conditions generally and, particularly, in the healthcare industry;
- changes in interest rates;
- the amount and yield of any additional investments;
- changes in tax laws and regulations affecting real estate investment trusts;
- changes in the ratings of our debt and preferred securities; and

Any subsequent written or oral forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements set forth or referred to above, as well as the risk factors contained in this prospectus. Except as required by law, we disclaim any obligation to update such statements or to publicly announce the result of any revisions to any of the forward-looking statements contained in this prospectus to reflect future events or developments.

THE COMPANY

We were incorporated in the State of Maryland on March 31, 1992. We are a self-administered real estate investment trust, or REIT, investing in income-producing healthcare facilities, principally long-term care facilities located in the United States. We provide lease or mortgage financing to qualified operators of skilled nursing facilities and, to a lesser extent, assisted living and acute care facilities. We have historically financed investments through borrowings under our revolving credit facilities, private placements or public offerings of debt or equity securities, the assumption of secured indebtedness, or a combination of these methods.

As of March 31, 2004, our portfolio of domestic investments consisted of 209 healthcare facilities, located in 28 states and operated by 40 third-party operators. Our gross investments in these facilities, net of impairments and before reserve for uncollectible loans, totaled \$811.6 million. This portfolio is made up of:

- 152 long-term healthcare facilities and 2 rehabilitation hospitals owned and leased to third parties;
- fixed rate, participating and convertible participating mortgages on 51 long-term healthcare facilities; and
- 4 long-term healthcare facilities that were recovered from customers and are currently closed.

In addition, we also held miscellaneous investments of approximately \$30.0 million at March 31, 2004.

RECENT DEVELOPMENTS

Credit Facility Increased to \$175 Million

On April 30, 2004, we exercised our right to increase the revolving commitments under our new \$125 million credit facility by an additional \$50 million, to \$175 million. All other terms of the credit facility, which closed on March 22, 2004, remain the same. Bank of America, N.A. serves as Administrative Agent for the credit facility.

9.25% Series A Preferred Redemption.

On April 30, 2004, we fully redeemed our 9.25% Series A Cumulative Preferred Stock (NYSE:OHI PrA) ("Series A"). We redeemed the 2.3 million shares of Series A at a price of \$25.57813, comprising the \$25 liquidation value and accrued dividend. Under FASB-EITF Issue D-42, "The Effect on the Calculation of Earnings per Share for the Redemption or Induced Conversion of Preferred Stock," the repurchase of the Series A preferred stock resulted in a non-cash charge to net income available to common shareholders of approximately \$2.3 million reflecting the write-off of unamortized costs of issuance of the Series A preferred stock and was recorded in the second quarter. This non-cash charge did not have any effect on our net worth.

New Investments

On April 1, 2004, we purchased three skilled nursing facilities, representing 399 beds for a total investment of \$26.0 million. Two of the facilities are located in Vermont, with the third located in Connecticut. The facilities were combined into an existing master lease with Haven Healthcare. Rent under the master lease was increased by approximately \$2.7 million for the first lease year commencing April 1, 2004, with annual increases thereafter. The term of the master lease had been increased to ten years on January 1, 2004 and runs through December 31, 2013, followed by two ten-year renewal options. We received a security deposit equivalent to three months of the incremental rent.

On April 30, 2004, we closed on the purchase of two skilled nursing facilities, representing 477 beds for a total investment of \$9.4 million. The purchase price includes funds for capital expenditures, additional bed licenses and transaction costs. Both facilities are located in Texas and were combined into an existing master lease with Senior Management Services. Rent under the master lease was increased by approximately \$1.0 million for the first lease year commencing May 1, 2004, with annual increases thereafter. The term of the master lease has been increased to 10 years, and is followed by two 10-year renewal options. During the first lease year, the operator will fund a security deposit equivalent to approximately four months of the incremental rent.

Mortgage Repayments

On April 6, 2004, we received approximately \$4.6 million in proceeds on a mortgage loan payoff. We held mortgages on five facilities located in Missouri, representing 319 beds, which produced approximately \$0.5 million of annual interest revenue in 2003.

Our principal executive offices are located at 9690 Deereco Road, Suite 100, Timonium, Maryland 21093, and our telephone number is (410) 427-1700. Additional information regarding our company is set forth in our Annual Report on Form 10-K for the fiscal year ended December 31, 2003, and other documents on file with the Securities and Exchange Commission (which are incorporated by reference in this prospectus). See "Where You Can Find More Information."

RISK FACTORS

Certain of the securities to be offered hereby may involve a high degree of risk. Such risks will be set forth in the prospectus supplement relating to such offered securities.

RATIO OF EARNINGS TO FIXED CHARGES AND RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS

The ratios of earnings to fixed charges, and the ratio of earnings to combined fixed charges and preferred stock dividends are set forth below. We have calculated the ratio of earnings to fixed charges by adding net income (loss) from continuing operations to fixed charges and dividing that sum by such fixed charges. Fixed charges consist of interest expense and amortization of deferred financing costs. The ratio of earnings to combined fixed charges and preferred stock dividends was calculated in the same manner as the ratio of earnings to fixed charges except that accrued preferred stock dividends were included for each of the periods shown irrespective of whether or not such dividends were actually paid.

	Year Ended December 31,					For the Three Months Ended March 31, 2004
	1999	2000	2001	2002	2003	
Unaudited (in thousands except ratios)						
RATIO OF EARNINGS TO FIXED CHARGES						
Net income (loss) from continuing operations	\$ 18,966	\$ (43,250)	\$ (15,588)	\$ (3,744)	\$ 23,341	\$ (9,945)
Interest expense	42,947	42,400	33,204	27,381	23,388	24,253
Earnings	\$ 61,913	\$ (850)	\$ 17,616	\$ 23,637	\$ 46,729	\$ 14,308
Interest expense	\$ 42,947	\$ 42,400	\$ 33,204	\$ 27,381	\$ 23,388	\$ 24,253
Total fixed charges	\$ 42,947	\$ 42,400	\$ 33,204	\$ 27,381	\$ 23,388	\$ 24,253
Ratio of earnings to fixed charges	1.4x	*	*	*	2.0x	*

* Our earnings were insufficient to cover our fixed charges by \$43,250, \$15,588, \$3,744 and \$9,945 in 2000, 2001, 2002 and the three months ended March 31, 2004, respectively.

	Year Ended December 31,					For the Three
	1999	2000	2001	2002	2003	Months Ended March 31, 2004
Unaudited (in thousands except ratios)						

RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS

Interest expense	\$ 42,947	\$ 42,400	\$ 33,204	\$ 27,381	\$ 23,388	\$ 24,253
Preferred dividends	9,631	16,928	19,994	20,115	20,115	4,687
Preferred stock conversion charge	—	—	—	—	—	38,743
Total fixed charges and preferred dividends	\$ 52,578	\$ 59,328	\$ 53,198	\$ 47,496	\$ 43,503	\$ 67,683
Ratio of earnings to combined fixed charges and preferred stock dividends	1.2x	*	*	*	1.1x	*

* Our earnings were insufficient to cover combined fixed charges and preferred stock dividends by \$60,178, \$35,582, \$23,859 and \$53,375 in 2000, 2001, 2002 and the three months ended March 31, 2004, respectively.

We issued 2,300,000 shares of Series A preferred stock in April 1997 which, while outstanding, were entitled to receive dividends at the rate of 9.25% per year, or \$2.3125 per share. We redeemed these shares on April 30, 2004. We issued 2,000,000 shares of Series B preferred stock in April 1998 which are entitled to receive dividends at the rate of 8.625% per year, or \$2.156 per share. We issued 1,000,000 and 48,420 shares of Series C preferred stock in July 2000 and April 2001, respectively. We repurchased 700,000 shares of Series C preferred stock in February 2004 and, in connection with this repurchase, the remaining shares of Series C preferred stock were converted into common stock. While they were outstanding, the shares of Series C preferred stock were entitled to receive dividends at the greater of 10% per year or the dividend payable on the shares of common stock issuable upon conversion of the Series C preferred stock. For purposes of the information set forth above, the dividend rate of 10% per year, or \$10.00 per share, was used with respect to the shares of Series C preferred stock. In February 2004, we issued 4,739,500 shares of Series D preferred stock which are entitled to receive dividends at the rate of 8.375% per year, or \$2.09375 per share.

USE OF PROCEEDS

Unless otherwise specified in the applicable prospectus supplement, the net proceeds from the sale of the securities offered hereby will be used for the repayment of outstanding debt, to fund additional investments and for general corporate purposes.

DESCRIPTION OF SECURITIES

We may refer in this prospectus to one or more of the following categories of our securities:

- shares of our common stock, par value \$0.10 per share ("common stock");
- shares of our preferred stock, par value \$1.00 per share, in one or more series (the "preferred stock");
- debt securities, in one or more series ("debt securities");
- common stock warrants (the "common stock warrants");
- preferred stock warrants (the "preferred stock warrants");
- debt securities warrants (the "debt securities warrants"); and

- any combination of the foregoing, either individually or as units.

The terms of any specific offering of securities, including the terms of any units offered, will be set forth in a prospectus supplement relating to such offering.

CAPITAL STOCK

As of June 30, 2004, our authorized capital stock consisted of 100,000,000 shares of common stock, par value \$0.10 per share, and 10,000,000 shares of preferred stock, par value \$1.00 per share, of which 2,300,000 were designated as Series A preferred stock, 2,000,000 were designated as Series B preferred stock, 2,000,000 were designated as Series C preferred stock, 4,739,500 were designated as Series D preferred stock, and 100,000 were designated as Series A Junior Participating Preferred Stock. As of June 30, 2004, we had 46,421,559 shares of our common stock, 2,000,000 shares of our Series B preferred stock, and 4,739,500 shares of our Series D preferred stock issued and outstanding. On July 9, 2004, we amended our articles of incorporation to declassify our Series A and Series D preferred stock and to increase the number of authorized shares of preferred stock from 10,000,000 to 20,000,000.

Our common stock, Series B preferred stock and Series D preferred stock are listed on the New York Stock Exchange. We intend to apply to list for trading on the New York Stock Exchange any additional shares of our common stock that are issued and sold hereunder. We may also apply to list on the New York Stock Exchange any debt securities, any additional series of preferred stock, and any securities warrants that are offered and sold hereunder, as described in the prospectus supplement relating to any such securities.

Unless otherwise indicated in a prospectus supplement relating thereto, EquiServe Trust Company, N.A. is the transfer agent and registrar of the common stock and preferred stock.

Common Stock

All shares of our common stock participate equally in dividends payable to stockholders of our common stock when and as declared by our board of directors and in net assets available for distribution to stockholders of our common stock on liquidation or dissolution, have one vote per share on all matters submitted to a vote of the stockholders and do not have cumulative voting rights in the election of directors. All issued and outstanding shares of our common stock are, and our common stock offered hereby will be upon issuance, validly issued, fully paid and nonassessable. Holders of our common stock do not have preference, conversion, exchange or preemptive rights. Our common stock is listed on the New York Stock Exchange under the symbol "OHI."

Preferred Stock

The terms of any series of the preferred stock offered by any prospectus supplement will be as described in such prospectus supplement. The following description of the terms of the preferred stock, except as modified in a prospectus supplement, sets forth certain general terms and provisions of the preferred stock. The description of certain provisions of the preferred stock set forth below and in any prospectus supplement does not purport to be complete and is subject to and qualified in its entirety by reference to the company's articles of incorporation, as amended, and the board of directors' resolution or articles supplementary relating to each series of the preferred stock which will be filed with the Securities and Exchange Commission and incorporated by reference as an exhibit to the registration statement of which this prospectus is a part at or prior to the time of the issuance of such series of the preferred stock.

General

Under the articles of incorporation, the board of directors of the company is authorized without further stockholder action to provide for the issuance of shares of preferred stock of the company, up to the amount of shares of preferred stock authorized under the articles of incorporation but not issued or reserved for issuance thereunder, in one or more series, with such designations, preferences, powers and relative participating, optional or other special rights and qualifications, limitations or restrictions thereon, including, but not limited to, dividend rights, dividend rate or rates, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), redemption price or prices, and liquidation preferences as shall be stated in the resolution providing for the issue of a series of such stock, adopted, at any time or from time to time, by the board of directors of the company.

The preferred stock shall have the dividend, liquidation, redemption and voting rights set forth below unless otherwise provided in a prospectus supplement relating to a particular series of the preferred stock. Reference is made to the prospectus supplement relating to the particular series of the preferred stock offered thereby for specific terms, including:

- the designation and stated value per share of such preferred stock and the number of shares offered;
- the amount of liquidation preference per share;
- the initial public offering price at which such preferred stock will be issued;
- the dividend rate (or method of calculation), the dates on which dividends shall be payable and the dates from which dividends shall commence to cumulate, if any;
- any redemption or sinking fund provisions;
- any conversion rights; and
- any additional voting, dividend, liquidation, redemption, sinking fund and other rights, preferences, privileges, limitations and restrictions.

The preferred stock will, when issued, be fully paid and nonassessable and will have no preemptive rights. Unless otherwise stated in a prospectus supplement relating to a particular series of the preferred stock, each series of the preferred stock will rank on a parity as to dividends and distributions of assets with each other series of the preferred stock. The rights of the holders of each series of the preferred stock will be subordinate to those of the company's general creditors.

Dividend Rights

Holders of the preferred stock of each series will be entitled to receive, when, as and if declared by the board of directors of the company, out of funds of the company legally available therefor, cash dividends on such dates and at such rates as will be set forth in, or as are determined by, the method described in the prospectus supplement relating to such series of the preferred stock. Such rate may be fixed or variable or both. Each such dividend will be payable to the holders of record as they appear on the stock books of the company on such record dates, fixed by the board of directors of the company, as specified in the prospectus supplement relating to such series of preferred stock.

Dividends on any series of preferred stock may be cumulative or noncumulative, as provided in the applicable prospectus supplement. If the board of directors of the company fails to declare a dividend payable on a dividend payment date on any series of preferred stock for which dividends are noncumulative, then the holders of such series of preferred stock will have no right to receive a dividend in respect of the dividend period ending on such dividend payment date, and the company shall have no obligation to pay the dividend accrued for such period, whether or not dividends on such series are declared payable on any future dividend payment dates. Dividends on the shares of each

series of preferred stock for which dividends are cumulative will accrue from the date on which the company initially issues shares of such series.

So long as the shares of any series of the preferred stock shall be outstanding, unless

- full dividends (including if such preferred stock is cumulative, dividends for prior dividend periods) shall have been paid or declared and set apart for payment on all outstanding shares of the preferred stock of such series and all other classes and series of preferred stock of the company (other than "junior stock" as defined below), and
- the company is not in default or in arrears with respect to the mandatory or optional redemption or mandatory repurchase or other mandatory retirement of, or with respect to any sinking or other analogous fund for, any shares of preferred stock of such series or any shares of any other preferred stock of the company of any class or series (other than junior stock),

the company may not declare any dividends on any shares of common stock of the company or any other stock of the company ranking as to dividends or distributions of assets junior to such series of preferred stock (the common stock and any such other stock being herein referred to as "junior stock"), or make any payment on account of, or set apart money for, the purchase, redemption or other retirement of, or for a sinking or other analogous fund for, any shares of junior stock or make any distribution in respect thereof, whether in cash or property or in obligations or stock of the company, other than junior stock which is neither convertible into, nor exchangeable or exercisable for, any securities of the company other than junior stock.

Liquidation Preference

In the event of any liquidation, dissolution or winding up of the company, voluntary or involuntary, the holders of each series of the preferred stock will be entitled to receive out of the assets of the company available for distribution to stockholders, before any distribution of assets is made to the holders of common stock or any other shares of stock of the company ranking junior as to such distribution to such series of preferred stock, the amount set forth in the prospectus supplement relating to such series of the preferred stock. If, upon any voluntary or involuntary liquidation, dissolution or winding up of the company, the amounts payable with respect to the preferred stock of any series and any other shares of preferred stock of the company (including any other series of the preferred stock) ranking as to any such distribution on a parity with such series of the preferred stock are not paid in full, the holders of the preferred stock of such series and of such other shares of preferred stock of the company will share ratably in any such distribution of assets of the company in proportion to the full respective preferential amounts to which they are entitled. After payment to the holders of the preferred stock of each series of the full preferential amounts of the liquidating distribution to which they are entitled, the holders of each such series of the preferred stock will be entitled to no further participation in any distribution of assets by the company.

If liquidating distributions shall have been made in full to all holders of shares of preferred stock, the remaining assets of the company shall be distributed among the holders of junior stock, according to their respective rights and preferences and in each case according to their respective number of shares. For such purposes, the consolidation or merger of the company with or into any other corporation, or the sale, lease or conveyance of all or substantially all of the property or business of the company, shall not be deemed to constitute a liquidation, dissolution or winding up of the company.

Redemption

A series of the preferred stock may be redeemable, in whole or from time to time in part, at the option of the company, and may be subject to mandatory redemption pursuant to a sinking fund or otherwise, in each case upon terms, at the time and at the redemption prices set forth in the

prospectus supplement relating to such series. Shares of the preferred stock redeemed by the company will be restored to the status of authorized but unissued shares of preferred stock of the company.

In the event that fewer than all of the outstanding shares of a series of the preferred stock are to be redeemed, whether by mandatory or optional redemption, the number of shares to be redeemed will be determined by lot or pro rata (subject to rounding to avoid fractional shares) as may be determined by the company or by any other method as may be determined by the company in its sole discretion to be equitable. From and after the redemption date (unless default shall be made by the company in providing for the payment of the redemption price plus accumulated and unpaid dividends, if any), dividends shall cease to accumulate on the shares of the preferred stock called for redemption and all rights of the holders thereof (except the right to receive the redemption price plus accumulated and unpaid dividends, if any) shall cease.

So long as any dividends on shares of any series of the preferred stock or any other series of preferred stock of the company ranking on a parity as to dividends and distribution of assets with such series of the preferred stock are in arrears, no shares of any such series of the preferred stock or such other series of preferred stock of the company will be redeemed (whether by mandatory or optional redemption) unless all such shares are simultaneously redeemed, and the company will not purchase or otherwise acquire any such shares; provided, however, that the foregoing will not prevent the purchase or acquisition of such shares pursuant to a purchase or exchange offer made on the same terms to holders of all such shares outstanding.

Conversion Rights

The terms and conditions, if any, upon which shares of any series of preferred stock are convertible into common stock will be set forth in the applicable prospectus supplement relating thereto. Such terms will include the number of shares of common stock into which the preferred stock is convertible, the conversion price (or manner of calculation thereof), the conversion period, provisions as to whether conversion will be at the option of the holders of preferred stock or the company, the events requiring an adjustment of the conversion price and provisions affecting conversion.

Voting Rights

Except as indicated below or in a prospectus supplement relating to a particular series of the preferred stock, or except as required by applicable law, the holders of the preferred stock will not be entitled to vote for any purpose.

So long as any shares of the preferred stock of a series remain outstanding, the consent or the affirmative vote of the holders of at least 80% of the votes entitled to be cast with respect to the then outstanding shares of such series of the preferred stock together with any "parity preferred" (as defined below), voting as one class, either expressed in writing or at a meeting called for that purpose, will be necessary (i) to permit, effect or validate the authorization, or any increase in the authorized amount, of any class or series of shares of the company ranking prior to the preferred stock of such series as to dividends, and (ii) to repeal, amend or otherwise change any of the provisions applicable to the preferred stock of such series in any manner which adversely affects the powers, preferences, voting power or other rights or privileges of such series of the preferred stock. In case any series of the preferred stock would be so affected by any such action referred to in clause (ii) above in a different manner than one or more series of the parity preferred then outstanding, the holders of shares of the preferred stock of such series, together with any series of the parity preferred which will be similarly affected, will be entitled to vote as a class, and the company will not take such action without the consent or affirmative vote, as above provided, of at least 80% of the total number of votes entitled to be cast with respect to each such series of the preferred stock and the parity preferred, then outstanding, in lieu of the consent or affirmative vote hereinabove otherwise required.

With respect to any matter as to which the preferred stock of any series is entitled to vote, holders of the preferred stock of such series and any other series of preferred stock of the company ranking on a parity with such series of the preferred stock as to dividends and distributions of assets and which by its terms provides for similar voting rights (the "parity preferred") will be entitled to cast the number of votes set forth in the prospectus supplement with respect to that series of preferred stock. As a result of the provisions described in the preceding paragraph requiring the holders of shares of a series of the preferred stock to vote together as a class with the holders of shares of one or more series of parity preferred, it is possible that the holders of such shares of parity preferred could approve action that would adversely affect such series of preferred stock, including the creation of a class of capital stock ranking prior to such series of preferred stock as to dividends, voting or distributions of assets.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of the preferred stock shall have been redeemed or called for redemption and sufficient funds shall have been deposited in trust to effect such redemption.

Redemption and Business Combination Provisions

If our board of directors is, at any time and in good faith, of the opinion that actual or constructive ownership of at least 9.9% or more of the value of our outstanding capital stock has or may become concentrated in the hands of one owner, our board of directors will have the power:

- by means deemed equitable by it, to call for the purchase from any of our stockholders a number of voting shares sufficient, in the opinion of our board of directors, to maintain or bring the actual or constructive ownership of such owner to a level of no more than 9.9% of the value of our outstanding capital stock; and
- to refuse to transfer or issue voting shares of our capital stock to any person whose acquisition of such voting shares would, in the opinion of our board of directors, result in the actual or constructive ownership by that person of more than 9.9% of the value of our outstanding capital stock.

Further, any transfer of shares, options, warrants, or other securities convertible into voting shares that would create a beneficial owner of more than 9.9% of the value of our outstanding capital stock will be deemed void ab initio and the intended transferee will be deemed never to have had an interest therein. Subject to the rights of the preferred stock described below, the purchase price for any voting shares of our capital stock so redeemed will be equal to the fair market value of the shares reflected in the closing sales prices for the shares, if then listed on a national securities exchange, or the average of the closing sales prices for the shares if then listed on more than one national securities exchange, or if the shares are not then listed on a national securities exchange, the latest bid quotation for the shares if then traded over-the-counter, on the last business day immediately preceding the day on which we send notices of such acquisitions, or, if no such closing sales prices or quotations are available, then the purchase price shall be equal to the net asset value of such stock as determined by our board of directors in accordance with the provisions of applicable law. The purchase price for shares of Series A preferred stock, Series B preferred stock, Series C preferred stock and Series D preferred stock will be equal to the fair market value of the shares reflected in the closing sales price for the shares, if then listed on a national securities exchange, or if the shares are not then listed on a national securities exchange, the purchase price will, in the case of the Series A preferred stock and Series B preferred stock, be equal to the redemption price of such shares of Series A preferred stock and Series B preferred stock, respectively, and, in the case of the Series C preferred stock and Series D preferred stock, the purchase price will be equal to the liquidation preference of such shares of Series C preferred stock and Series D preferred stock, respectively. From and after the date fixed for purchase by our board of directors, the holder of any shares so called for purchase will cease to be entitled to

distributions, voting rights and other benefits with respect to such shares, except the right to payment of the purchase price for the shares.

Our articles of incorporation require that, except in certain circumstances, business combinations between us and a beneficial holder of 10% or more of our outstanding voting stock, a related person, be approved by the affirmative vote of at least 80% of our outstanding voting shares.

A "business combination" is defined in the articles of incorporation as:

- any merger or consolidation of our company with or into a related person;
- any sale, lease, exchange, transfer or other disposition, including without limitation a mortgage or any other security device, of all or any "substantial part," as defined below, of our assets including, without limitation, any voting securities of a subsidiary to a related person;
- any merger or consolidation of a related person with or into our company;
- any sale, lease, exchange, transfer or other disposition of all or any substantial part of the assets of a related person to our company;
- the issuance of any securities (other than by way of pro rata distribution to all stockholders) of our company to a related person; and
- any agreement, contract or other arrangement providing for any of the transactions described in the definition of business combination.

The term "substantial part" is defined as more than 10% of the book value of our total assets as of the end of our most recent fiscal year ending prior to the time the determination is being made.

The 80% voting requirement described above will not be applicable if (i) our board of directors has unanimously approved in advance the acquisition of our stock that caused a related person to become a related person, or (ii) the business combination is solely between us and a wholly owned subsidiary. Our board of directors unanimously approved in advance the acquisition by Explorer Holdings, Inc. of our Series C preferred stock, which made Explorer a related person to us. Therefore, the 80% voting requirement is inapplicable to Explorer.

Under the terms of our articles of incorporation, as amended, our board of directors is classified into three classes. Each class of directors serves for a term of three years, with one class being elected each year.

The foregoing provisions of the articles of incorporation and certain other matters may not be amended without the affirmative vote of at least 80% of our outstanding voting shares.

The foregoing provisions may have the effect of discouraging unilateral tender offers or other takeover proposals which certain stockholders might deem in their interests or in which they might receive a substantial premium. Our board of directors' authority to issue and establish the terms of currently authorized preferred stock, without stockholder approval, may also have the effect of discouraging takeover attempts. The provisions could also have the effect of insulating current management against the possibility of removal and could, by possibly reducing temporary fluctuations in market price caused by accumulation of shares, deprive stockholders of opportunities to sell at a temporarily higher market price. However, our board of directors believes that inclusion of the business combination provisions in the articles of incorporation may help assure fair treatment of stockholders and preserve our assets.

The foregoing summary of certain provisions of the articles of incorporation does not purport to be complete or to give effect to provisions of statutory or common law. The foregoing summary is subject to, and qualified in its entirety by reference to, the provisions of applicable law and the articles

of incorporation, a copy of which is incorporated by reference as an exhibit to the registration statement of which this prospectus is a part.

Stockholder Rights Plan

On May 12, 1999, our board of directors authorized the adoption of a stockholder rights plan. The plan is designed to require a person or group seeking to gain control of our company to offer a fair price to all of our stockholders. The rights plan will not interfere with any merger, acquisition or business combination that our board of directors finds is in our best interest and the best interests of our stockholders.

In connection with the adoption of the stockholder rights plan, our board of directors declared a dividend distribution of one right for each common share outstanding on May 24, 1999. The stockholder protection rights will not become exercisable unless a person acquires 10% or more of our common stock, or begins a tender offer that would result in the person owning 10% or more of our common stock. At that time, each stockholder protection right would entitle each stockholder other than the person who triggered the rights plan to purchase either our common stock or stock of an acquiring entity at a discount to the then market price. The plan was not adopted in response to any specific attempt to acquire control of our company. In October 2001, we amended the stockholder rights plan to exempt Explorer Holdings, Inc. and any of its transferees that become a party to the stockholders' agreement we have with Explorer from being deemed an acquiring person for purposes of the plan.

Debt Securities

The terms of any debt securities offered by any prospectus supplement will be as described in such prospectus supplement, and as provided herein to the extent not modified in the prospectus supplement. Debt securities may be issued from time to time in series under an Indenture (the "Indenture") to be entered into between the company and a trustee to be identified in the applicable prospectus supplement (the "Trustee"). As used under this caption, unless the context otherwise requires, offered debt securities shall mean the debt securities offered by this prospectus and the accompanying prospectus supplement. The statements under this caption are brief summaries of certain provisions contained in the Indenture, do not purport to be complete and are qualified in their entirety by reference to the Indenture, including the definition therein of certain terms, a copy of which is incorporated by reference as an exhibit to the registration statement of which this prospectus is a part. The following sets forth certain general terms and provisions of the debt securities. Further terms of the offered debt securities will be set forth in the prospectus supplement.

General

The Indenture provides for the issuance of debt securities in series, and does not limit the principal amount of debt securities which may be issued thereunder.

Reference is made to the prospectus supplement for the following terms of the offered debt securities:

- the specific title of the offered debt securities;
- the aggregate principal amount of the offered debt securities;
- the percentage of the principal amount at which the offered debt securities will be issued;
- the date on which the offered debt securities will mature;
- the rate or rates per annum or the method for determining such rate or rates, if any, at which the offered debt securities will bear interest;

- the times at which any such interest will be payable;
- any provisions relating to optional or mandatory redemption of the offered debt securities at the option of the company or pursuant to sinking fund or analogous provisions;
- the denominations in which the offered debt securities are authorized to be issued if other than \$100,000;
- any provisions relating to the conversion or exchange of the offered debt securities into common stock or into debt securities of another series;
- the portion of the principal amount, if less than the principal amount, payable on acceleration;
- the place or places at which the company will make payments of principal (and premiums, if any) and interest, if any, and the method of payment;
- whether the offered debt securities will be issued in whole or in part in global form;
- any additional covenants and events of default and the remedies with respect thereto not currently set forth in the Indenture;
- the identity of the Trustee for the debt securities, and if not the Trustee, the identity of each paying agent and the debt securities Registrar;
- the currency or currencies other than United States Dollars in which any series of debt securities will be issued; and
- any other specific terms of the offered debt securities.

One or more series of the debt securities may be issued as discounted debt securities (bearing no interest or bearing interest at a rate which at the time of issuance is below market rates) to be sold at a substantial discount below their stated principal amount. Tax and other special considerations applicable to any such discounted debt securities will be described in the prospectus supplement relating thereto.

Status of Debt Securities

The status and ranking of the debt securities will be as set forth in the prospectus supplement. Except as otherwise set forth in the prospectus supplement, the debt securities will be unsecured obligations of the company ranking on a parity with all other unsecured and unsubordinated indebtedness.

Conversion Rights

The terms, if any, on which debt securities of a series may be exchanged for or converted into shares of common stock, preferred stock or debt securities of another series will be set forth in the prospectus supplement relating thereto. To protect the company's status as a REIT, a beneficial holder may not convert any debt security, and such debt security shall not be convertible by any holder, if as a result of such conversion any person would then be deemed to beneficially own, directly or indirectly, 9.9% or more of the company's shares of common stock.

Absence of Restrictive Covenants

Except as noted below under "Dividends, Distributions and Acquisitions of Capital Stock," the company is not restricted by the Indenture from paying dividends or from incurring, assuming or becoming liable for any type of debt or other obligations or from creating liens on its property for any purpose. The Indenture does not require the maintenance of any financial ratios or specified levels of net worth or liquidity. Except as may be set forth in the prospectus supplement, there are no provisions

of the Indenture which afford holders of the debt securities protection in the event of a highly leveraged transaction involving the company.

Optional Redemption

The debt securities will be subject to redemption, in whole or from time to time in part, at any time for certain reasons intended to protect the company's status as a REIT, at the option of the company in the manner specified in the Indenture at a redemption price equal to 100% of the principal amount, premium, if any, plus interest accrued to the date of redemption. The Indenture does not contain any provision requiring the company to repurchase the debt securities at the option of the holders thereof in the event of a leveraged buyout, recapitalization or similar restructuring of the company.

Dividends, Distributions and Acquisitions of Capital Stock

The Indenture provides that the company will not (i) declare or pay any dividend or make any distribution on its capital stock or to holders of its capital stock (other than dividends or distributions payable in its capital stock or other than as the company determines is necessary to maintain its status as a REIT), or (ii) purchase, redeem or otherwise acquire or retire for value any of its capital stock, or any warrants, rights or options or other securities to purchase or acquire any shares of its capital stock (other than the debt securities) or permit any subsidiary to do so, if at the time of such action an event of default (as defined in the Indenture) has occurred and is continuing or would exist immediately after giving effect to such action.

Events of Default

An event of default with respect to debt securities of any series is defined in the Indenture as being:

- failure to pay principal of or any premium on any debt security of that series when due;
- failure to pay any interest on any debt security of that series when due, continued for 30 days;
- failure to deposit any sinking fund payment when due, in respect of any debt security of that series;
- failure to perform any other covenant of the company in the Indenture (other than a covenant included in the Indenture solely for the benefit of one or more series of debt securities other than that series), continued for 60 days after written notice as provided in the Indenture;
- certain events of bankruptcy, insolvency, conservatorship, receivership or reorganization; and
- any other event of default provided with respect to the debt securities of that series.

If an event of default with respect to the outstanding debt securities of any series occurs and is continuing, either the Trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series may declare the principal amount (or, if the debt securities of that series are original issue discount debt securities, such portion of the principal amount as may be specified in the terms of that series) of all the outstanding debt securities of that series to be due and payable immediately. At any time after the declaration of acceleration with respect to the debt securities of any series has been made, but before a judgment or decree based on acceleration has been obtained, the holders of a majority in aggregate principal amount of the outstanding debt securities of that series may, under certain circumstances, rescind and annul such acceleration.

The Indenture provides that, subject to the duty of the Trustee during default to act with the required standard of care, the Trustee will be under no obligation to exercise any of its rights or powers

under the Indenture at the request or direction of any of the holders, unless such holders shall have offered to the Trustee reasonable indemnity. Subject to such provisions for the indemnification of the Trustee and subject to certain limitations, the holders of a majority in aggregate principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the debt securities of that series.

The company is required to furnish to the Trustee annually a statement as to the performance by the company of certain of its obligations under the Indenture and as to any default in such performance.

Modifications and Waiver

Modifications and amendments of the Indenture may be made by the company and the Trustee without the consent of any holders to, among other things,

- evidence the succession of another corporation to the company;
- add to the covenants of the company or surrender any right or power conferred upon the company;
- establish the form or terms of debt securities, including any subordination provisions;
- cure any ambiguity, correct or supplement any provision which may be defective or inconsistent or make any other provisions with respect to matters or questions arising under the Indenture, provided that such action does not adversely affect the interests of the holders of debt securities of any series in any material respect;
- to add to, delete, or revise conditions, limitations and restrictions on the authorized amounts, terms or purpose of debt securities, as set forth in the Indenture; or
- evidence and provide for a successor Trustee.

Modifications and amendments of the Indenture may be made by the company and the Trustee with the consent of the holders of a majority in aggregate principal amount of the outstanding debt securities of each series affected by such modification or amendment; provided, however, that no such modification or amendment may, without the consent of the holder of each outstanding debt security affected thereby:

- change the stated maturity date of the principal of, or any installment of principal of or interest, if any, on any debt security;
- reduce the principal amount of, or premium or interest if any, on any debt security;
- reduce the amount of principal of an original issue discount debt security payable upon acceleration of the maturity thereof;
- change the currency of payment of the principal of, or premium or interest, if any, on any debt security;
- impair the right to institute suit for the enforcement of any payment on or with respect to any debt security;
- modify the conversion provisions, if any, of any debt security in a manner adverse to the holder of that debt security; or
- reduce the percentage in principal amount of the outstanding debt security of any series, the consent of whose holders is required for modification or amendment of that Indenture or for waiver of compliance with certain provisions of that Indenture or for waiver of certain defaults.

The holders of a majority in aggregate principal amount of the outstanding debt security of each series may, on behalf of all holders of the debt securities of that series, waive, insofar as that series is concerned, compliance by the company with certain restrictive provisions of the Indenture. The holders of a majority in aggregate principal amount of the outstanding debt securities of each series may, on behalf of all holders of the debt securities of that series, waive any past default under the Indenture with respect to the debt securities of that series, except a default in the payment of principal or premium or interest, if any, or a default in respect of a covenant or provision which under the terms of the Indenture cannot be modified or amended without the consent of the holder of each outstanding debt security of the series affected.

Consolidation, Merger and Sale of Assets

The Indenture provides that the company, without the consent of the holders of any of the debt securities, may consolidate or merge with or into or transfer its assets substantially as an entirety to, any entity organized under the laws of the United States or any state, provided that the successor entity assumes the company's obligations under the Indenture, that after giving effect to the transaction no event of default, and no event which, after notice or lapse of time, would become an event of default, shall have occurred and be continuing, and that certain other conditions are met.

Global Securities

The debt securities of a series may be issued in whole or in part in global form (the "Global Securities"). Except as set forth in a prospectus supplement, the terms and provisions with respect to any Global Securities will be as set forth in this section captioned "Global Securities." The Global Securities will be deposited with a depository (the "Depository"), or with a nominee for a Depository, identified in the prospectus supplement. In such case, one or more Global Securities will be issued in a denomination or aggregate denominations equal to the portion of the aggregate principal amount of outstanding debt securities of the series to be represented by such Global Security or Securities. Unless and until it is exchanged in whole or in part for debt securities in definitive form, a Global Security may not be transferred except as a whole by the Depository for such Global Security to a nominee of such Depository or by a nominee of such Depository to such Depository or another nominee of such Depository or by such Depository or any such nominee to a successor of such Depository or a nominee of such successor.

The specific material terms of the depository arrangement with respect to any portion of a series of debt securities to be represented by a Global Security will be described in the prospectus supplement. The company anticipates that the following provisions will apply to all depository arrangements.

Upon the issuance of a Global Security, the Depository for such Global Security will credit, on its book-entry registration and transfer system, the respective principal amounts of the debt securities represented by such Global Security to the accounts of persons that have accounts with such Depository ("participants"). The accounts to be credited shall be designated by any underwriters or agents participating in the distribution of such debt securities. Ownership of beneficial interests in a Global Security will be limited to participants or persons that may hold interests through participants. Ownership of beneficial interests in such Global Security will be shown on, and the transfer of that ownership will be effected only through, records maintained by the Depository for such Global Security (with respect to interests of participants) or by participants or persons that hold through participants (with respect to interests of persons other than participants). So long as the Depository for a Global Security, or its nominee, is the registered owner of such Global Security, such Depository or such nominee, as the case may be, will be considered the sole owner or holder of the debt securities represented by such Global Security for all purposes under the Indenture; provided, however, that for the purposes of obtaining any consents or directions required to be given by the holders of the debt

securities, the company, the Trustee and its agents will treat a person as the holder of such principal amount of debt securities as specified in a written statement of the Depositary. Except as set forth herein or otherwise provided in the prospectus supplement, owners of beneficial interests in a Global Security will not be entitled to have the debt securities represented by such Global Security registered in their names, will not receive physical delivery of such debt securities in definitive form and will not be considered the registered owners or holders thereof under the Indenture, but the beneficial owners and holders only.

Principal, premium, if any, and interest payments on debt securities represented by a Global Security registered in the name of a Depositary or its nominee will be made to such Depositary or its nominee, as the case may be, as the registered owner of such Global Security. None of the company, the Trustee or any Paying Agent for such debt securities will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in such Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

The company expects that the Depositary for any debt securities represented by a Global Security, upon receipt of any payment of principal, premium, if any, or interest will immediately credit participants' accounts with payments in amounts proportionate to their respective beneficial interests in the principal amount of such Global Security as shown on the records of such Depositary. The company also expects that payments by participants will be governed by standing instructions and customary practices, as is now the case with the securities held for the accounts of customers registered in "street names" and will be the responsibility of such participants.

If the Depositary for any debt securities represented by a Global Security is at any time unwilling or unable to continue as Depositary and a successor Depositary is not appointed by the company within 90 days, the company will issue such debt securities in definitive form in exchange for such Global Security. In addition, the company may at any time and in its sole discretion determine not to have any of the debt securities of a series represented by one or more Global Securities and, in such event, will issue debt securities of such series in definitive form in exchange for all of the Global Security or securities representing such debt securities.

The laws of some states require that certain purchasers of securities take physical delivery of such securities in definitive form. Such laws may impair the ability to transfer beneficial interests in debt securities represented by Global Securities.

Securities Warrants

The terms of any securities warrants offered by any prospectus supplement will be as described in such prospectus supplement, and as provided herein to the extent not modified in the prospectus supplement. The company may issue securities warrants for the purchase of common stock, preferred stock or debt securities. securities warrants may be issued independently or together with common stock, preferred stock or debt securities offered by any prospectus supplement and may be attached to or separate from such common stock, preferred stock, or debt securities. Each series of securities warrants will be issued under a separate warrant agreement (a "Securities Warrant Agreement") to be entered into between the company and a bank or trust company, as securities warrant agent, all as set forth in the prospectus supplement relating to the particular issue of offered securities warrants. The securities warrant agent will act solely as an agent of the company in connection with the securities warrants of such series and will not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of securities warrants. The following summaries of certain provisions of the Securities Warrant Agreement and securities warrants do not purport to be complete and are subject to, and are qualified in their entirety by reference to, all the provisions of the Securities Warrant Agreement and the securities warrants relating to each series of securities warrants which will

be filed with the Securities and Exchange Commission and incorporated by reference as an exhibit to the registration statement of which this prospectus is a part at or prior to the time of the issuance of such series of securities warrants.

In the case of securities warrants for the purchase of common stock or preferred stock, the applicable prospectus supplement will describe the terms of such securities warrants, including the following where applicable:

- the offering price;
- the aggregate number of shares purchasable upon exercise of such securities warrants, the exercise price, and in the case of securities warrants for preferred stock the designation, aggregate number and terms of the series of preferred stock purchasable upon exercise of such securities warrants;
- the designation and terms of any series of preferred stock with which such securities warrants are being offered and the number of such securities warrants being offered with such preferred stock;
- the date, if any, on and after which such securities warrants and the related series of preferred stock or common stock will be transferable separately;
- the date on which the right to exercise such securities warrants shall commence and the Expiration Date;
- any special United States Federal income tax consequences; and
- any other terms of such securities warrants.

If securities warrants for the purchase of debt securities are offered, the applicable prospectus supplement will describe the terms of such securities warrants, including the following where applicable:

- the offering price;
- the denominations and terms of the series of debt securities purchasable upon exercise of such securities warrants;
- the designation and terms of any series of debt securities, with which such securities warrants are being offered with each such debt securities;
- the date, if any, on and after which such securities warrants and the related series of debt securities will be transferable separately;
- the principal amount of the series of debt securities purchasable upon exercise of each such securities warrant and the price at which such principal amount of debt securities of such series may be purchased upon such exercise;
- the date on which the right shall expire (the "Expiration Date");
- whether the securities warrants will be issued in registered or bearer form;
- any special United States Federal income tax consequences;
- the terms, if any, on which the company may accelerate the date by which the securities warrants must be exercised; and
- any other terms of such securities warrants.

Securities warrant certificates may be exchanged for new securities warrant certificates of different denominations, may (if in registered form) be presented for registration of transfer, and may be exercised at the corporate trust office of the securities warrant agent or any other office indicated in

the applicable prospectus supplement. Prior to the exercise of any securities warrant to purchase debt securities, holders of such securities warrants will not have any of the rights of holders of the debt securities purchasable upon such exercise, including the right to receive payments of principal or premium, if any, or interest, if any, on such debt securities or to enforce covenants in the applicable indenture. Prior to the exercise of any securities warrants to purchase common stock or preferred stock, holders of such securities warrants will not have any rights of holders of such common stock or preferred stock, including the right to receive payments of dividends, if any, on such common stock or preferred stock, or to exercise any applicable right to vote.

Exercise of Securities Warrants

Each securities warrant will entitle the holder thereof to purchase a number of shares of common stock, preferred stock or such principal amount of debt securities, as the case may be, at such exercise price as shall in each case be set forth in, or calculable from, the prospectus supplement relating to the offered securities warrants. After the close of business on the Expiration Date (or such later date to which such Expiration Date may be extended by the company), unexercised securities warrants will become void.

Securities warrants may be exercised by delivering to the securities warrant agent payment as provided in the applicable prospectus supplement of the amount required to purchase the common stock, preferred stock or debt securities, as the case may be, purchasable upon such exercise together with certain information set forth on the reverse side of the securities warrant certificate. securities warrants will be deemed to have been exercised upon receipt of payment of the exercise price, subject to the receipt within five (5) business days, of the securities warrant certificate evidencing such securities warrants. Upon receipt of such payment and the securities warrant certificate properly completed and duly executed at the corporate trust office of the securities warrant agent or any other office indicated in the applicable prospectus supplement, the company will, as soon as practicable, issue and deliver the common stock, preferred stock or debt securities, as the case may be, purchasable upon such exercise. If fewer than all of the securities warrants represented by such securities warrant certificate are exercised, a new securities warrant certificate will be issued for the remaining amount of securities warrants.

Amendments and Supplements to Securities Warrant Agreement

The Securities Warrant Agreements may be amended or supplemented without the consent of the holders of the securities warrants issued thereunder to effect changes that are not inconsistent with the provisions of the securities warrants and that do not adversely affect the interests of the holders of the securities warrants.

Common Stock Warrant Adjustments

Unless otherwise indicated in the applicable prospectus supplement, the exercise price of, and the number of shares of common stock covered by a common stock warrant are subject to adjustment in certain events, including:

- payment of a dividend on the common stock payable in capital stock and stock splits, combinations or reclassifications of the common stock;

- issuance to all holders of common stock of rights or warrants to subscribe for or purchase shares of common stock at less than their current market price (as defined in the Securities Warrant Agreement for such series of common stock warrants); and
- certain distributions of evidences of indebtedness or assets (including cash dividends or distributions paid out of consolidated earnings or retained earnings or dividends payable in common stock) or of subscription rights and warrants (excluding those referred to above).

No adjustment in the exercise price of, and the number of shares of common stock covered by a common stock warrant will be made for regular quarterly or other periods of recurring cash dividends or distributions or for cash dividends or distributions to the extent paid from consolidated earnings or retained earnings. No adjustment will be required unless such adjustment would require a change of at least 1% in the exercise price then in effect. Except as stated above, the exercise price of, and the number of shares of common stock covered by, a common stock warrant will not be adjusted for the issuance of common stock or any securities convertible into or exchangeable for common stock, or carrying the right or option to purchase or otherwise acquire the foregoing in exchange for cash, other property or services.

In the event of any (i) consolidation or merger of the company with or into any entity (other than a consolidation or a merger that does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of common stock), (ii) sale, transfer, lease or conveyance of all or substantially all of the assets of the company, or (iii) reclassification, capital reorganization or change of the common stock (other than solely a change in par value or from par value to no par value), then any holder of a common stock warrant will be entitled, on or after the occurrence of any such event, to receive on exercise of such common stock warrant the kind and amount of shares of stock or other securities, cash or other property (or any combination thereof) that the holder would have received had such holder exercised such holder's common stock warrant immediately prior to the occurrence of such event. If the consideration to be received upon exercise of the common stock warrant following any such event consists of common stock of the surviving entity, then from and after the occurrence of such event, the exercise price of such common stock warrant will be subject to the same anti-dilution and other adjustments described in the second preceding paragraph, applied as if such common stock of the surviving entity were common stock.

CERTAIN FEDERAL INCOME TAX CONSIDERATIONS

Consequences of an Investment in Our Securities

The following is a general summary of material U.S. federal income tax considerations applicable to us, and to the purchasers of our securities and our election to be taxed as a REIT. It is not tax advice. The summary is not intended to represent a detailed description of the U.S. federal income tax consequences applicable to a particular stockholder in view of any person's particular circumstances, nor is it intended to represent a detailed description of the U.S. federal income tax consequences applicable to stockholders subject to special treatment under the federal income tax laws such as insurance companies, tax-exempt organizations, financial institutions, securities broker-dealers, investors in pass-through entities, expatriates and taxpayers subject to alternative minimum taxation.

The following discussion relating to an investment in our securities was based on consultations with Powell, Goldstein, Frazer & Murphy LLP, our special counsel. In the opinion of Powell, Goldstein, Frazer & Murphy LLP, the following discussion, to the extent it constitutes matters of law or legal conclusions (assuming the facts, representations, and assumptions upon which the discussion is based are accurate), accurately represents the material U.S. federal income tax considerations relevant to purchasers of our securities. Powell, Goldstein, Frazer & Murphy LLP has not rendered any opinion regarding any effect of such issuance on purchasers of our securities. The sections of the Code relating to the qualification and operation as a REIT are highly technical and complex. The following

discussion sets forth the material aspects of the Code sections that govern the federal income tax treatment of a REIT and its stockholders. The information in this section is based on the Code; current, temporary, and proposed Treasury regulations promulgated under the Code; the legislative history of the Code; current administrative interpretations and practices of the Internal Revenue Service, or IRS; and court decisions, in each case, as of the date of this prospectus. In addition, the administrative interpretations and practices of the IRS include its practices and policies as expressed in private letter rulings which are not binding on the IRS, except with respect to the particular taxpayers who requested and received these rulings.

Taxation of Omega

General. We have elected to be taxed as a real estate investment trust, or a REIT, under Sections 856 through 860 of the Code beginning with our taxable year ended December 31, 1992. We believe that we have been organized and operated in such a manner as to qualify for taxation as a REIT under the Code and we intend to continue to operate in such a manner, but no assurance can be given that we have operated or will be able to continue to operate in a manner so as to qualify or remain qualified as a REIT.

The sections of the Code that govern the federal income tax treatment of a REIT are highly technical and complex. The following sets forth the material aspects of those sections. This summary is qualified in its entirety by the applicable Code provisions, rules and regulations promulgated thereunder, and administrative and judicial interpretations thereof.

In the opinion of Powell, Goldstein, Frazer & Murphy LLP, which opinion has been filed as an exhibit to the registration statement of which this prospectus is a part, we are organized in conformity with the requirements for qualification as a REIT, and our current and proposed method of operation will enable us to continue to meet the requirements for continued qualification and taxation as a REIT under the Code. This opinion is based on various assumptions and is conditioned upon certain representations made by us as to factual matters concerning our business and properties. Moreover, such qualification and taxation as a REIT depends upon our ability to meet, through actual annual operating results, distribution levels and diversity of stock ownership, the various qualification tests imposed under the Code discussed below, the results of which will not be reviewed by Powell, Goldstein, Frazer & Murphy LLP on an ongoing basis. Accordingly, no assurance can be given that the various results of our operation for any particular taxable year will satisfy such requirements. Further, such requirements may be changed, perhaps retroactively, by legislative or administrative actions at any time. We have neither sought nor obtained any formal ruling from the IRS regarding our qualification as a REIT and presently have no plan to apply for any such ruling. See "—Failure to Qualify."

If we qualify for taxation as a REIT, we generally will not be subject to federal corporate income taxes on our net income that is currently distributed to stockholders. This treatment substantially eliminates the "double taxation" (i.e., taxation at both the corporate and the stockholder level) that generally results from investment in a corporation. However, we will be subject to federal income tax as follows: First, we will be taxed at regular corporate rates on any undistributed REIT taxable income, including undistributed net capital gains; provided, however, that if we have a net capital gain, we will be taxed at regular corporate rates on our undistributed REIT taxable income, computed without regard to net capital gain and the deduction for capital gains dividends, plus a 35% tax on undistributed net capital gain, if our tax as thus computed is less than the tax computed in the regular manner. Second, under certain circumstances, we may be subject to the "alternative minimum tax" on our items of tax preference that we do not distribute or allocate to our stockholders. Third, if we have (i) net income from the sale or other disposition of "foreclosure property" which is held primarily for sale to customers in the ordinary course of business, or (ii) other nonqualifying income from foreclosure property, we will be subject to tax at the highest regular corporate rate on such income. Fourth, if we have net income from prohibited transactions (which are, in general, certain sales or

other dispositions of property (other than foreclosure property) held primarily for sale to customers in the ordinary course of business by us, (i.e., when we are acting as a dealer)), such income will be subject to a 100% tax. Fifth, if we should fail to satisfy the 75% gross income test or the 95% gross income test (as discussed below), but have nonetheless maintained our qualification as a REIT because certain other requirements have been met, we will be subject to a 100% tax on an amount equal to (a) the gross income attributable to the greater of the amount by which we fail the 75% or 95% test, multiplied by (b) a fraction intended to reflect our profitability. Sixth, if we should fail to distribute by the end of each year at least the sum of (i) 85% of our REIT ordinary income for such year, (ii) 95% of our REIT capital gain net income for such year, and (iii) any undistributed taxable income from prior periods, we will be subject to a 4% excise tax on the excess of such required distribution over the amounts actually distributed. Seventh, we will be subject to a 100% excise on transactions with a taxable REIT subsidiary, or TRS, that are not conducted on an arm's-length basis. Eighth, if we acquire any asset, which is defined as a "built-in gain asset" from a C corporation that is not a REIT (i.e., generally a corporation subject to full corporate-level tax) in a transaction in which the basis of the built-in gain asset in our hands is determined by reference to the basis of the asset (or any other property) in the hands of the C corporation, and we recognize gain on the disposition of such asset during the 10-year period, which is defined as the "recognition period," beginning on the date on which such asset was acquired by us, then, to the extent of the built-in gain (i.e., the excess of (a) the fair market value of such asset on the date such asset was acquired by us over (b) our adjusted basis in such asset on such date), our recognized gain will be subject to tax at the highest regular corporate rate. The results described above with respect to the recognition of built-in gain assume that we will not make an election pursuant to Treasury Regulations. Section 1.337(d)-7(c)(5).

Requirements for Qualification. The Code defines a REIT as a corporation, trust or association: (1) which is managed by one or more trustees or directors; (2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest; (3) which would be taxable as a domestic corporation, but for Sections 856 through 859 of the Code; (4) which is neither a financial institution nor an insurance company subject to the provisions of the Code; (5) the beneficial ownership of which is held by 100 or more persons; (6) during the last half year of each taxable year not more than 50% in value of the outstanding stock of which is owned, actually or constructively, by five or fewer individuals (as defined in the Code to include certain entities); and (7) which meets certain other tests, described below, regarding the nature of its income and assets and the amount of its annual distributions to stockholders. The Code provides that conditions (1) to (4), inclusive, must be met during the entire taxable year and that condition (5) must be met during at least 335 days of a taxable year of twelve months, or during a proportionate part of a taxable year of less than twelve months. For purposes of conditions (5) and (6), pension funds and certain other tax-exempt entities are treated as individuals, subject to a "look-through" exception in the case of condition (6).

Income Tests. In order to maintain our qualification as a REIT, we annually must satisfy two gross income requirements. First, at least 75% of our gross income (excluding gross income from prohibited transactions) for each taxable year must be derived directly or indirectly from investments relating to real property or mortgages on real property (including generally "rents from real property," interest on mortgages on real property and gains on sale of real property and real property mortgages, other than property described in Section 1221 of the Code) and income derived from certain types of temporary investments. Second, at least 95% of our gross income (excluding gross income from prohibited transactions) for each taxable year must be derived from such real property investments, dividends, interest and gain from the sale or disposition of stock or securities other than property held for sale to customers in the ordinary course of business.

Rents received by us will qualify as "rents from real property" in satisfying the gross income requirements for a REIT described above only if several conditions are met. First, the amount of the rent must not be based in whole or in part on the income or profits of any person. However, any

amount received or accrued generally will not be excluded from the term "rents from real property" solely by reason of being based on a fixed percentage or percentages of receipts or sales. Second, the Code provides that rents received from a tenant will not qualify as "rents from real property" in satisfying the gross income tests if we, or an owner (actually or constructively) of 10% or more of the value of our stock, actually or constructively owns 10% or more of such tenant, which is defined as a related party tenant. Third, if rent attributable to personal property, leased in connection with a lease of real property, is greater than 15% of the total rent received under the lease, then the portion of rent attributable to such personal property will not qualify as "rents from real property." Finally, for rents received to qualify as "rents from real property," we generally must not operate or manage the property or furnish or render services to the tenants of such property, other than through an independent contractor from which we derive no revenue. We, however, directly perform certain services that are "usually or customarily rendered" in connection with the rental of space for occupancy only and are not otherwise considered "rendered to the occupant" of the property. In addition, we may provide a minimal amount of "non-customary" services to the tenants of a property, other than through an independent contractor, as long as our income from the services does not exceed 1% of our income from the related property. Furthermore, we may own up to 100% of the stock of a TRS, which may provide customary and noncustomary services to our tenants without tainting our rental income from the related properties.

The term "interest" generally does not include any amount received or accrued (directly or indirectly) if the determination of such amount depends in whole or in part on the income or profits of any person. However, an amount received or accrued generally will not be excluded from the term "interest" solely by reason of being based on a fixed percentage or percentages of gross receipts or sales. In addition, an amount that is based on the income or profits of a debtor will be qualifying interest income as long as the debtor derives substantially all of its income from the real property securing the debt from leasing substantially all of its interest in the property, but only to the extent that the amounts received by the debtor would be qualifying "rents from real property" if received directly by a REIT.

If a loan contains a provision that entitles us to a percentage of the borrower's gain upon the sale of the real property securing the loan or a percentage of the appreciation in the property's value as of a specific date, income attributable to that loan provision will be treated as gain from the sale of the property securing the loan, which generally is qualifying income for purposes of both gross income tests.

Interest on debt secured by mortgages on real property or on interests in real property generally is qualifying income for purposes of the 75% gross income test. However, if the highest principal amount of a loan outstanding during a taxable year exceeds the fair market value of the real property securing the loan as of the date we agreed to originate or acquire the loan, a portion of the interest income from such loan will not be qualifying income for purposes of the 75% gross income test, but will be qualifying income for purposes of the 95% gross income test. The portion of the interest income that will not be qualifying income for purposes of the 75% gross income test will be equal to the portion of the principal amount of the loan that is not secured by real property.

Prohibited Transactions. We will incur a 100% tax on the net income derived from any sale or other disposition of property, other than foreclosure property, that we hold primarily for sale to customers in the ordinary course of a trade or business. We believe that none of our assets is held for sale to customers and that a sale of any of our assets would not be in the ordinary course of our business. Whether a REIT holds an asset primarily for sale to customers in the ordinary course of a trade or business depends, however, on the facts and circumstances in effect from time to time, including those related to a particular asset. Nevertheless, we will attempt to comply with the terms of safe-harbor provisions in the federal income tax laws prescribing when an asset sale will not be characterized as a prohibited transaction. We cannot assure you, however, that we can comply with the

safe-harbor provisions or that we will avoid owning property that may be characterized as property that we hold primarily for sale to customers in the ordinary course of a trade or business.

Foreclosure Property. We will be subject to tax at the maximum corporate rate on any income from foreclosure property, other than income that otherwise would be qualifying income for purposes of the 75% gross income test, less expenses directly connected with the production of that income. However, gross income from foreclosure property will qualify for purposes of the 75% and 95% gross income tests. Foreclosure property is any real property, including interests in real property, and any personal property incident to such real property:

- that is acquired by a REIT as the result of the REIT having bid in such property at foreclosure, or having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default or default was imminent on a lease of such property or on indebtedness that such property secured;
- for which the related loan or lease was acquired by the REIT at a time when the default was not imminent or anticipated; and
- for which the REIT markets a proper election to treat the property as foreclosure property.

Property generally ceases to be foreclosure property at the end of the third taxable year following the taxable year in which the REIT acquired the property, or longer if an extension is granted by the Secretary of the Treasury. This grace period terminates and foreclosure property ceases to be foreclosure property on the first day:

- on which a lease is entered into for the property that, by its terms, will give rise to income that does not qualify for purposes of the 75% gross income test, or any amount is received or accrued, directly or indirectly, pursuant to a lease entered into on or after such day that will give rise to income that does not qualify for purposes of the 75% gross income test;
- on which any construction takes place on the property, other than completion of a building or any other improvement, where more than 10% of the construction was completed before default became imminent; or
- which is more than 90 days after the day on which the REIT acquired the property and the property is used in a trade or business which is conducted by the REIT, other than through an independent contractor from whom the REIT itself does not derive or receive any income.

Beginning on January 1, 2001, foreclosure property also includes any "qualified health care property," as defined in Code Section 856(e)(6) acquired by us as the result of the termination or expiration of a lease of such property. We may operate a qualified healthcare facility, acquired in this manner for two years or longer if an extension is granted. We own one property with respect to which we have made foreclosure property elections. Properties that are taken back in a foreclosure or bankruptcy and operated for our own account are treated as foreclosure properties for income tax purposes, pursuant to Internal Revenue Code Section 856(e). Gross income from foreclosure properties is "good income" for purposes of the annual REIT income tests. Once this election is made on the tax return, it is "good" for a period of three years, or until the properties are no longer operated for our own account. An election to extend the foreclosure status period for an additional three years can be made. In all cases of the foreclosure property, we utilize an independent contractor to conduct day-to-day operations in order to maintain REIT status. In certain cases we operate facilities through a taxable REIT subsidiary. For those properties operated through the taxable REIT subsidiary, we utilize an eligible independent contractor to conduct day-to-day operations to maintain REIT status. As a result of the foregoing, we do not believe that our participation in the operation of nursing homes will increase the risk that we will fail to qualify as a REIT. Through our 2002 taxable year, we have not paid any tax on our foreclosure property because those properties have been producing losses.

However, in the future, our income from foreclosure property could be significant and we could be required to pay a significant amount of tax on that income.

Hedging Transactions. From time to time, we enter into hedging transactions with respect to one or more of our assets or liabilities. Our hedging activities may include entering into interest rate swaps, caps, and floors, options to purchase these items, and futures and forward contracts. To the extent that we enter into an interest rate swap or cap contract, option, futures contract, forward rate agreement, or any similar financial instrument to hedge our indebtedness incurred to acquire or carry "real estate assets," any periodic income or gain from the disposition of that contract should be qualifying income for purposes of the 95% gross income test, but not the 75% gross income test. Accordingly, our income and gain from our interest rate swap agreements generally is qualifying income for purpose, or the 95% gross income test, but not the 75% gross income test. To the extent that we hedge with other types of financial instruments, or in other situations, it is not entirely clear how the income from those transactions will be treated for purposes of the gross income tests. We have structured and intend to continue to structure any hedging transactions in a manner that does not jeopardize our status as a REIT.

TRS Income. A TRS may earn income that would not be qualifying income if earned directly by the parent REIT. Both the subsidiary and the REIT must jointly elect to treat the subsidiary as a TRS. A corporation of which a TRS directly or indirectly owns more than 35% of the voting power or value of the stock will automatically be treated as a TRS. Overall, no more than 20% of the value of a REIT's assets may consist of securities of one or more TRSs. However, a TRS does not include a corporation which directly or indirectly (i) operates or manages a health care (or lodging) facility, or (ii) provides to any other person (under a franchise, license, or otherwise) rights to any brand name under which a health care (or lodging) facility is operated. A TRS will pay income tax at regular corporate rates on any income that it earns. In addition, the new rules limit the deductibility of interest paid or accrued by a TRS to its parent REIT to assure that the TRS is subject to an appropriate level of corporate taxation. The rules also impose a 100% excise tax on transactions between a TRS and its parent REIT or the REIT's tenants that are not conducted on an arm's-length basis. We have made TRS elections with respect to Bayside Street II, Inc. and one of our wholly-owned subsidiaries that owned all of the preferred stock of Omega Worldwide. Those entities will pay corporate income tax on their taxable income and their after-tax net income will be available for distribution to us.

Failure to Satisfy Income Tests. If we fail to satisfy one or both of the 75% or 95% gross income tests for any taxable year, we may nevertheless qualify as a REIT for such year if we are entitled to relief under certain provisions of the Code. These relief provisions will be generally available if our failure to meet such tests was due to reasonable cause and not due to willful neglect, we attach a schedule of the sources of our income to our tax return, and any incorrect information on the schedule was not due to fraud with intent to evade tax. It is not possible, however, to state whether in all circumstances we would be entitled to the benefit of these relief provisions. Even if these relief provisions apply, we would incur a 100% tax on the gross income attributable to the greater of the amounts by which we fail the 75% and 95% gross income tests, multiplied by a fraction intended to reflect our profitability.

Asset Tests. At the close of each quarter of our taxable year, we must also satisfy the following tests relating to the nature of our assets. First, at least 75% of the value of our total assets must be represented by real estate assets (including (i) our allocable share of real estate assets held by partnerships in which we own an interest and (ii) stock or debt instruments held for not more than one year purchased with the proceeds of a stock offering or long-term (at least five years) debt offering of our company), cash, cash items and government securities. Second, of our investments not included in the 75% asset class, the value of our interest in any one issuer's securities may not exceed 5% of the value of our total assets. Third, we may not own more than 10% of the voting power or value of any

one issuer's outstanding securities. Fourth, no more than 20% of the value of our total assets may consist of the securities of one or more TRSs. Fifth, no more than 25% of the value of our total assets may consist of the securities of TRSs and other non-TRS taxable subsidiaries and other assets that are not qualifying assets for purposes of the 75% asset test.

For purposes of the second and third asset tests, the term "securities" does not include our stock in another REIT, our equity or debt securities of a qualified REIT subsidiary or TRS, or our equity interest in any partnership. The term "securities," however, generally includes our debt securities issued by another REIT or a partnership, except that debt securities of a partnership are not treated as securities for purposes of the 10% value test if we own at least a 20% profits interest in the partnership.

We may own up to 100% of the stock of one or more TRSs. However, overall, no more than 20% of the value of our assets may consist of securities of one or more TRSs, and no more than 25% of the value of our assets may consist of the securities of TRSs and other non-TRS taxable subsidiaries (including stock in non-REIT C Corporations) and other assets that are not qualifying assets for purposes of the 75% asset test.

If the outstanding principal balance of a mortgage loan exceeds the fair market value of the real property securing the loan, a portion of such loan likely will not be a qualifying real estate asset under the federal income tax laws. The non-qualifying portion of that mortgage loan will be equal to the portion of the loan amount that exceeds the value of the associated real property.

After initially meeting the asset tests at the close of any quarter, we will not lose our status as a REIT for failure to satisfy any of the asset tests at the end of a later quarter solely by reason of changes in asset values. If the failure to satisfy the asset tests results from an acquisition of securities or other property during a quarter, the failure can be cured by disposition of sufficient nonqualifying assets within 30 days after the close of that quarter. We have maintained and intend to continue to maintain adequate records of the value of our assets to ensure compliance with the asset tests, and to take such other action within 30 days after the close of any quarter as may be required to cure any noncompliance.

Annual Distribution Requirements. In order to qualify as a REIT, we are required to distribute dividends (other than capital gain dividends) to our stockholders in an amount at least equal to (A) the sum of (i) 90% of our "REIT taxable income" (computed without regard to the dividends paid deduction and our net capital gain) and (ii) 90% of the net income (after tax), if any, from foreclosure property, minus (B) the sum of certain items of noncash income. Such distributions must be paid in the taxable year to which they relate, or in the following taxable year if declared before we timely file our tax return for such year and paid on or before the first regular dividend payment after such declaration. In addition, such distributions are required to be made pro rata, with no preference to any share of stock as compared with other shares of the same class, and with no preference to one class of stock as compared with another class except to the extent that such class is entitled to such a preference. To the extent that we do not distribute all of our net capital gain or do distribute at least 90%, but less than 100% of our "REIT taxable income," as adjusted, we will be subject to tax thereon at regular ordinary and capital gain corporate tax rates.

Furthermore, if we fail to distribute during a calendar year, or by the end of January following the calendar year in the case of distributions with declaration and record dates falling in the last three months of the calendar year, at least the sum of:

- 85% of our REIT ordinary income for such year;
- 95% of our REIT capital gain income for such year; and
- any undistributed taxable income from prior periods,

we will incur a 4% nondeductible excise tax on the excess of such required distribution over the amounts we actually distribute. We may elect to retain and pay income tax on the net long-term capital gain we receive in a taxable year. If we so elect, we will be treated as having distributed any such retained amount for purposes of the 4% excise tax described above. We have made, and we intend to continue to make, timely distributions sufficient to satisfy the annual distribution requirements. We may also be entitled to pay and deduct deficiency dividends in later years as a relief measure to correct errors in determining our taxable income. Although we may be able to avoid income tax on amounts distributed as deficiency dividends, we will be required to pay interest to the IRS based upon the amount of any deduction we take for deficiency dividends.

The availability to us of, among other things, depreciation deductions with respect to our owned facilities depends upon the treatment by us as the owner of such facilities for federal income tax purposes, and the classification of the leases with respect to such facilities as "true leases" rather than financing arrangements for federal income tax purposes. The questions of whether we are the owner of such facilities and whether the leases are true leases for federal tax purposes are essentially factual matters. We believe that we will be treated as the owner of each of the facilities that we lease, and such leases will be treated as true leases for federal income tax purposes. However, no assurances can be given that the IRS will not successfully challenge our status as the owner of our facilities subject to leases, and the status of such leases as true leases, asserting that the purchase of the facilities by us and the leasing of such facilities merely constitute steps in secured financing transactions in which the lessees are owners of the facilities and we are merely a secured creditor. In such event, we would not be entitled to claim depreciation deductions with respect to any of the affected facilities. As a result, we might fail to meet the 90% distribution requirement or, if such requirement is met, we might be subject to corporate income tax or the 4% excise tax.

Failure to Qualify

If we fail to qualify as a REIT in any taxable year, and the relief provisions do not apply, we will be subject to tax (including any applicable alternative minimum tax) on our taxable income at regular corporate rates. Distributions to stockholders in any year in which we fail to qualify will not be deductible and our failure to qualify as a REIT would reduce the cash available for distribution by us to our stockholders. In addition, if we fail to qualify as a REIT, all distributions to stockholders will be taxable as ordinary income, to the extent of current and accumulated earnings and profits, and, subject to certain limitations of the Code, corporate distributees may be eligible for the dividends received deduction. Unless entitled to relief under specific statutory provisions, we would also be disqualified from taxation as a REIT for the four taxable years following the year during which qualification was lost. It is not possible to state whether in all circumstances we would be entitled to such statutory relief. Failure to qualify could result in our incurring indebtedness or liquidating investments in order to pay the resulting taxes.

Other Tax Matters

We own and operate a number of properties through qualified REIT subsidiaries, "QRSs". The QRSs are treated as qualified REIT subsidiaries under the Code. Code Section 856(i) provides that a corporation which is a qualified REIT subsidiary shall not be treated as a separate corporation, and all assets, liabilities, and items of income, deduction, and credit of a qualified REIT subsidiary shall be treated as assets, liabilities and such items (as the case may be) of the REIT. Thus, in applying the tests for REIT qualification described in this prospectus under the heading "Taxation of Omega," the QRSs will be ignored, and all assets, liabilities and items of income, deduction, and credit of such QRSs will be treated as our assets, liabilities and items of income, deduction, and credit.

In the case of a REIT that is a partner in a partnership, the REIT is treated as owning its proportionate share of the assets of the partnership and as earning its allocable share of the gross

income of the partnership for purposes of the applicable REIT qualification tests. Thus, our proportionate share of the assets, liabilities, and items of income of any partnership, joint venture, or limited liability company that is treated as a partnership for federal income tax purposes in which we own an interest, directly or indirectly, will be treated as our assets and gross income for purposes of applying the various REIT qualification requirements.

Taxation of Stockholders

Taxation of Domestic Stockholders. As long as we qualify as a REIT, if you are a taxable U.S. stockholder, distributions made to you out of current or accumulated earnings and profits (and not designated as capital gain dividends) will be taken into account by you as ordinary income and will not be eligible for the dividends received deduction for corporations. Distributions that are designated as capital gain dividends will be taxed as long-term capital gains (to the extent they do not exceed our actual net capital gain for the taxable year) without regard to the period for which you have held our stock. However, if you are a corporation, you may be required to treat up to 20% of certain capital gain dividends as ordinary income. Distributions in excess of current and accumulated earnings and profits will not be taxable to you to the extent that they do not exceed the adjusted basis of your shares, but rather will reduce the adjusted basis of the shares. To the extent that distributions in excess of current and accumulated earnings and profits exceed the adjusted basis of your shares, you will include the distributions in income as long-term capital gain (or short-term capital gain if you have held the shares for one year or less) assuming the shares are a capital asset in your hands. In addition, any distribution declared by us in October, November or December of any year payable to you as a stockholder of record on a specified date in any of these months shall be treated as both paid by us and received by you on December 31 of that year, provided that the distribution is actually paid by us during January of the following calendar year. You may not include in your individual income tax returns any of our net operating losses or capital losses.

In general, any loss upon a sale or exchange of shares by you, if you have held the shares for six months or less (after applying certain holding period rules), will be treated as a long-term capital loss to the extent of distributions from us required to be treated by you as long-term capital gain.

Backup Withholding

Assuming that you are a U.S. stockholder, we will report to you and the IRS the amount of distributions paid during each calendar year, and the amount of tax withheld, if any. Under the backup withholding rules, you may be subject to backup withholding with respect to distributions paid unless you:

- are a corporation or come within certain other exempt categories and when required, demonstrate this fact; or
- provide a taxpayer identification number, certify as to no loss of exemption from backup withholding, and otherwise comply with applicable requirements of the backup withholding rules.

If you do not provide us with your correct taxpayer identification number, you may also be subject to penalties imposed by the IRS. Any amount paid as backup withholding will be creditable against your income tax liability. In addition, we may be required to withhold a portion of capital gain distributions to you, if you fail to certify your nonforeign status to us. See "*—Taxation of Stockholders—Taxation of Foreign Stockholders.*"

Treatment of Tax-Exempt Stockholders. If you are a tax-exempt employee pension trust or other domestic tax-exempt stockholder, our distributions to you generally will not constitute "unrelated business taxable income," or UBTI, unless you have borrowed to acquire or carry our common stock.

However, qualified trusts that hold more than 10% (by value) of certain REITs may be required to treat a certain percentage of that REIT's distributions as UBTI. This requirement will apply only if:

- the REIT would not qualify for federal income tax purposes but for the application of a "look-through" exception to the "five or fewer" requirement applicable to shares held by qualified trusts; and
- the REIT is "predominantly held" by qualified trusts.

A REIT is predominantly held if either:

- a single qualified trust holds more than 25% by value of the REIT interests; or
- one or more qualified trusts, each owning more than 10% by value of the REIT interests, hold in the aggregate more than 50% by value of the REIT interests.

The percentage of any REIT dividend treated as UBTI is equal to the ratio of the UBTI earned by the REIT (treating the REIT as if it were a qualified trust and therefore subject to tax on UBTI) to the total gross income (less certain associated expenses) of the REIT.

A de minimis exception applies where the ratio set forth in the preceding sentence is less than 5% for any year. For those purposes, a qualified trust is any trust described in section 401(a) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code. The provisions requiring qualified trusts to treat a portion of REIT distributions as UBTI will not apply if the REIT is able to satisfy the "five or fewer" requirement without relying upon the "look-through" exception. The restrictions on ownership of our common stock in our Amended and Restated Articles of Incorporation, as amended, will prevent application of the provisions treating a portion of REIT distributions as UBTI to tax-exempt entities purchasing our common stock, absent approval by our board of directors.

Taxation of Foreign Stockholders. The rules governing U.S. federal income taxation of nonresident alien individuals, foreign corporations, foreign partnerships and other foreign stockholders (collectively, Non-U.S. Stockholders) are complex and no attempt will be made herein to provide more than a summary of these rules. Prospective Non-U.S. Stockholders should consult with their own tax advisors to determine the impact of federal, state and local income tax laws with regard to an investment in shares, including any reporting requirements.

If you are a Non-U.S. Stockholder, the following discussion will apply to you. Distributions that are not attributable to gain from our sales or exchanges of U.S. real property interests and not designated by us as capital gains dividends will be treated as dividends of ordinary income to the extent that they are made out of our current or accumulated earnings and profits. Such distributions will ordinarily be subject to a withholding tax equal to 30% of the gross amount of the distribution unless an applicable tax treaty reduces or eliminates that tax.

However, if income from the investment in the shares is treated as effectively connected with your conduct of a U.S. trade or business, you generally will be subject to a tax at graduated rates, in the same manner as U.S. stockholders are taxed with respect to the distributions (and may also be subject to the 30% branch profits tax if you are a foreign corporation). We expect to withhold U.S. income tax at the rate of 30% on the gross amount of any distributions made to you unless:

- a lower treaty rate applies, you file an IRS Form W-8BEN with us and other conditions are met; or
- you file an IRS Form W-8ECI with us claiming that the distribution is effectively connected income, and other conditions are met.

Distributions in excess of our current and accumulated earnings and profits will not be taxable to you to the extent that the distributions do not exceed the adjusted basis of your shares, but rather will reduce the adjusted basis of the shares. To the extent that distributions in excess of current accumulated earnings and profits exceed the adjusted basis of your shares, these distributions will give rise to tax liability if you would otherwise be subject to tax on any gain from the sale or disposition of your shares in us, as described below. If it cannot be determined at the time a distribution is made whether or not the distribution will be in excess of current and accumulated earnings and profits, the distributions will be subject to withholding at the same rate as dividends. However, amounts thus withheld are refundable if it is subsequently determined that a distribution was, in fact, in excess of our current and accumulated earnings and profits.

For any year in which we qualify as a REIT, distributions that are attributable to gain from our sales or exchanges of U.S. real property interests will be taxed to you under the provisions of the Foreign Investment in Real Property Tax Act of 1980, or FIRPTA. Under FIRPTA, distributions attributable to gain from sales of U.S. real property interests are taxed to you as if the gain were effectively connected with a U.S. business. You would thus be taxed at the normal capital gain rates applicable to U.S. stockholders (subject to applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals). Also, distributions subject to FIRPTA may be subject to a 30% branch profits tax in the hands of a foreign corporate stockholder not entitled to a treaty exemption. We are required by applicable Treasury Regulations to withhold 35% of any distribution that could be designated by us as a capital gains dividend. This amount is creditable against your FIRPTA tax liability.

Gain recognized by you upon a sale of shares generally will not be taxed under FIRPTA if we are a "domestically controlled REIT," defined generally as a REIT in which at all times during a specified testing period less than 50% in value of the stock was held directly or indirectly by foreign persons. It is currently anticipated that we will be a "domestically controlled REIT," although there can be no assurance that we will retain that status. If we are not "domestically controlled," gain recognized by you will continue to be exempt under FIRPTA if you at no time owned more than five percent of our common stock. However, gain not subject to FIRPTA will be taxable to you if:

- investment in the shares is effectively connected with your U.S. trade or business, in which case you will be subject to the same treatment as U.S. stockholders with respect to the gain; or
- you are a nonresident alien individual who was present in the United States for more than 182 days during the taxable year and other applicable requirements are met, in which case you will be subject to a 30% tax on your capital gains.

If the gain on the sale of shares were to be subject to taxation under FIRPTA, you will be subject to the same treatment as U.S. stockholders with respect to the gain (subject to applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals).

If the proceeds of a sale of shares by you are paid by or through a U.S. office of a broker, the payment is subject to information reporting and to backup withholding unless you certify as to your name, address and non-U.S. status or otherwise establish an exemption. Generally, U.S. information reporting and backup withholding will not apply to a payment of disposition proceeds if the payment is made outside the U.S. through a non-U.S. office of a non-U.S. broker. U.S. information reporting requirements (but not backup withholding) will apply, however, to a payment of disposition proceeds outside the U.S. if:

- the payment is made through an office outside the U.S. of a broker that is: (a) a U.S. person; (b) a foreign person that derives 50% or more of its gross income for certain periods from the conduct of a trade or business in the U.S.; or (c) a "controlled foreign corporation" for U.S. federal income tax purposes; and

- the broker fails to initiate documentary evidence that you are a Non-U.S. Stockholder and that certain conditions are met or that you otherwise are entitled to an exemption.

Other Tax Consequences

New Legislation

On May 28, 2003, President George W. Bush signed into law the Jobs and Growth Tax Relief Reconciliation Act of 2003. This new tax law will reduce the maximum individual tax rate for long-term capital gains generally from 20% to 15% (for sales occurring after May 5, 2003 through December 31, 2008) and for dividends generally from 38.6% to 15% (for tax years from 2003 through 2008). Without future congressional action, the maximum tax rate on long-term capital gains will return to 20% in 2009, and the maximum rate on dividends will move to 35% in 2009 and 39.6% in 2011. Because we are not generally subject to federal income tax on the portion of our REIT taxable income or capital gains distributed to our stockholders, our dividends will generally not be eligible for the new 15% tax rate on dividends. As a result, our ordinary REIT dividends will continue to be taxed at the higher tax rates applicable to ordinary income. However, the 15% tax rate for long-term capital gains and dividends will generally apply to:

- your long-term capital gains, if any, recognized on the disposition of our shares;
- our distributions designated as long-term capital gain dividends (except to the extent attributable to "unrecaptured Section 1250 gain," in which case such distributions would continue to be subject to a 25% tax rate);
- our dividends attributable to dividends received by us from non-REIT corporations, such as taxable REIT subsidiaries; and
- our dividends to the extent attributable to income upon which we have paid corporate income tax (e.g., to the extent that we distribute less than 100% of our taxable income).

Although this legislation does not adversely affect the taxation of REITs or dividends paid by REITs, the more favorable treatment of regular corporate dividends could cause investors who are individuals to consider stocks of other corporations that pay dividends as more attractive relative to stocks of REITs. It is not possible to predict whether this change in perceived relative value will occur, or what the effect will be on the market price of our stock.

Possible Legislative or Other Actions Affecting Tax Consequences

Prospective holders of our securities should recognize that the present federal income tax treatment of investment in our company may be modified by legislative, judicial or administrative action at any time and that any of these actions may affect investments and commitments previously made. The rules dealing with federal income taxation are constantly under review by persons involved in the legislative process and by the IRS and the Treasury Department, resulting in revisions of regulations and revised interpretations of established concepts as well as statutory changes. Revisions in federal tax laws and interpretations thereof could adversely affect the tax consequences of investment in our company.

State and Local Taxes

We may be and you may be subject to state or local taxes in other jurisdictions such as those in which we may be deemed to be engaged in activities or own property or other interests. The state and local tax treatment of us may not conform to the federal income tax consequences discussed above.

PLAN OF DISTRIBUTION

We may sell the securities to one or more underwriters for public offering and sale by them and may also sell the securities to investors directly or through agents. We will name any underwriter or agent involved in the offer and sale of securities in the applicable prospectus supplement. We have reserved the right to sell or exchange securities directly to investors on our own behalf in those jurisdictions where we are authorized to do so.

We may distribute the securities from time to time in one or more transactions:

- at a fixed price or prices, which may be changed;
- at market prices prevailing at the time of sale;
- at prices related to such prevailing market prices; or
- at negotiated prices.

We may also, from time to time, authorize dealers, acting as our agents, to offer and sell securities upon the terms and conditions set forth in the applicable prospectus supplement. In connection with the sale of securities, we, or the purchasers of securities for whom the underwriters may act as agents, may compensate underwriters in the form of underwriting discounts or commissions. Underwriters may sell the securities to or through dealers, and those dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions from the purchasers for whom they may act as agent. Unless otherwise indicated in a prospectus supplement, an agent will be acting on a best efforts basis and a dealer will purchase securities as a principal, and may then resell the securities at varying prices to be determined by the dealer.

When securities are to be sold to underwriters, unless otherwise set forth in the applicable prospectus supplement, the underwriters' obligations to purchase those securities will be subject to certain conditions precedent. If the underwriters purchase any of the securities, they will be obligated to purchase all of the securities.

We will describe in the applicable prospectus supplement any compensation we pay to underwriters or agents in connection with the offering of securities, and any discounts, concessions or commissions allowed by underwriters to participating dealers. Dealers and agents participating in the distribution of securities may be deemed to be underwriters, and any discounts and commissions received by them and any profit realized by them on resale of the securities may be deemed to be underwriting discounts and commissions. We may enter into agreements to indemnify underwriters, dealers and agents against certain civil liabilities, including liabilities under the Securities Act of 1933, as amended, and to reimburse these persons for certain expenses.

To facilitate the offering of securities, certain persons participating in the offering may engage in transactions that stabilize, maintain, or otherwise affect the price of the securities. This may include over- allotments or short sales of the securities, which involve the sale by persons participating in the offering of more securities than we sold to them. In these circumstances, these persons would cover such over-allotments or short positions by making purchases in the open market or by exercising their over-allotment option, if any. In addition, these persons may stabilize or maintain the price of the securities by bidding for or purchasing securities in the open market or by imposing penalty bids, whereby selling concessions allowed to dealers participating in the offering may be reclaimed if securities sold by them are repurchased in connection with stabilization transactions. The effect of these transactions may be to stabilize or maintain the market price of the securities at a level above that which might otherwise prevail in the open market. These transactions may be discontinued at any time.

Certain of the underwriters, dealers or agents and their associates may engage in transactions with and perform services for us in the ordinary course of our business.

LEGAL MATTERS

Certain legal matters with respect to the securities offered hereby will be passed upon for us by Powell, Goldstein, Frazer & Murphy LLP.

EXPERTS

The consolidated financial statements and schedules of Omega Healthcare Investors, Inc. appearing in Omega Healthcare Investors, Inc. Annual Report (Form 10-K) for the year ended December 31, 2003, have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report thereon included therein and incorporated herein by reference. Such consolidated financial statements and schedules are incorporated herein by reference in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution

The following table sets forth the costs and expenses to be paid by the Company in connection with the offering of the securities registered. All amounts are estimates except for the registration fee.

SEC Registration Fee	\$ 43,744
Accounting Fees and Expenses	10,000
Legal Fees and Expenses	20,000
Rating Agency Fees	0
Listing Fees	0
Transfer Agent or Trustee Fees	0
Printing and Engraving Costs	5,000
Miscellaneous	1,256
	<hr/>
Total	\$ 80,000
	<hr/>

Item 15. Indemnification of Directors and Officers

The articles of incorporation and bylaws of the registrant provide for indemnification of directors and officers to the full extent permitted by Maryland law.

Section 2-418 of the General Corporation Law of the State of Maryland generally permits indemnification of any director or officer with respect to any proceedings unless it is established that: (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and was either committed in bad faith or the result of active or deliberate dishonesty; (b) the director or officer actually received an improper personal benefit in money, property or services; or (c) in the case of criminal proceedings, the director or officer had reasonable cause to believe that the act or omission was unlawful. The indemnity may include judgments, penalties, fines, settlements, and reasonable expenses actually incurred by the director or officer in connection with the proceedings; provided, however, that if the proceeding is one by, or in the right of, the corporation, indemnity is permitted only for reasonable expenses and not with respect to any proceeding in which the director shall have been adjudged to be liable to the corporation. The termination of any proceeding by judgment, order or settlement does not create a presumption that the director did not meet the requisite standard of conduct required for permitted indemnification. The termination of any proceeding by conviction, or plea of nolo contendere or its equivalent, or an entry of an order of probation prior to judgment, creates a rebuttable presumption that the director or officer did not meet that standard of conduct.

The company has entered into indemnity agreements with the officers and directors of the company that provide that the company will, subject to certain conditions, pay on behalf of the indemnified party any amount which the indemnified party is or becomes legally obligated to pay because of any act or omission or neglect or breach of duty, including any actual or alleged error or misstatement or misleading statement, which the indemnified party commits or suffers while acting in the capacity as an officer or director of the company.

Insofar as indemnification for liabilities arising under the Securities Act is permitted to directors and officers of the registrant pursuant to the above-described provisions, the registrant understands that the Commission is of the opinion that such indemnification contravenes federal public policy as expressed in said act and therefore is unenforceable.

Item 16. Exhibits

Exhibit Number	Description
1.1*	Form of Underwriting Agreement.
4.1	Form of Indenture.
4.2*	Form of Debt Security.
4.3*	Form of Articles Supplementary for Preferred Stock.
4.4*	Form of Preferred Stock Certificate.
4.5*	Form of Securities Warrant Agreement.
5.1	Opinion of Powell, Goldstein, Frazer & Murphy LLP as to the legality of the securities registered hereby.
8.1	Opinion of Powell, Goldstein, Frazer & Murphy LLP regarding certain tax matters.
12.1	Statement Regarding Computation of Ratio of Earnings to Fixed Charges.
12.2	Statement Regarding Computation of Earnings to Fixed Charges and Preferred Stock Dividends.
23.1	Consent of Ernst & Young LLP.
23.2	Consent of Powell, Goldstein, Frazer & Murphy LLP (included in Exhibit 5.1 and Exhibit 8.1 filed herewith).
24.1	Power of Attorney (included on signature page).
25.1	Statement of Eligibility of Trustee on Form T-1**

* To be filed by amendment or incorporated by reference in connection with any offering of Securities.

** To be filed separately pursuant to Section 305(b)(2) of the Trust Indenture Act of 1939, as amended.

Item 17. Undertakings

(a) The undersigned registrant hereby undertakes:

(i) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(ii) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(iii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering price may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate

offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iv) To include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in the registration statement.

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended, that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the such Act and will be governed by the final adjudication of such issue.

(d) The undersigned registrant hereby undertakes to file an application determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Act.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Timonium, State of Maryland, on this 23rd day of July, 2004.

OMEGA HEALTHCARE INVESTORS, INC.

By: _____ /s/ C. TAYLOR PICKETT

C. Taylor Pickett
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints C. Taylor Pickett and Robert O. Stephenson and each or any of them, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) and supplements to the within registration statement and to file the same, will all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on July 23, 2004.

Signature	Title
/s/ C. TAYLOR PICKETT	
C. Taylor Pickett	Chief Executive Officer and Director (Principal Executive Officer)
/s/ ROBERT O. STEPHENSON	
Robert O. Stephenson	Chief Financial Officer (Principal Financial and Accounting Officer)
/s/ THOMAS F. FRANKE	
Thomas F. Franke	Director
/s/ HAROLD J. KLOOSTERMAN	
Harold J. Kloosterman	Director
/s/ BERNARD J. KORMAN	
Bernard J. Korman	Director
/s/ EDWARD LOWENTHAL	
Edward Lowenthal	Director
/s/ STEPHEN D. PLAVIN	
Stephen D. Plavin	Director

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OMEGA HEALTHCARE INVESTORS, INC.

AND

Trustee

INDENTURE

Dated as of _____

Debt Securities

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Note: This Cross Reference table shall not, for any purpose, be deemed to be a part of the Indenture.

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INDENTURE

INDENTURE, dated as of _____ between OMEGA HEALTHCARE INVESTORS, INC., a Maryland corporation (hereinafter called the "Company"), and _____, a _____, as Trustee hereunder (hereinafter called the "Trustee").

RECITALS OF THE COMPANY

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its unsecured and unsubordinated or subordinated debt securities, unlimited as to principal amount, to bear such rates of interest, if any, to mature at such time or times, to be issued in one or more series and to have such other provisions as shall be fixed as hereinafter provided.

All things necessary to make this Indenture a valid agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

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

ARTICLE ONE DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 101. DEFINITIONS.

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

- (1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;
- (2) all other terms used herein which are defined in the TIA, either directly or by reference therein have the meaning assigned to them therein;
- (3) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles, and the term "generally accepted accounting principles" with respect to any computation required or permitted hereunder shall mean such accounting principles which are generally accepted at the date or time of such computation;
- (4) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (5) the word "or" is always used inclusively (for example, the phrase "A or B" means "A or B or both," not "either A or B but not both"); and
- (6) nouns and pronouns of the masculine gender include the feminine gender.

"Act" when used with respect to any Holder has the meaning specified in Section 104.

"Affiliate" of any specified person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purpose of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms, "controlling" and "controlled" have meanings correlative to the foregoing.

"Authenticating Agent" means any Person which shall at the time be appointed and acting, pursuant to Section 612, as an agent of the Trustee to authenticate Debt Securities.

"Beneficial Owner" means any Person who owns outstanding Debt Securities directly or beneficially or who is deemed to be an actual or constructive owner of such Debt Securities through the application of section 544, as modified by section 856(h)(1)(B), of the Internal Revenue Code of 1986, as amended. The terms "Beneficial Ownership" and "Beneficially Own" shall have correlative meanings.

"Board of Directors" means either the Board of Directors of the Company or any committee of the Board duly authorized to act in any matter relating hereto.

"Board Resolution" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors or a duly authorized committee thereof and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"Business Day" with respect to any Place of Payment means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions are authorized or obligated by law or executive order to close in that Place of Payment, or such other day as provided in or pursuant to an Officers Certificate or Supplemental Indenture referred to in Section 301.

"Common Stock" means the shares of common stock, \$.10 par value per share, of the Company.

"Company" means Omega Healthcare Investors, Inc. until a successor corporation shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Company" shall mean such successor corporation.

"Company Request" and "Company Order" mean, respectively, a written request or order signed in the name of the Company by the Chairman of the Board, a Vice Chairman, the President, or a Vice President (whether or not designated by a number or a word or words added before or after any such title), and by the Treasurer, an Assistant Treasurer, the Controller, an Assistant Controller, the Secretary or an Assistant Secretary of the Company, and delivered to the Trustee.

"Corporate Trust Office" means the office of the Trustee at which at any particular time its corporate trust business shall be conducted, which office, at the date of execution of this Indenture, is located at _____, Attention: _____.

"Corporation" whether or not such term is capitalized, includes corporations, associations, companies and business trusts.

"Debt Security" or Debt Securities means any Debt Security or Debt Securities, as the case may be, authenticated and delivered under this Indenture.

"Debt Securities Register" and "Debt Securities Registrar" have the respective meanings specified in Section 305.

"Defaulted Interest" has the meaning specified in Section 307.

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

"Event of Default" has the meaning specified in Section 501.

"Global Debt Security" means a Debt Security in the form prescribed in Section 204 evidencing all, or part of a series of Debt Securities, issued to the Depository for such series or its nominee, and registered in the name of such Depository or nominee.

"Government Obligations" means securities which are (i) direct obligations of the United States of America, for payment of which its full faith and credit is pledged or (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which are not callable or redeemable at the option of the issuer thereof.

"Holder," when used with respect to a Registered Debt Security, means the person in whose name such Debt Security is registered in the Debt Securities Register.

"Indenture" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, and shall include the form and terms of particular Debt Securities established as contemplated by Section 201 or 301.

"Interest Payment Date" with respect to any Debt Security means the Stated Maturity of an installment of interest on such Debt Security.

"Maturity" when used with respect to any Debt Security means the date on which the principal of such Debt Security becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

"Officers' Certificate" means a certificate signed by the Chairman of the Board, a Vice Chairman, the President or a Vice President (whether or not designated by a number or a word or words added before or after any such title) and by the Treasurer, an Assistant Treasurer, the Controller, an Assistant Controller, the Secretary or an Assistant Secretary of the Company, and delivered to the Trustee.

"Opinion of Counsel" means a written opinion of counsel, who may be an employee of or counsel for the Company or other counsel designated by the Company, acceptable to the Trustee.

"Original Issue Discount Debt Security" means a Debt Security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 502.

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

(i) Debt Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Debt Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Debt Securities provided that, if such Debt Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made; and

(iii) Debt Securities which have been paid pursuant to Section 306 or in exchange for or in lieu of which other Debt Securities have been authenticated and delivered pursuant to this Indenture other than any such Debt Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Debt Securities are held by a bona fide purchaser in whose hands such Debt Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite principal amount of outstanding Debt Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, the principal amount of an Original Issue Discount Debt Security that may be counted in making such determination and that shall be deemed to be Outstanding for such purposes shall be equal to the amount of the principal thereof that could be declared to be due and payable pursuant to the terms of such original Issue Discount Debt Security at the time the taking of such action by the Holders of such requisite principal amount is evidenced to the Trustee as provided in Section 104(a), and, provided further, that Debt Securities owned by the Company or any Affiliate of the Company shall be disregarded and deemed not to be outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Debt Securities which the Trustee knows to be so owned shall be so disregarded. Debt Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Debt Securities and that the pledgee is not the Company or any Affiliate of the Company.

"Paying Agent" means any Person authorized by the Company to pay the principal of (and premium, if any) or interest, if any, on any Debt Securities on behalf of the Company, and, subject to the provisions of Section 1003, may include the Company.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

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

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

"Redemption Date" when used with respect to any Debt Security to be redeemed means the date fixed for such redemption by or pursuant to this Indenture.

"Redemption Price" when used with respect to any Debt Security to be redeemed means the price at which it is to be redeemed pursuant to this Indenture.

"Registered Debt Security" means any Debt Security registered in the Debt Securities Register, and may include a Global Debt Security registered in the name of a Depository or its nominee.

"Regular Record Date" for the interest payable on any Interest Payment Date (other than at Maturity) on the Registered Debt Securities of any series means the date specified for that purpose as contemplated by Section 301.

"REIT" means a real estate investment trust qualified under Sections 856-860 of the Internal Revenue Code of 1986, as amended.

"Responsible Officer" when used with respect to the Trustee means any officer of the Trustee assigned by the Trustee to administer its corporate trust matters. In the absence of bad faith on the part of the Company or a Holder, the Company or the Holder, as the case may be, may conclusively rely upon the statement of an officer of the Trustee as to whether an officer (including the officer making the statement) is assigned by the Trustee to administer the Trustee's corporate trust matters.

"SEC" means the Securities and Exchange Commission.

"Special Record Date" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 307.

"Stated Maturity" when used with respect to any Debt Security or any installment of interest thereon means the date specified in such Debt Security as the fixed date on which the principal of such Debt Security or such installment of interest is due and payable.

"Subsidiary" means, with respect to any Person, any corporation or other entity of which a majority of (i) the voting power of the voting equity securities, or (ii) the outstanding equity interests of which are owned, directly or indirectly, by such Person. For the purposes of this definition, "voting equity securities" means equity securities having voting power for the election of directors, whether at all times or only so long as no senior class of security has such voting power by reason of contingency.

"Supplemental Indenture" means any Supplemental Indenture to this Indenture entered into pursuant to the provisions of Section 901 and 902 of this Indenture.

"TIA" means the Trust Indenture Act of 1939, as amended from time to time.

"Trustee" means the Person named as the Trustee in the first paragraph of this Indenture until a successor Trustee shall have become such with respect to one or more series of Debt Securities pursuant to the applicable provisions of this Indenture, and thereafter "Trustee" shall mean or include each person who is then a Trustee hereunder, and if at any time there is more than one such person, "Trustee" as used with respect to the Debt Securities of any series shall mean exclusively the Trustee with respect to the Debt Securities of that series.

SECTION 102. COMPLIANCE CERTIFICATES AND OPINIONS.

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

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

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

SECTION 103. FORM OF DOCUMENTS DELIVERED TO TRUSTEE.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of,

only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

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

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

SECTION 104. ACTS OF HOLDERS.

(1) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 601) conclusive in favor of the Trustee and the Company and any agent of the Trustee or the Company, if made in the manner provided in this Section.

(2) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a Person acting in other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority.

(3) The fact and date of the execution by any Person of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient, and the Trustee may in any instance require further proof with respect to any of the matters referred to in this Section.

The principal amount and serial numbers of Registered Debt Securities held by any Person, and the date of his holding the same, shall be proved by the Debt Securities Register.

(4) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act the Company may, at its option, by Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of

Outstanding Debt Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the outstanding Debt Securities shall be computed as of such record date; provided that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

(5) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Debt Security shall bind every future Holder of the same Debt Security and the Holder of every Debt Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done or suffered to be done by the Trustee, any Debt Securities Registrar, any Paying Agent or the Company in reliance thereon, whether or not notation of such action is made upon such Debt Security.

SECTION 105. NOTICES, ETC., TO TRUSTEE AND COMPANY.

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

(1) the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust Office, or

(2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (except as otherwise provided in Section 501 hereof) if in writing and mailed, first-class postage prepaid, to the Company addressed to the attention of its Secretary at _____ or at any other address previously furnished in writing to the Trustee by the Company.

SECTION 106. NOTICES TO HOLDERS; WAIVER.

Where this Indenture provides for notice to Holders of any event, unless, otherwise expressly provided herein or in the Officers' Certificate or Supplemental Indenture referred to in Section 301 with respect to Debt Securities of any series, such notice shall be sufficiently given if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at his address as it appears in the Debt Securities Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of any cause it shall be impracticable to give such notice, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

SECTION 107. COMMUNICATION BY HOLDERS WITH OTHER HOLDERS.

Communication among Holders with respect to their rights under this Indenture or the Debt Securities shall be made in accordance with the provisions of TIA 312(b). The Company, the Trustee, the Debt Securities Registrar or any agent thereof shall be afforded the protection provided under TIA Section 312(c).

SECTION 108. EFFECT OF HEADINGS AND TABLE OF CONTENTS.

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

SECTION 109. SUCCESSORS AND ASSIGNS.

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

SECTION 110. SEPARABILITY CLAUSE.

In case any provision in this Indenture or in the Debt Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 111. BENEFITS OF INDENTURE.

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

SECTION 112. GOVERNING LAW.

This Indenture and the Debt Securities shall be deemed to be a contract made under the laws of the State of New York and for all purposes shall be governed by and construed in accordance with the internal laws of the State of New York, except to the extent certain matters may be governed as a matter of law by federal law.

SECTION 113. LEGAL HOLIDAYS.

In any case where any Interest Payment Date, Redemption Date or Stated Maturity of any Debt Security shall not be a Business Day at a Place of Payment, then (notwithstanding any other provision of this Indenture or such Debt Security) payment of interest or principal (and premium, if any) need not be made on such date at such Place of Payment, but may be made on the next succeeding Business Day at such place of payment with the same force and effect as if made on the Interest Payment Date or Redemption Date or at the Stated Maturity, and no interest shall accrue for the period from and after such Interest Payment Date, Redemption Date or Stated Maturity, as the case may be.

SECTION 114. TRUST INDENTURE ACT CONTROLS.

If any provision of this Indenture limits, qualifies, or conflicts with another provision which is required to be included in this Indenture by the TIA, the required provision shall control.

SECTION 115. IMMUNITY OF STOCKHOLDERS, DIRECTORS, OFFICERS AND AGENTS OF THE COMPANY.

No recourse under or upon any obligation, covenant or agreement contained in this Indenture, or in any Debt Security, or because of any indebtedness evidenced thereby, shall be had against any past, present or future stockholder, employee, officer or director, as such, of the Company or any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Debt Securities by the Holders and as part of the consideration for the issue of the Debt Securities.

ARTICLE TWO
DEBT SECURITY FORMS

SECTION 201. FORM OF DEBT SECURITIES.

The Debt Securities of each series shall be in substantially the form (including any global form) as shall be established by or pursuant to a Board Resolution or in one or more Supplemental Indentures, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture (including such other provisions as are necessary to reflect the global form of any Debt Security, and the designation of a Depository for such Global Debt Security), and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or other laws, rules or regulations or as may, consistently herewith, be determined by the officers executing such Debt Securities, as evidenced by their execution of the Debt Securities.

The definitive Debt Securities shall be printed, lithographed or engraved or produced by any combination of these methods or may be produced in any other manner, all as determined by the officers executing such Debt Securities, as evidenced by their execution of such Debt Securities.

SECTION 202. FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION.

The Trustee's Certificate of Authentication on all Debt Securities shall be in substantially the following form:

This is one of the Debt Securities of the series designated herein referred to in the within-mentioned Indenture.

Date: [Name of Trustee], as Trustee

By

Authorized Signatory

SECTION 203. FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION BY AN AUTHENTICATING AGENT.

If at any time there shall be appointed an Authenticating Agent pursuant to Section 612, the Trustee's Certificate of Authentication by such Authenticating Agent on all Debt Securities shall be in substantially the following form:

This is one of the Debt Securities of the series designated herein referred to in the within-mentioned Indenture.

Date: [Name of Trustee], as Trustee

By [Name of Authenticating Agent]
Authenticating Agent

By

Authorized Signatory

SECTION 204. PROVISIONS IN GLOBAL DEBT SECURITY.

If Debt Securities of a series are issuable in whole or in part as Global Debt Securities, as specified as contemplated by Section 301, then, notwithstanding the provisions of Sections 301 and 302, any such Global Debt security shall represent such of the Outstanding Debt Securities of such series as shall be specified therein and may provide that it shall represent the aggregate principal amount of Outstanding Debt Securities from time to time endorsed thereon and that the aggregate principal amount of Outstanding Debt Securities represented thereby may from time to time be reduced to reflect exchanges and payments of principal. The Global Debt Securities may be permanent or temporary. Any endorsement of a Global Debt Security to reflect the amount, or any increase or decrease in the principal amount, of outstanding Debt Securities represented thereby shall be made by the Trustee in such manner and upon instructions given by such person or persons as shall be specified therein or in the Company order to be delivered to the Trustee pursuant to Section 303 or Section 304. Subject to the provisions of Section 303 and, if applicable, Section 304, the Trustee shall deliver and redeliver any permanent Global Debt Security in the manner and upon instructions given by the Person or Persons specified therein or in the applicable Company Order. If a Company Order pursuant to Section 303 or 304 has been or simultaneously is delivered, any instructions by the Company with respect to endorsement or delivery or redelivery of a Global Debt Security shall be in writing but need not comply with Section 102 and need not be accompanied by an Opinion of Counsel.

Notwithstanding the other provisions of this Indenture, unless otherwise specified as contemplated by Section 301, payment of principal of (and premium, if any) and interest, if any, on any permanent Global Debt Securities shall be made to the Person or Persons specified therein.

Notwithstanding the provisions of Section 308 and except as provided in the preceding paragraph, the Company, the Trustee and any agent of the Company and the Trustee shall treat a Person as the Holder of such principal amount of Outstanding Debt Securities represented by a permanent Global Debt Security as shall be specified in a written statement of the Depository with respect to such permanent Global Debt Security, only for purposes of obtaining any consents or directions required to be given by the Holders pursuant to this Indenture.

Unless otherwise provided as contemplated by Section 301 with respect to any series of Debt Securities, any Global Debt Security shall provide, in addition to the provisions established pursuant to Sections 201 and 301 and set forth in the preceding paragraphs, that the Depository will not sell, assign, transfer or otherwise convey any beneficial interest in such Global Debt Security unless such beneficial interest is in an amount equal to an authorized denomination for Debt Securities of such series, and that the Depository, by accepting such Global Debt Security, agrees to be bound by such provision. Any Global Debt Security shall also contain such other provisions as are necessary to reflect the global form of such Debt Security and the designation of a Depository for such Global Debt Security.

ARTICLE THREE
THE DEBT SECURITIES

SECTION 301. AMOUNT UNLIMITED: ISSUABLE IN SERIES.

The aggregate principal amount of Debt Securities which may be authenticated and delivered under this Indenture is unlimited.

The Debt Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution, and set forth in or determined in the manner described in an Officers' Certificate, or established in one or more Supplemental Indentures:

- (1) the title of the Debt Securities and the series in which such Debt Securities shall be included;

- (2) any limit upon the aggregate principal amount of the Debt Securities of that series which may be authenticated and delivered under this Indenture (except for Debt Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Debt Securities of that series pursuant to Section 304, 305, 306, 905 or 1107) and the percentage of their principal amount at which the Debt Securities will be issued;
- (3) the date or dates on which the principal of the Debt Securities of that series is payable or the manner of determining the same;
- (4) the rate or rates at which the Debt Securities of that series shall bear interest, or the manner of determining the same, the date or dates from which such interest shall accrue, or the manner of determining the same, the Interest Payment Dates on which such interest shall be payable and the Regular Record Date for the determination of Holders to whom interest shall be payable on any Interest Payment Date, and the basis upon which interest shall be calculated if other than that of a year of twelve 30-day months;
- (5) the place or places where the principal of (and premium, if any) and interest, on the Debt Securities of that series shall be payable and the method of such payment;
- (6) the period or periods within which, the price or prices at which and the terms and conditions upon which the Debt Securities of that series may be redeemed, in whole or in part, at the option of the Company;
- (7) the obligation, if any, of the Company to redeem or purchase Debt Securities of that series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices at which and the terms and conditions upon which Debt Securities of that series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;
- (8) if other than denominations of U.S. \$100,000 and any integral multiple of U.S. \$1,000 above U.S. \$100,000, the denominations in which the Debt Securities of that series shall be issuable;
- (9) if other than the principal amount thereof, the portion of the principal amount of the Debt securities of that series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 502;
- (10) the currency or currencies, including composite currencies or units of two or more currencies, in which the payment of the principal of (and premium, if any) and interest on the Debt Securities of that series shall be payable (if other than currency of the United States of America);
- (11) the provisions, if any, relating to the conversion or exchange of the Debt Securities of any series into Debt Securities of another series or into Common Stock;
- (12) any additional covenants and events of default and the remedies with respect thereto concerning the Debt Securities of that series if not set forth herein;
- (13) whether any Debt Securities of the series are to be issued in whole or in part in the form of one or more Global Debt Securities and, if so, the Depositary for such Global Debt Security or Debt Securities (which Depositary shall be, if then required by applicable law or regulation, a clearing agency registered under the Securities Exchange Act of 1934, as amended, and any other applicable statute or regulation) and whether beneficial owners of interests in such Global Debt Security or Debt Securities may exchange such interests for Debt Securities of such series and of like tenor and of any authorized form and denomination and the circumstances under which any such exchanges may occur, if other than in the manner provided in Section 305);
- (14) the identity of the Trustee for the Debt Securities of the series and if not the Trustee, the identity of each Paying Agent and Debt Securities Registrar for the Debt Securities of the series; and

(15) any other terms of the Debt Securities of that series.

All Debt Securities of any one series shall be substantially identical except as to denomination, currency, the rate or rates of interest, and the Maturity and except as may otherwise be provided in or pursuant to such Board Resolution and set forth, or determined in the manner described in such Officers' Certificate, or in any such Supplemental Indenture hereto. All Debt Securities of any one series need not be issued at the same time, and, unless otherwise provided, a series may be reopened for issuances of additional Debt Securities of that series.

Unless otherwise established in or pursuant to an Officers' Certificate, or in one or more Supplemental Indenture hereto, at the option of the Company, interest on the Debt Securities of any series that bears interest may be paid by mailing a check to the address of the person entitled thereto as such address shall appear in the Debt Securities Register.

If the form of Debt Securities of any series is established by action taken, pursuant to a Board Resolution, an appropriate Officers' Certificate setting forth such form together with a copy of the Board Resolution shall be delivered to the Trustee at or prior to the delivery of the order contemplated by Section 303 for the authentication and delivery of such Debt Securities.

SECTION 302. DENOMINATIONS.

The Debt Securities of each series may be issued as Registered Debt Securities, Global securities, or in any combination thereof, and in such denominations and amounts, all as from time to time set forth in an Officers' Certificate or Supplemental Indenture referred to in Section 301.

SECTION 303. EXECUTION, AUTHENTICATION, DELIVERY AND DATING.

The Debt Securities shall be executed on behalf of the Company by its Chairman of the Board, one of its Vice Chairmen, its President or one of its Vice Presidents (whether or not designated by a number or a word or words added before or after any such title) under its corporate seal reproduced thereon and attested by its Secretary or one of its Assistant Secretaries. The signature of any or all of these officers on the Debt Securities may be manual or facsimile.

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

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Debt Securities of any series executed by the Company, to the Trustee for authentication, together with the Officers' Certificate or Supplemental Indenture with respect to such Debt Securities referred to in Section 301 and a Company Order for the authentication and delivery of such Debt Securities, and the Trustee, in accordance with the Company Order, but subject to the provisions hereof, shall authenticate and deliver such Debt Securities. Such Company Order may provide that Debt Securities which are the subject thereof will be authenticated and delivered by the Trustee upon the order of Persons designated in said Company Order communicated to the Trustee in writing and that such Persons are authorized to determine such terms and conditions of said Debt Securities as are specified in the Company Order. In authenticating such Debt Securities, and accepting the additional responsibilities under this Indenture in relation to such Debt Securities, the Trustee shall be entitled to receive, and (subject to Section 601) shall be fully protected in relying upon, an Opinion of Counsel stating:

(a) that the form and terms of such Debt Securities have been established in conformity with the provisions of this Indenture; and

(b) that all conditions precedent to the authentication and delivery of such Debt Securities have been complied with and that such Debt Securities, when completed by appropriate insertions, authenticated and delivered by the Trustee, issued by the Company and sold in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, conservatorship, receivership and other laws or, equitable principles relating to or affecting creditors rights generally and by general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law.

The Opinion of Counsel may also advise that the enforceability of the Debt Securities and the Indenture is subject to the effect of general principles of equity including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law.

If all the Debt Securities of any series are not to be issued at one time, it shall not be necessary to deliver an opinion of Counsel at the time of issuance of each Debt Security of that series, but such opinion, with appropriate modifications, shall be delivered at or before the time of issuance of the first Debt Security of such series.

The Trustee shall not be required to authenticate such Debt Securities if the issue of such Debt Security, pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Debt Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee or if the Trustee being advised by counsel determines that such action may not lawfully be taken.

Each Debt Security shall be dated the date of its authentication.

No Debt Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless there appears on such Debt Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by the manual signature of one of its authorized signatories or authorized Authenticating Agents, and such certificate upon any Debt Security shall be conclusive evidence, and the only evidence, that such Debt Security has been duly authenticated and delivered hereunder.

SECTION 304. TEMPORARY DEBT SECURITIES.

Pending the preparation or distribution of definitive Debt Securities of any series, the Company may execute and deliver to the Trustee, and upon Company Order the Trustee shall authenticate and deliver in the manner provided in Section 303, a temporary Debt Security or temporary Debt Securities of that series which are printed, lithographed, typewritten, reproduced or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Debt Securities in lieu of which they are issued or in such form as may be prescribed in the Officers' Certificate or Supplemental Indenture referred to in Section 301 with respect to such Debt Securities, and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Debt Securities may determine, as evidenced by the their execution of such Debt Securities.

Except in the case of temporary Global Debt Securities, which shall be exchanged in accordance with the provisions thereof, if temporary Debt Securities are issued, the Company shall cause definitive Debt Securities to be prepared without unreasonable delay. After the preparation of definitive Debt Securities, the temporary Debt Security or temporary Debt Securities of that series shall be exchanged for definitive Debt Securities of that series containing identical terms and provisions upon surrender of the temporary Debt Securities of that series, at an office or agency of the Company maintained for such purpose pursuant to Section 1002, without charge to the Holder, or in such other manner as set

forth in the Officers' Certificate or Supplemental Indenture referred to in Section 301 with respect to such Debt Securities. Upon surrender for cancellation of any one or more temporary Debt Securities of any series, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Debt Securities of authorized denominations of the same series containing identical terms and provisions. Except as set forth in the Officers' Certificate or Supplemental Indenture referred to in Section 301 with respect to such Debt Securities, until so exchanged, the temporary Debt Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Debt Securities of that series authorized and delivered hereunder.

SECTION 305. REGISTRATION, REGISTRATION OF TRANSFER AND EXCHANGE.

The Company shall cause to be kept at the office of the Debt Securities Registrar designated pursuant to this Section 305 or Section 1002 a register (herein sometimes referred to as the "Debt Securities Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of each series of Debt Securities and of transfers of each series of Debt Securities. The Trustee is hereby initially appointed "Debt Securities Registrar" for the purpose of registering Debt Securities and transfers of Debt Securities as herein provided.

Except as set forth in the Officers' Certificate or Supplemental Indenture referred to in Section 301 with respect to any Debt Securities of a series, upon surrender for registration of transfer of any Debt Security of any series at any office or agency of the Company maintained for such purpose pursuant to Section 1002, the Company shall execute, and the Trustee shall authenticate and deliver in the name of the designated transferee or transferees, one or more new Debt Securities of authorized denominations of the same series containing identical terms and provisions, of a like aggregate principal amount.

Except as set forth in the Officers' Certificate or Supplemental Indenture referred to in Section 301 with respect to any Debt Securities of a series, at the option of the Holder, Debt Securities of any series may be exchanged for other Debt Securities of authorized denominations of the same series containing identical terms and provisions, of like aggregate principal amount, upon surrender of the Debt Securities to be exchanged at such office or agency. Whenever any Debt Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Debt Securities which the Holder making the exchange is entitled to receive.

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

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

No service charge shall be made for any registration of transfer or exchange of Debt Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Debt Securities, other than exchanges pursuant to Section 304, 905 or 1107 not involving any transfer.

In the event of redemption in part, the Company shall not be required, (i) to register the transfer of or exchange Registered Debt Securities for a period of 15 days immediately preceding the date notice is given identifying the serial numbers of the Debt Securities called for such redemption or (ii) to register the transfer of or exchange any Registered Debt Securities, or portion thereof, called for redemption except, in the case of any Registered Debt securities to be redeemed in part, the unredeemed portion of such Registered Debt Securities being redeemed in part.

If at any time the Depository for the Debt Securities of a series issued in the form of one or more Global Debt Securities notifies the Company that it is unwilling or unable to continue as Depository for the Debt Securities of such series or if at any time the Depository for the Debt Securities of such series shall no longer be eligible under Section 301, the Company shall appoint a successor Depository with respect to the Debt Securities of such series. If a successor Depository for the Debt Securities of such series is not appointed by the Company within ninety (90) days after the Company receives such notice or becomes aware of such ineligibility, the Company's election to issue Global Debt Securities pursuant to Section 301 shall no longer be effective with respect to the Debt Securities of such series and the Company will execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Debt Securities of such series, will authenticate and deliver, Debt Securities of such series in definitive form in an aggregate principal amount equal to the principal amount of the Global Debt Security or Debt Securities representing such series in exchange for such Global Debt Security or Debt Securities.

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

Unless and until a Global Debt Security is exchanged in whole or in part for Debt Securities in definitive form in accordance with the provisions of this Indenture, a Global Debt Security may not be transferred except as a whole by the Depository with respect to such Global Debt Security to a nominee of such Depository or by a nominee of such Depository to such Depository or another nominee of such Depository or by such Depository or any such nominee to a successor of such Depository or a nominee of such successor. Unless otherwise provided as contemplated by Section 301 with respect to any series of Debt Securities evidenced in whole or in part by a Global Debt Security, the Depository may not sell, assign, transfer or otherwise convey any beneficial interest in a Global Debt Security evidencing all or part of the Debt Securities of such series unless such beneficial interest is in an amount equal to an authorized denomination for Debt Securities of such series.

Notwithstanding the foregoing, except as otherwise specified as contemplated by Section 301, any Global Debt Security shall be exchangeable only as provided in this paragraph. If the beneficial owners of interests in a Global Debt Security are entitled to exchange such interests for Debt Securities of such series and of like tenor and principal amount of another authorized form and denomination, as specified as contemplated by Section 301, then without unnecessary delay but in any event not later than one Business Day prior to the earliest date on which such interests may be so exchanged, the Company shall deliver to the Trustee definitive Debt Securities of such series in aggregate principal

amount equal to the principal amount of such Global Debt Securities, executed by the Company. On or after the earliest date on which such interests may be so exchanged, such Global Debt Securities shall be surrendered by the Depositary as shall be specified in the Company Order with respect thereto to the Trustee, as the Company's agent for such purpose, to be exchanged, in whole or from time to time in part, for definitive Debt Securities of such series without charge and the Trustee shall authenticate and deliver, in exchange for each portion of such Global Debt Securities, a like aggregate principal amount of definitive Debt Securities of the same series of authorized denominations and of like tenor as the portion of such Global Debt securities to be exchanged as shall be specified by the beneficial owner thereof provided, however, that no such exchanges may occur for a period of 15 days immediately preceding the date notice is given identifying the serial numbers of the Debt securities called for redemption; if a Registered Debt Security of any series is issued in exchange for any portion of a Global Debt Security after the close of business at the office or agency where such exchange occurs on (1) any Regular Record Date and before the opening of business at such office or agency on the relevant Interest Payment Date, or (2) any Special Record Date and before the opening of business at such office or agency on the related proposed date for payment of Defaulted Interest, interest or Defaulted Interest, as the case may be, will not be payable on such Interest Payment Date or proposed date for payment, as the case may be, in respect to such Registered Debt Securities, but will be payable on such Interest Payment Date or proposed date for payment, as the case may be, only to the person to whom interest in respect of such portion of such Global Debt Securities is payable in accordance with the provisions of this Indenture.

SECTION 306. MUTILATED, DESTROYED, LOST AND STOLEN DEBT SECURITIES.

If there is delivered to the Trustee any mutilated Debt Security and such security or indemnity as may be required by the Trustee to save the Trustee and the Company harmless, then the Company shall execute and the

Trustee shall authenticate and deliver in exchange therefor a new Debt Security of the same series of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there is delivered to the Company and to the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Debt Security, and (ii) such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Company or the Trustee that such Debt Security has been acquired by a bona fide purchaser, the Company shall execute and upon its request the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Debt Security, a new Debt Security of the same series of like tenor and principal amount and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Debt Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Debt Security, pay such Debt Security.

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

Every new Debt Security of any series issued pursuant to this Section in lieu of any destroyed, lost or stolen Debt Security shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Debt Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Debt Securities of that series duly issued hereunder.

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

SECTION 307. PAYMENT OF INTEREST: INTEREST RIGHTS PRESERVED.

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

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

(1) The Company may elect to make payment of any Defaulted Interest to the persons in whose names the Registered Debt Securities affected (or their respective predecessor Debt Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Registered Debt Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Clause (1) provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of such Registered Debt Securities at his address as it appears in the Debt Securities Register not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names such Registered Debt Securities (or their respective predecessor Debt Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Registered Debt Securities affected may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause (2), such manner of payment shall be deemed practicable by the Trustee.

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

SECTION 308. PERSONS DEEMED OWNERS.

Prior to due presentment of a Debt Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the person in whose name such Debt Security is registered as the owner of such Debt Security for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 307) interest, if any, on such Debt Security and for all other purposes whatsoever, whether or not such Debt Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Notwithstanding the foregoing, with respect to any Global Debt Security, nothing herein shall prevent the Company, the Trustee, or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by a Depository or impair, as between a Depository and holders of beneficial interests in any Global Debt Security.

SECTION 309. CANCELLATION.

All Debt Securities surrendered for payment, redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee, and any such Debt Securities and Debt Securities surrendered directly to the Trustee for any such purpose shall be retained in the possession of the Trustee for cancellation in the case of redemption or reissuance upon subsequent exchanges. The Company may at any time deliver to the Trustee for cancellation any Debt Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Debt Securities so delivered shall be promptly canceled by the Trustee unless otherwise instructed by the Company. No Debt Securities shall be authenticated in lieu of or in exchange for any Debt Securities canceled as provided in this Section, except as expressly permitted by this Indenture. Upon written instructions of the Company, all canceled Debt Securities shall be destroyed by the Trustee and the Trustee shall deliver a certificate of such destruction to the Company.

SECTION 310. COMPUTATION OF INTEREST.

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

ARTICLE FOUR
SATISFACTION AND DISCHARGE

SECTION 401. SATISFACTION AND DISCHARGE OF INDENTURE.

This Indenture shall cease to be of further effect (except as to any surviving rights of registration of transfer, conversion or exchange of Debt Securities herein expressly provided for), and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when

(1) either

(A) all Debt Securities theretofore authenticated and delivered (other than (i) Debt Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 306, and (ii) Debt Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 1003), have been delivered to the Trustee for cancellation; or

(B) all such Debt Securities not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) if redeemable at the option of the Company, are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company, in the case of (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Debt Securities not theretofore delivered to the Trustee for cancellation, for principal of (and premium, if any) and interest, if any, to the date of such deposit (in the case of Debt Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be:

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Article Six, (ii) the obligations of the Trustee to any Authenticating Agent under Section 612, (iii) if money shall have been deposited with the Trustee pursuant to paragraph (B) of this Section, the rights, powers, protections, trusts, duties and indemnities of the Trustee hereunder, and (iv) the Company's obligations with respect to such Debt Securities under Sections 304, 305, 306, 1002, 1003, and 1006, the obligations of the Trustee under Section 402 and the last paragraph of Section 1003, shall in each case survive.

SECTION 402. APPLICATION OF TRUST MONEY.

Subject to the provisions of the last paragraph of Section 1003, all money deposited with the Trustee pursuant to Section 401 shall be held in trust and applied by it, in accordance with the provisions of the Debt Securities and this Indenture, to the payment, either directly or through the Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest, if any, for whose payment such money has been deposited with the Trustee.

ARTICLE FIVE REMEDIES

SECTION 501. EVENTS OF DEFAULT.

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

(1) default in the payment of any interest upon any Debt Security of that series when it becomes due and payable, and continuance of such default for a period of 30 days; or

(2) default in the payment of the principal of (or premium, if any) on any Debt Security of that series when it becomes due and payable; or

(3) default in the deposit of any sinking fund payment when the same shall become due and payable by the terms of any Debt Security of that series; or

(4) default in the performance, or breach, of any covenant or warranty of the Company in this Indenture (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section specifically dealt with or which has been expressly included in this Indenture solely for the benefit of a series of Debt Securities other than that series), and continuance of such default or breach for a period of 60 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 10% in principal amount of the Outstanding Debt Securities of that series a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(5) a receiver, liquidator, assignee, custodian, trustee, conservator, sequestrator or other similar official shall take possession of the Company or any substantial part of its property without its consent, or the entry of a decree or order for relief by a court having jurisdiction in the premises in respect of the Company in an involuntary case under the Federal Bankruptcy Code or any other applicable Federal or State law, or appointing a receiver, liquidator, custodian, assignee, trustee, sequestrator, conservator, or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such possession, decree or order unstayed and in effect for a period of 60 consecutive days; or

(6) the commencement by the Company of a voluntary case under the Federal Bankruptcy Code or any other applicable Federal or State law, or the consent by either of the foregoing to the entry of an order for relief in an involuntary case under any such law, or the consent by the Company to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, conservator, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by the Company of an assignment for the benefit of creditors; or

(7) any other Event of Default provided with respect to Debt Securities of that series.

SECTION 502. ACCELERATION OF MATURITY: RESCISSION AND ANNULMENT.

If an Event of Default occurs with respect to Debt Securities of any series and is continuing, then and in every such case the Trustee (upon obtaining knowledge of such Event of Default) or the Holders of not less than 25% in principal amount of the Outstanding Debt Securities of that series may declare the principal (or, if any Debt Securities are Original Issue Discount Securities such portion of the principal as may be specified in the terms hereof), of all the Debt Securities of that series, and the premium, if any, to be due and payable, immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), and upon any such declaration such principal or specified portion thereof shall become immediately due and payable. If an Event of Default with respect to Debt Securities of any series set forth in Section 501 (6) of the Indenture occurs and is continuing, then in every such case all Outstanding Debt Securities of that series shall become immediately due and payable, without notice to the Company, at the principal amount thereof (or, if any of the Debt Securities of that series are Original Issue Discount Debt Securities, such portion of the principal as may be specified in the terms thereof) plus accrued interest to the date the Debt Securities of that series are paid, plus the premium, if any, on the Debt Securities of that series.

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

(1) the Company has paid or deposited with the Trustee a sum sufficient to pay

(A) all overdue installments of interest, if any, on all Debt Securities of that series,

(B) the principal of (and premium, if any, on) any Debt Securities of that series which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates borne by or provided for in such Debt Securities,

(C) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates borne by or provided for in such Debt Securities, and

(D) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

(2) all Events of Default with respect to Debt Securities of that series, other than the non-payment of the principal of Debt Securities of that series which has become due solely by such acceleration, have been cured or waived as provided in Section 513.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

Upon receipt by the Trustee of any declaration of acceleration, or rescission and annulment thereof, with respect to Debt Securities of a series all or part of which is represented by a Global Debt Security, the Trustee shall establish a record date for determining Holders of outstanding Debt Securities of such series entitled to join in such declaration of acceleration, or rescission and annulment, as the case may be, which record date shall be at the close of business on the day the Trustee receives such declaration of acceleration, or rescission and annulment, as the case may be. The Holders on such record date, or their duly designated proxies, and only such persons, shall be entitled to join in such declaration of acceleration, or rescission and annulment, as the case may be, whether or not such Holders remain Holders after such record date; provided, that unless such declaration of acceleration, or rescission and annulment, as the case may be, shall have become effective by virtue of the requisite percentage having been obtained prior to the day which is ninety (90) days after such record date, such declaration of acceleration, or rescission and annulment, as the case may be, shall automatically without further action by any Holder be canceled and of no further effect. Nothing in this paragraph shall prevent a Holder, or a proxy of a Holder, from giving, after expiration of such ninety (90) day period, a new declaration of acceleration, or rescission or annulment thereof, as the case may be, that is identical to a declaration of acceleration, or rescission or annulment thereof, which has been canceled pursuant to the proviso to the preceding sentence, in which event a new record date shall be established pursuant to the provisions of this Section 502.

SECTION 503. COLLECTION OF INDEBTEDNESS AND SUITS FOR ENFORCEMENT BY TRUSTEE.

The Company covenants that if

(1) default is made in the payment of any installment of interest on any Debt Security when such interest becomes due and payable and such default continues for a period of 30 days, or

(2) default is made in the payment of the principal of (or premium, if any, on) any Debt Security at the Maturity thereof or in the deposit of any sinking fund payment, if any, when the same shall have become payable,

the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Debt Securities, the whole amount then due and payable on such Debt Securities for principal (and premium, if any) and interest, if any, with interest upon the overdue principal (and premium, if any) and, to the extent that payment of such interest is lawful, upon overdue installments of interest, at the rate or rates borne by or provided for in such Debt Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

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

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

SECTION 504. TRUSTEE MAY FILE PROOFS OF CLAIM.

In case of the pendency of any receivership, conservatorship, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial or other proceeding relative to the Company upon the Debt Securities or the property of the Company or its creditors, the Trustee (irrespective of whether the principal of the Debt Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal, premium or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(1) to file and prove a claim for the whole amount of principal (and premium, if any) and interest, if any, owing and unpaid in respect of the Debt Securities and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

(2) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

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

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Debt Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 505. TRUSTEE MAY ENFORCE CLAIMS WITHOUT POSSESSION OF DEBT SECURITIES.

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

SECTION 506. APPLICATION OF MONEY COLLECTED.

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

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

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

THIRD: The balance, if any, to the Company or any other person or persons entitled thereto.

SECTION 507. LIMITATION ON SUITS.

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

- (1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Debt Securities of that series;
- (2) the Holders of not less than 25% in principal amount of the Outstanding Debt Securities of that series have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;
- (3) such Holder or Holders have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;
- (4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) no direction inconsistent with such written request has been given to the Trustee during such 60 day period by the Holders of a majority in principal amount of the Outstanding Debt Securities of that series;

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

SECTION 508. UNCONDITIONAL RIGHT OF HOLDERS TO RECEIVE PRINCIPAL, PREMIUM AND INTEREST.

Notwithstanding any other provision in this Indenture, the Holder of any Debt Security shall have the right, which is absolute and unconditional, to receive payment of the principal of (and premium, if any) and (subject to Section 307) interest (including any additional interest provided for in an Officers Certificate or Supplemental Indenture referred to in Section 301 with respect to any Debt Securities of a series), if any, on such Debt Security on the respective Stated Maturities expressed in such Debt Security (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder.

SECTION 509. RESTORATION OF RIGHTS AND REMEDIES.

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

SECTION 510. RIGHTS AND REMEDIES CUMULATIVE.

No right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 511. DELAY OR OMISSION NOT WAIVER.

To the extent permitted by law, no delay or omission of the Trustee or of any Holder of any Debt Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 512. CONTROL BY HOLDERS.

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

- (1) such direction shall not be in conflict with any rule of law or with this Indenture,
- (2) the Trustee shall not determine that the action so directed would be unjustly prejudicial to Holders of Debt Securities of that series, or any other series not taking part in such direction, and
- (3) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; and
- (4) such holder or Holders shall have provided to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request or direction.

Upon receipt by the Trustee of any purported direction with respect to Debt Securities of a series all or part of which is represented by a Global Debt Security, the Trustee shall establish a record date for determining Holders of Outstanding Debt Securities of such series entitled to join in such direction, which record date shall be at the close of business on the day the Trustee receives such direction. The Holders on such record date, or their duly designated proxies, and only such persons, shall be entitled to join in such direction, whether or not such holders remain Holders after such record date; provided, that unless such majority in principal amount shall have been obtained prior to the day which is ninety (90) days after such record date, such direction shall automatically and without further action by any Holder be canceled and of no further effect. Nothing in this paragraph shall prevent a Holder, or a proxy of a Holder, from giving, after expiration of such ninety (90) day period, a new direction identical to a direction which has been canceled pursuant to the proviso to the preceding sentence, in which event a new record date shall be established pursuant to the provisions of this Section 512.

SECTION 513. WAIVER OF PAST DEFAULTS.

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

(1) in the payment of the principal of (or premium, if any) or interest, if any, on any Debt Security of that series, or

(2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Debt Security of that series affected.

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

SECTION 514. UNDERTAKING FOR COSTS.

All parties to this Indenture agree, and each Holder of any Debt Security by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit, other than the Trustee, of an undertaking to pay the costs of such suit, and that such court may in its discretion, assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, including the Trustee, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, or any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Outstanding Debt Securities of any series, or to any suit instituted by any Holder for the enforcement of the payment of the principal of (or premium, if any) or interest, if any, on any Debt Security on or after the Stated Maturity expressed in such Debt Security (or, in the case of redemption, on or after the Redemption Date).

SECTION 515. WAIVER OF STAY OR EXTENSION LAWS.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, nor or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the exercise of any power herein granted to the Trustee, but will suffer and permit the exercise of every such power as though no such law had been enacted.

ARTICLE SIX
THE TRUSTEE

SECTION 601. CERTAIN DUTIES AND RESPONSIBILITIES.

(1) Except during the continuance of an Event of Default,

(a) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and, to the extent lawful, no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(b) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to

be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(2) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his or her own affairs.

(3) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(a) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(b) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Debt Securities of any series relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Debt Securities of that series; and

(c) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(4) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 602. NOTICE OF DEFAULTS.

Within 90 days after the occurrence of any Event of Default hereunder with respect to the Debt Securities of any series, the Trustee shall transmit in the manner specified under Section 106 to all Holders of Debt Securities of that series (including Holders identified in TIA Section 315(b)), notice of such Event of Default hereunder known to the Trustee, unless such Event of Default shall have been cured or waived; provided, however, that, except in the case of a default in the payment of the principal of (or premium, if any) or interest, if any, on any Debt Security of that series, or in the payment of any sinking fund payment with respect to Debt Securities of that series, the Trustee shall be protected in withholding such notice if the Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of Debt Securities of that series; and provided further, that in the case of any Event of Default of the character specified in Section 501(4) with respect to Debt Securities of that series, no such notice to Holders shall be given until at least 60 days after the occurrence thereof.

SECTION 603. CERTAIN RIGHTS OF TRUSTEE.

Subject to the provisions of Section 601,

(1) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, Debt Security or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties;

(2) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board of Resolution;

(3) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate and an Opinion of Counsel;

(4) the Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(5) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(6) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, Debt Security or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney;

(7) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder; and

(8) the Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

SECTION 604. NOT RESPONSIBLE FOR RECITALS OR ISSUANCE OF DEBT SECURITIES.

The recitals contained herein and in the Debt Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Debt Securities. The Trustee shall not be accountable for the use or application by the Company of the Debt Securities or the proceeds thereof.

SECTION 605. MAY HOLD DEBT SECURITIES.

The Trustee, any Paying Agent, the Debt Securities Registrar or any other agent of the Company or the Trustee, in its individual or any other capacity, may become the owner or pledgee of Debt Securities and may otherwise deal with the Company with the same rights it would have if it were not Trustee, Paying Agent, Debt Securities Registrar or such other agent.

SECTION 606. MONEY HELD IN TRUST.

Money held by the Trustee in trust hereunder need not be segregated from other funds of the Trustee except to the extent required by law. Such amounts shall be invested by the Trustee solely at the written direction of the Company. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company.

SECTION 607. COMPENSATION, REIMBURSEMENT AND INDEMNITY.

The Company agrees:

(1) to pay to the Trustee from time to time reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except to the extent such expense, disbursement or advance may be attributable to its negligence or bad faith; and

(3) to indemnify the Trustee, its officers, directors, agents and employees for, and to hold them harmless against, any loss, liability or expense arising out of or in connection with the acceptance or administration of this trust, including liability which the Trustee, its officers, directors, agents and employees may incur as a result of failure to withhold, pay or report taxes and including the costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of their powers or duties hereunder, except in each case to the extent such loss, liability or expense may be attributable to their negligence or bad faith. The Trustee's rights under this Section 607 shall survive the resignation or removal of the Trustee, the redemption of the Debt Securities and the termination of this Indenture.

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

"Trustee," for purposes of this Section 607, includes any predecessor Trustee, provided that the negligence or bad faith of any Trustee shall not affect the rights under this Section 607 of any other Trustee.

SECTION 608. CORPORATE TRUSTEE REQUIRED: ELIGIBILITY.

There shall at all times be a Trustee hereunder which shall be a corporation or bank organized and doing business under the laws of the United States of America or of any State or the District of Columbia, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000, subject to supervision or examination by Federal or State authority. If such corporation or bank publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation or bank shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

The Trustee shall at all times be subject to the conflict of interest provisions of TIA Section 310(b), including the optional provision of TIA Section 310(b)(9), permitted by the second sentence thereof. Furthermore, the conflict of interest provisions of TIA Section 310(b)(1) regarding conflicts arising between different indentures shall also apply to any conflicts arising between series of Debt Securities issued under this Indenture.

SECTION 609. RESIGNATION AND REMOVAL: APPOINTMENT OF SUCCESSOR.

(1) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 610.

(2) The Trustee may resign at any time with respect to the Debt Securities of one more series by giving written notice thereof to the Company. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to that series.

(3) The Trustee may be removed at any time with respect to the Debt Securities of any series by Act of the Holders of a majority in principal amount of the Outstanding Debt Securities of that series, delivered to the Trustee and to the Company.

(4) If at any time:

(a) the Trustee shall cease to be eligible under Section 608 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(b) the Trustee shall become incapable of acting or shall be adjudged as bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

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

(5) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, with respect to the Debt Securities of one or more series, the Company, by a Board Resolution, shall promptly appoint a successor Trustee with respect to the Debt Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Debt Securities of one or more or all of that or those series and that at any time there shall be only one Trustee with respect to the Debt Securities of any series). If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Debt Securities of any series shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Debt Securities of that series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee with respect to the Debt Securities of that series and supersede the successor Trustee appointed by the Company. If no successor Trustee with respect to the Debt Securities of any series shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Debt Security of that series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Debt Securities of that series.

(6) The Company shall give notice of each resignation and each removal of the Trustee with respect to the Debt Securities of any series and each appointment of a successor Trustee with respect to the Debt Securities of any series in the manner provided by Section 106. Each notice shall include the name of the Successor Trustee with respect to the Debt Securities of that series and the address of its Corporate Trust Office.

SECTION 610. ACCEPTANCE OF APPOINTMENT BY SUCCESSOR.

(1) In case of appointment hereunder of a successor Trustee with respect to all Debt Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further

act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder, subject nevertheless to its lien, if any, provided for in Section 607.

(2) In case of the appointment hereunder of a successor Trustee with respect to the Debt Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Debt Securities of one or more series shall execute and deliver a Supplemental Indenture hereto wherein each successor Trustee shall accept such appointment and which (a) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debt Securities of that or those series to which the appointment of such successor Trustee relates, (b) if the retiring Trustee is not retiring with respect to all Debt Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debt Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (c) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such Supplemental Indenture shall constitute such Trustees as co-trustees of the same trust, that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee and that no Trustee shall be responsible for any notice given to, or received by, or any act or failure to act on the part of any other Trustee hereunder, and upon the execution and delivery of such Supplemental Indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein, such retiring Trustee shall with respect to the Debt Securities of that or those series as to which the appointment of such successor Trustee relates have no further responsibility for the exercise of rights and powers or for the performance of the duties and obligations vested in the Trustee under this Indenture other than as hereinafter expressly set forth, and each such successor Trustee without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debt Securities of that or those series as to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee, to the extent contemplated by such Supplemental Indenture, the property and money held by such retiring Trustee hereunder with respect to the Debt Securities of that or those series as to which the appointment of such successor Trustee relates.

(3) Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in paragraph (1) or (2) of this section, as the case may be.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

SECTION 611. MERGER, CONVERSION, CONSOLIDATION OR SUCCESSION TO BUSINESS.

Any corporation or bank into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or bank resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or bank succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation or bank shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto other than

Notice to the Company. In the event that the Company determines in good faith that the proposed successor Trustee is not acceptable to the Company, the Company shall give Notice of its determination to the proposed successor Trustee within fifteen (15) Business Days following receipt of Notice from the proposed successor Trustee, and such proposed successor Trustee shall be deemed to have resigned pursuant to Section 609 effective upon appointment and qualification of a successor Trustee acceptable to the Company. In case any Debt Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Debt Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Debt Securities.

SECTION 612. APPOINTMENT OF AUTHENTICATING AGENT.

So long as any of the Debt Securities remain outstanding, there may be one or more Authenticating Agents appointed by the Trustee which shall be authorized to act on behalf and subject to the direction of the Trustee with respect to one or more series of Debt Securities to authenticate Debt Securities issued upon exchange, registration of transfer or partial redemption thereof or pursuant to Section 306 and Debt Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Indenture to the authentication of Debt Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation or bank organized and doing business under the laws of the United States of America or of any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of at least \$50,000,000 and subject to supervision or examination by Federal or State authorities. If such corporation or bank publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation or bank shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect hereinafter specified in this Section.

Any corporation or bank into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation or bank resulting from any merger, conversion or consolidation to which an Authenticating Agent shall be a party, or any corporation or bank succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation or bank shall be otherwise qualified and eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or such Authenticating Agent, but such Authenticating Agent shall give the Trustee written notice of any such merger, conversion, consolidation or succession.

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

The Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services, and the Trustee shall be entitled to be reimbursed for such payments.

SECTION 613. PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY.

The Trustee shall at all times be subject to the provisions of TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). Any Trustee who has resigned or been removed is subject to TIA Section 311(a) to the extent indicated.

SECTION 614. REPORTS BY TRUSTEE TO HOLDERS.

Within 60 days after May 15 of each year, commencing May 15, 1998, the Trustee shall transmit to Holders (including Holders identified in TIA Section 313(c)) in the manner provided by Section 106 a

brief report that complies with the provisions of TIA Section 313(a) and dated as of such reporting date. The Trustee shall also comply with TIA Section 313 (b) (2).

A copy of each report at the time of its transmission to Holders shall be filed with the SEC and each stock exchange on which the Debt Securities are listed. The Company shall notify the Trustee when the Debt Securities are listed on any stock exchange.

SECTION 615. OTHER CAPACITIES.

Except as otherwise provided herein, (i) all references in this Indenture to the Trustee shall be deemed to refer to the Trustee in its capacity as Trustee and in its capacities as Debt Securities Registrar and Paying Agent and (ii) every provision of this Indenture relating to the conduct or affecting the liability or offering protection, immunity or indemnity to the Trustee shall be deemed to apply with the same force to the Trustee in its capacities as Paying Agent and Debt Securities Registrar.

SECTION 616. NOTICE OF DEFAULT.

The Trustee shall not be deemed to have or be charged with knowledge of any Event of Default with respect to the Debt Securities or any series for which it is action as trustee unless (a) a responsible Officer of the Trustee shall have actual knowledge of Event of Default or (b) written notice of such Event of Default shall have been given to the Trustee by the Company or by any Holder of such Debt Securities.

ARTICLE SEVEN HOLDERS' LISTS

SECTION 701. COMPANY TO FURNISH TRUSTEE NAMES AND ADDRESSES OF HOLDERS.

The Company will furnish or cause to be furnished to the Trustee

(a) not more than 15 days after each Regular Record Date, if any, for each series of Debt Securities (or if no Regular Record Date exists or the interval between Regular Record Dates is greater than six months then at least every six months), a list in such form as the Trustee may reasonably require, containing all information in the possession or control of the Company, or of any of its Paying Agents, as to the names and addresses of the Holders of Registered Debt Securities of that series as of such Regular Record Date, and

(b) at such other times as the Trustee may request in writing within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished provided, however, that so long as the Trustee is the Debt Securities Registrar, no such list shall be required to be furnished.

The Trustee shall preserve, in as current a form as is reasonably practicable, all such information furnished to it or received by it in its capacity as Paying Agent.

ARTICLE EIGHT CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE; CREATION OF LIENS

SECTION 801. COMPANY MAY CONSOLIDATE, ETC. ONLY ON CERTAIN TERMS.

The Company shall not consolidate with or merge into any other Corporation, or convey, lease or transfer all or substantially all of its properties and assets to any Person, unless:

(1) the Person formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance, lease or transfer all or substantially all of the properties and assets of the Company shall be a Person organized and existing under the laws of the United States of America or any State or the District of Columbia, and shall expressly assume, by a Supplemental Indenture hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual

payment of the principal of (and premium, if any) and interest, if any, on all the Debt Securities and the performance of every covenant of this Indenture on the part of the Company to be performed or observed;

(2) immediately after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time, or both, would become an Event of Default, shall have happened and be continuing and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, lease or transfer and such Supplemental Indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

SECTION 802. SUCCESSOR PERSON SUBSTITUTED.

Upon any consolidation or merger, or any conveyance, lease or transfer all or substantially all of the properties and assets of the Company, of the type described in and in accordance with Section 801, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, lease or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein, and thereafter the predecessor corporation, except in the event of a conveyance by way of lease, shall be relieved of all obligations and covenants under this Indenture and the Debt Securities. Such successor Person thereupon may cause to be signed, and may issue either in its own name or in the name of the Company, any or all of the Debt Securities issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such successor Person, instead of the Company, and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver any Debt Security which previously shall have been signed and delivered by the officers of the Company to the Trustee for authentication, and any Debt Securities which such successor Person thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Debt Securities so issued shall in all respects have the same legal rank and benefit under this Indenture as the Debt Securities theretofore issued in accordance with the terms of this Indenture.

In case of any such consolidation, merger, sale or conveyance such changes in phraseology and form (but not in substance) may be made in the Debt Securities thereafter to be issued as may be appropriate.

ARTICLE NINE SUPPLEMENTAL INDENTURES

SECTION 901. SUPPLEMENTAL INDENTURES WITHOUT CONSENT OF HOLDERS

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

(1) to evidence the succession of another corporation to the Company, and the assumption by any such successor of the covenants of the Company herein and in the Debt Securities contained; or

(2) to add to the covenants of the Company, for the benefit of the Holders of all or any series of Debt Securities (and if such covenants are to be for the benefit of less than all series of Debt Securities, stating that such covenants are expressly being included solely for the benefit of that series) or to surrender any right or power herein conferred upon the Company; or

(3) to establish the form or terms of Debt Securities of any series as permitted by Sections 201 or 301, including any subordination provisions; or

(4) to cure any ambiguity, to correct or supplement any provision herein or in any Supplemental Indenture which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Indenture, provided such action pursuant to this clause (4) shall not adversely affect the interests of the Holders of Debt Securities of any series in any material respect; or

(5) to add to, delete from or revise the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of Debt Securities of one or more series, as herein set forth; or

(6) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Debt Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirement of Section 610(1).

SECTION 902. SUPPLEMENTAL INDENTURES WITH CONSENT OF HOLDERS.

With the consent of the Holders of not less than a majority in principal amount of the outstanding Debt Securities of each series affected by such Supplemental Indenture, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into a Supplemental Indenture hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of Debt Securities of that series under this Indenture; provided, however, that no such Supplemental Indenture shall, without the consent of the Holder of each outstanding Debt Security affected thereby,

(1) change the Stated Maturity of the principal of, or any installment of interest on, any Debt Security, or reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof, or reduce the amount of the principal of an Original Issue Discount Debt Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 502, or change the coin or currency in which, the principal of (or premium, if any, on) any Debt Security or the interest, if any, thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or modify the provisions of this Indenture with respect to the conversion or exchange of the Debt securities into Common Stock or into Debt Securities of another series in a manner adverse to the Holders,

(2) reduce the percentage in principal amount of the Outstanding Debt Securities of any series, the consent of whose Holders is required for any such Supplemental Indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture, or

(3) modify any of the provisions of this Section or Section 513 or Section 1005, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Debt Security affected thereby.

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

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

SECTION 903. EXECUTION OF SUPPLEMENTAL INDENTURES.

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

SECTION 904. EFFECT OF SUPPLEMENTAL INDENTURES.

Upon the execution of any Supplemental Indenture under this Article, this Indenture shall be modified in accordance therewith, and such Supplemental Indenture shall form a part of this Indenture for all purposes; and every

Holder of Debt Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby. Any Supplemental Indenture executed under this Article shall comply in all respects with the requirements of the TIA.

SECTION 905. REFERENCE IN DEBT SECURITIES TO SUPPLEMENTAL INDENTURES.

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

ARTICLE TEN
COVENANTS

SECTION 1001. PAYMENT OF PRINCIPAL, PREMIUM AND INTEREST.

The Company will duly and punctually pay the principal of (and premium, if any) and interest (including any additional interest provided for in an officers' Certificate or Supplemental Indenture referred to in Section 301 with respect to any Debt Securities of a series), if any, or the Debt Securities in accordance with the terms of the Debt Securities and this Indenture.

SECTION 1002. MAINTENANCE OF OFFICE OR AGENCY.

The Company will maintain in the City of New York, an office or agency or offices or agencies where, unless otherwise set forth in the Officers' Certificate or Supplemental Indenture referred to in Section 301 with respect to any Debt Securities of a series, Debt Securities may be presented or surrendered for payment, Debt Securities may be surrendered for registration of transfer or exchange, and notices and demands to or upon the Company in respect of the Debt Securities and this Indenture may be served. The Company initially appoints First Chicago Trust Company of New York, as its agent for purposes of presentation or surrender of Debt Securities for payment, registration of transfer, exchange or conversion and for service of notices or demands to or upon it in respect of the Debt Securities and this Indenture. The Company will give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Company shall fail to maintain such office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Corporate Trust Office of the Trustee its agent to receive all such presentations, surrenders, notices and demands.

In addition to such office or agency, the Company may from time to time designate one or more other offices or agencies where the Debt Securities of one or more series may be presented or

surrendered for any or all of the purposes specified above in this Section and may constitute and appoint one or more Paying Agents for the payment of the Debt securities of that or those series in one or more other cities, and may from time to time rescind such designations and appointments, as the Company may deem desirable or expedient, provided, however, that no such designation, appointment or rescission shall in any manner relieve the Company of its obligation to maintain such office and agency in the City of New York for the purposes above mentioned.

SECTION 1003. MONEY FOR DEBT SECURITY PAYMENTS TO BE HELD IN TRUST.

If the Company shall at any time act as its own Paying Agent with respect to any series of Debt Securities, it will, on or before each due date of the principal of (and premium, if any) or interest, if any, on any of the Debt Securities of that series, segregate and hold in trust for the benefit of the persons entitled thereto a sum sufficient to pay the principal (and premium, if any) or interest, if any, so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided, and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for any series of Debt Securities, it will, prior to each due date of the principal of (and premium, if any) or interest, if any, on any Debt Securities of that series, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest, if any, so becoming due, such sum to be held in trust for the benefit of the persons entitled to such principal, premium or interest, and (unless such paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

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

(1) hold all sums held by it for the payment of the principal of (and premium, if any) or interest, if any, on Debt Securities of that series in trust for the benefit of the persons entitled thereto until such sums shall be paid to such persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any Event of Default by the Company in the making of any payment of principal (and premium, if any) or interest, if any, on the Debt Securities of that series; and

(3) at any time during the continuance of any such Event of Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

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

Subject to applicable escheat laws, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of (and premium, if any) or interest, if any, on any Debt Security of any series and remaining unclaimed for three years after such principal (and premium, if any) or interest, if any, has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Debt Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in the City of New York, notice that such money remains unclaimed and that, after a date specified therein, which

shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 1004. STATEMENT AS TO COMPLIANCE.

The Company will deliver to the Trustee, within 120 days after the end of each fiscal year, a written statement, which need not comply with Section 102, signed by the Chairman of the Board, a Vice Chairman, the President or a Vice President and by the Treasurer, an Assistant Treasurer, the Controller or an Assistant Controller of the Company, stating, as to each signer thereof, that

(1) a review of the activities of the Company during such year and of performance under this Indenture has been made under his supervision, and

(2) to the best of his knowledge, based on such review, (a) the Company has fulfilled all its obligations under this Indenture throughout such year, or, if there has been a default in the fulfillment of any such obligation, specifying each such default known to him and the nature and status thereof, and (b) no event has occurred and is continuing which is, or after notice or lapse of time or both would become, an Event of Default, or, if such an event has occurred and is continuing, specifying each such event known to him and the nature and status thereof.

SECTION 1005. WAIVER OF CERTAIN COVENANTS.

The Company may omit in any particular instance to comply with any covenant or condition set forth in Section 1004 with respect to the Debt Securities of any series, if before or after the time for such compliance the Holders of at least a majority in principal amount of the Debt Securities of that series at the time Outstanding shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such covenant or condition shall remain in full force and effect.

SECTION 1006. SEC REPORTS.

The Company shall file with the Trustee within 15 days after it files them with the SEC copies of the annual reports and of the information, documents, and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) which the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. The Company shall also comply with the other provisions of TIA Section 314(a) concerning the filing and transmission of reports to the SEC, the Trustee and Holders.

SECTION 1007. LIMITATIONS ON DIVIDENDS, DISTRIBUTIONS AND ACQUISITIONS OF CAPITAL STOCK.

The Company will not declare or pay any dividends or make any distribution to holders of its capital stock (other than dividends or distributions payable in capital stock of the Company or other than as the Company determines is necessary to maintain its status as a REIT), or purchase, redeem or otherwise acquire or retire for value any of its capital stock or any warrants, rights or options (including any securities convertible into or exercisable for such capital stock but not including the Debt Securities) to purchase or acquire any shares of its capital stock or permit any Subsidiary to purchase, redeem or otherwise acquire or retire for value any of the Company's capital stock or any warrants, rights or options (including any securities convertible into or exercisable for such capital stock but not including the Debt Securities) to purchase or acquire any shares of the Company's capital stock if at the time of such action an Event of Default has occurred and is continuing or would exist immediately after giving effect to such action.

Notwithstanding the foregoing, the provisions of this Section 1007 will not prevent (i) the payment of any dividend within 60 days after the date of declaration when the payment would have complied with the foregoing provisions on the date of declaration; (ii) the retirement of any share of the

Company's capital stock by exchange for, or out of the proceeds of the substantially concurrent sale (other than to a Subsidiary) of, other shares of its capital stock.

ARTICLE ELEVEN
REDEMPTION OF DEBT SECURITIES

SECTION 1101. RIGHT OF REDEMPTION.

Redemption of Debt Securities of any series at the option of the Company as permitted or required by the terms of such Debt Securities shall be made in accordance with the terms of such Debt Securities and this Article. The Debt Securities also shall be subject to redemption, in whole or from time to time in part, at any time in order to protect the Company's status as a REIT, at the option of the Company at a redemption price equal to 100% of the principal amount, premium if any, plus accrued interest to the date of redemption.

SECTION 1102. ELECTION TO REDEEM: NOTICE TO TRUSTEE.

The election of the Company to redeem any Debt Securities pursuant to Section 1101 shall be evidenced by a Board Resolution. The Company shall, at least 60 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date and, in the case of any redemption at the election of the Company of less than all the Debt Securities of any series, of the principal amount of Debt Securities of that series to be redeemed.

SECTION 1103. SELECTION BY DEBT SECURITIES REGISTRAR OF DEBT SECURITIES TO BE REDEEMED.

If less than all the Debt Securities of any series with the same issue date and Stated Maturity are to be redeemed, the particular Debt Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Debt Securities Registrar, from the Outstanding Debt Securities of that series not previously called for redemption, by such method as specified in the Officers' Certificate or Supplemental Indenture referred to in Section 301 or, if not so specified, by such method as the Debt Securities Registrar shall deem fair and appropriate and which may provide for the selection for redemption of portions (equal to \$100,000 or a multiple of \$1,000 above \$100,000) of the principal of Debt Securities of that series of a denomination larger than \$100,000. The portions of the principal of Debt Securities of that series so selected for partial redemption shall be equal to the smallest authorized denomination of the Debt Securities of that series or a multiple of \$1,000 above \$100,000. The portion of the principal of any Debt Security not redeemed shall not be less than the smallest authorized denomination of the Debt Securities of that series.

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

SECTION 1104. NOTICE OF REDEMPTION.

Notice of redemption shall be given in the manner provided in Section 106 not less than 30 nor more than 60 days prior to the Redemption Date unless a shorter period is specified in the Debt Security of the series to be redeemed, to each Holder of Debt Securities to be redeemed, but failure to give such notice in the manner herein provided to the Holder of any Debt Securities designated for redemption as a whole or in part, or any defect in the notice to any such Holder, shall not affect the validity of the proceedings for the redemption of any other such Debt Securities or portion thereof.

Any notice that is mailed in the manner herein provided shall be conclusively presumed to have been given, whether or not the Holder receives the notice.

All notices of redemption shall state:

- (1) the Redemption Date;
- (2) the Redemption Price, premium, if any, and the amount of accrued interest, if any, to be paid;
- (3) if less than all the Outstanding Debt Securities of any series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the particular Debt Securities to be redeemed;
- (4) in case any Debt Security is to be redeemed in part only, the notice which relates to such Debt Security shall state that on and after the Redemption Date, upon surrender of such Debt Security, the Holder will receive, without charge, a new Debt Security or Debt Securities of authorized denominations for the principal amount thereof remaining unredeemed;
- (5) that on the Redemption Date the Redemption price and accrued interest, if any, will become due and payable upon each such Debt Security to be redeemed and, if applicable, that the interest thereon will cease to accrue on and after said date;
- (6) the place or places where such Debt Securities are to be surrendered for payment of the Redemption Price and accrued interest, if any; and
- (7) the conversion rights, if any, pertaining to such Debt Securities.

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

SECTION 1105. DEPOSIT OF REDEMPTION PRICE.

On or prior to each Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 1003) an amount of money sufficient to pay the Redemption Price of, and (unless the Redemption Date shall be an Interest Payment Date) accrued interest on, and premium, if any, all the Debt Securities or portions thereof which are to be redeemed on that date.

SECTION 1106. DEBT SECURITIES PAYABLE ON REDEMPTION DATE.

Notice of redemption having been given as aforesaid, the Debt Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Debt Securities shall cease to bear interest. Upon surrender of any such Debt Security for redemption in accordance with said notice, such Debt Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date; provided, however, that notwithstanding any other provision of this Indenture and unless otherwise specified in the Officers' Certificate or Supplemental Indenture referred to in Section 301 with respect to such

Debt Security, installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable (but without interest thereon, unless the Company shall default in the payment thereof in which case the provisions of Section 307 shall apply) to the Holders of such Debt Securities or one or more Predecessor Debt Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 307.

If any Debt Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest, to the extent lawful, from the Redemption Date at the rate borne by the Debt Security.

SECTION 1107. DEBT SECURITIES REDEEMED IN PART.

Any Debt Security which is to be redeemed only in part shall be surrendered at the office or agency of the Company designated for that purpose pursuant to Section 1002 (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Debt Security without service charge a new Debt Security or Debt Securities of any authorized denomination of the same series as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Debt Security so surrendered. If a Global Debt Security is so surrendered, such new Debt Security so issued shall be a new Global Debt Security.

ARTICLE TWELVE SINKING FUND

SECTION 1201. MANDATORY AND OPTIONAL SINKING FUND PAYMENTS.

The provisions of this Article shall be applicable to any sinking fund for the retirement of Debt Securities of any series, except as otherwise permitted or required by any form of Debt Security of that series issued pursuant to this Indenture. The minimum amount of any sinking fund payment provided for by the terms of Debt Securities of any series is herein referred to as a "mandatory sinking fund payment", and any payment in excess of that minimum amount provided for by the terms of Debt Securities of that series is herein referred to as an "optional sinking fund payment". If provided for by the terms of Debt Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 1202. Each sinking fund payment shall be applied to the redemption of Debt Securities of any series as provided for by the terms of Debt Securities of that series.

SECTION 1202. SATISFACTION OF SINKING FUND PAYMENTS WITH DEBT SECURITIES.

The Company may, in satisfaction of all or any part of any sinking fund payment with respect to the Debt Securities of any series to be made pursuant to the terms of such Debt Securities as provided for by the terms of that series (1) deliver Outstanding Debt Securities of that series (other than any of such Debt Securities previously called for redemption or any of such Debt Securities in respect of which cash shall have been released to the Company), (2) apply as a credit Debt Securities of that series which have been redeemed either at the election of the Company pursuant to the terms of that series of Debt Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Debt Securities, provided that such series of Debt Securities have not been previously so credited and (3) apply as a credit Debt Securities of that series which have been converted or exchanged into Common Stock or Debt Securities of another series pursuant to the terms of that series of Debt Securities, provided that such series of Debt Securities have not been previously so credited. Such Debt Securities shall be received and credited for such purpose by the Trustee at the

Redemption Price specified in such Debt Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly. If as a result of the delivery or credit of Debt Securities of any series in lieu of cash payments pursuant to this Section, the principal amount of Debt Securities of that series to be redeemed in order to exhaust the aforesaid cash payment shall be less than \$100,000, the Trustee need not call Debt Securities of that series for redemption, except upon Company Request, and such cash payment shall be held by the Trustee or a Paying Agent and applied to the next succeeding sinking fund payment, provided, however, that the Trustee or such Paying Agent shall at the request of the Company from time to time pay over and deliver to the Company any cash payment so being held by the Trustee or such Paying Agent upon delivery by the Company to the Trustee of Debt Securities of that series purchased by the Company having an unpaid principal amount equal to the cash payment requested to be released to the Company.

SECTION 1203. REDEMPTION OF DEBT SECURITIES FOR SINKING FUNDS.

Not less than 60 days prior to each sinking fund payment date for any series of Debt Securities, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing mandatory sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting of Debt Securities of that series pursuant to Section 1202, and the optional amount, if any, to be added in cash to the next ensuing mandatory sinking fund payment, and will also deliver to the Trustee any Debt Securities to be so credited and not theretofore delivered. If such Officers' Certificate shall specify an optional amount to be added in cash to the next ensuing mandatory sinking fund payment, the Company shall thereupon be obligated to pay the amount therein specified. Not less than 30 days before each such sinking fund payment date the Trustee shall select the Debt Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 1103 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 1104. Such notice having been duly given, the redemption of such Debt Securities shall be made upon the terms and in the manner stated in Section 1106 and 1107.

ARTICLE THIRTEEN CONVERSION OF DEBT SECURITIES

SECTION 1301. CONVERSION PRIVILEGE.

Conversion of Debt Securities of any series into Common Stock of the Company as permitted by the terms of such Debt Securities shall be made in accordance with the terms of such Debt Securities and this Article. "Common Stock" used herein in Article Thirteen means the Common Stock of the Company on the date the Debt Securities of such series are issued. Notwithstanding the foregoing, and in order to protect the Company's status as a REIT, a Holder may not convert any Debt Security; and any such Debt Security shall not be convertible by any Holder, if as a result of such conversion any person would then be deemed to beneficially own directly or indirectly, 9.9% or more of Common Stock. Except as otherwise set forth herein, the Trustee shall have no duties or responsibilities in respect of the conversion privilege or of any matter relating thereto, including without limitation and determination of the conversion price of any adjustment thereto. The Trustee shall have no duty, responsibility or liability in connection with the observation or enforcement of the aforementioned restriction on transfer or the consequences of such restriction or the correction of any such breach or violation.

SECTION 1302. EXERCISE OF CONVERSION PRIVILEGE.

In order to exercise the conversion privilege, the Holder of any Debt Security of any series to be converted shall surrender such Debt Security, duly endorsed or assigned to the Company or in blank, at

any office or agency of the Company maintained for that purpose, accompanied by written notice to the Company at such office or agency that the Holder elects to convert such Debt security or, if less than the entire principal amount thereof is to be converted, the portion thereof to be converted Debt Securities surrendered for conversion during the period from the close of business on any Regular Record Date for the payment of interest on the Debt Securities of that series to the opening of business on the Interest Payment Date for such interest shall (except in the case of Debt Securities of that series or portions thereof which have been called for redemption on a Redemption Date within such period) be accompanied by payment of an amount equal to the interest payable on such Interest Payment Date on the principal amount of Debt Securities being surrendered for conversion. Except as provided in the preceding sentence, no payment or adjustment shall be made upon any conversion on account of any interest accrued on the Debt Securities of that series surrendered for conversion or on account of any dividends on the Common Stock issued upon conversion.

Debt Securities of any series shall be deemed to have been converted immediately prior to the close of business on the day of surrender of such Debt Security for conversion in accordance with the foregoing provisions, and at such time the rights of the Holder of such Debt Security as Holder shall cease, and the Person or Persons entitled to receive the Common Stock issuable upon conversion shall be treated for all purposes as the record holder or holders of such Common Stock at such time. As promptly as practicable on or after the conversion date, the Company shall issue and shall deliver at said office or agency a certificate or certificates for the number of full shares of Common Stock issuable upon conversion, together with payment in lieu of any fraction of a share, as provided in Section 1303.

In the case of any Debt Security which is converted in part only, upon such conversion the Company shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the expense of the Company, a new Debt Security or Debt Securities of authorized denominations in aggregate principal amount equal to the unconverted portion of the principal amount of such Debt Security.

SECTION 1303. FRACTIONS OF SHARES.

No fractional shares of Common Stock shall be issued upon conversion of Debt Securities. If more than one Debt Security shall be surrendered for conversion at one time by the same Holder, the number of full shares which shall be issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of the Debt Securities (or specified portions thereof) so surrendered. Instead of any fractional share of Common Stock which would otherwise be issuable upon conversion of any Debt Security or Debt Securities (or specified portions thereof), the Company shall pay a cash adjustment in respect of such fraction in an amount equal to the same fraction of the closing price per share of Common Stock on the day of conversion. The closing price shall be the reported last sale price of the Common Stock on the New York Stock Exchange -Composite Transactions or, in case no such reported sale takes place on such day, the average of the reported closing bid and asked prices regular way on the New York Stock Exchange, or if the common stock is not listed or admitted to trading on such Exchange, on the principal national exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, the average of the closing bid and asked prices as furnished by any New York Stock Exchange member firm selected from time to time by the Company for that purpose.

SECTION 1304. ADJUSTMENTS OF CONVERSION PRICE.

(1) In the case the Company shall pay or make a dividend or other distribution on any class of capital stock of the Company in Common Stock after the issuance of a Debt Security entitled to exercise the conversion privilege, the conversion price of such Debt Security in effect at the opening of business on the day following the date fixed for the determination of stockholders entitled to receive such dividend or other distribution shall be reduced by multiplying such conversion price by a fraction

of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such reduction to become effective immediately after the opening of business on the day following the date fixed for such determination. For the purposes of this paragraph (1), the number of shares of common Stock at any time outstanding shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(2) In case the Company shall issue, after the issuance of a Debt Security entitled to the conversion privilege, rights or warrants to all holders of its Common Stock entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the current market price per share (determined as provided in paragraph (6) of this Section) of the Common Stock on the date fixed for the determination of stockholders entitled to receive such rights or warrants, the conversion price for such Debt Security in effect at the opening of business on the day following the date fixed for such determination shall be reduced by multiplying such conversion price by a fraction of which the numerator shall be the number of shares of common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock which the aggregate of the offering price of the total number of shares of Common Stock so offered for subscription or purchase would purchase at such current market price and the denominator shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock so offered for subscription or purchase, such reduction to become effective immediately after the opening of business on the day following the date fixed for such determination; provided, however, that if all the shares of Common Stock offered for subscription or purchase are not subscribed for or purchased, upon the expiration of such rights or warrants the conversion price shall be immediately readjusted to what would have been the conversion price had the above-referenced fraction been calculated with reference to the actual number of shares of Common Stock subscribed for or purchased rather than the number of shares of Common Stock offered for subscription or purchase. For the purposes of this paragraph (2), the number of shares of Common Stock at any time outstanding shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock. For purposes of this paragraph (2), the granting of the right to purchase shares of Common stock pursuant to any shareholder rights plan, any dividend or interest reinvestment plan and/or any Common Stock purchase plan providing for the reinvestment of dividends or interest payable on securities of the Company and/or the investment of periodic optional payments at a price per share of not less than 95 percent of the current market price per share (determined as provided in such plans) of the Common Stock (so long as such right to purchase is in no case evidenced by the delivery of rights or warrants) shall be deemed not to constitute an issue of rights or warrants by the Company within the meaning of this paragraph (2).

(3) In case outstanding shares of Common Stock shall be subdivided into a greater number of shares of Common Stock after the issuance of a Debt Security entitled to the conversion privilege, the conversion price for such Debt Security in effect at the opening of business on the day following the day upon which such subdivision becomes effective shall be proportionately reduced, and, conversely, in case outstanding shares of Common Stock shall each be combined into a smaller number of shares of Common Stock, the conversion price of such Debt Security in effect at the opening of business on the day following the day upon which such combination becomes effective shall be proportionately increased, such reduction or increase, as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision or combination becomes effective.

(4) In case the Company shall, after the issuance of a Debt Security entitled to the conversion privilege, by dividend or otherwise, distribute to all holders of its Common Stock evidences of its indebtedness or assets (including securities, but excluding any dividend or distribution referred to in

paragraph (1) of this Section, any rights or warrants referred to in paragraph (2) of this section and any dividend or distribution paid in cash out of the consolidated earnings or retained earnings of the Company), the conversion price of such Debt Security shall be adjusted so that the same shall equal the price determined by multiplying the conversion price in effect immediately prior to the close of business on the date fixed for the determination of stockholders entitled to receive such distribution by a fraction of which the numerator shall be the current market price per share (determined as provided in paragraph (6) of this Section) of the Common Stock on the date fixed for such determination less the then fair market value (as determined by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution filed with the Trustee) of the portion of the assets or evidences of indebtedness so distributed applicable to one share of Common Stock and the denominator shall be such current market price per share of the Common Stock, such adjustment to become effective immediately prior to the opening of business on the day following the date fixed for the determination of stockholders entitled to receive such distribution.

(5) The reclassification (including any reclassification upon a consolidation or merger in which the Company is the continuing corporation) of Common Stock into securities including other than Common Stock shall be deemed to involve (a) a distribution of such securities other than Common Stock to all holders of Common Stock (and the effective date of such reclassification shall be deemed to be "the date fixed for the determination of stockholders entitled to receive such distribution" and "the date fixed for such determination" within the meaning of paragraph (4) of this section), and (b) a subdivision or combination, as the case may be, of the number of shares of Common Stock outstanding immediately prior to such reclassification into the number of shares of Common Stock outstanding immediately thereafter (and the effective date of such reclassification shall be deemed to be "the day upon which such subdivision becomes effective" or "the day upon which such combination becomes effective", as the case may be, and "the day upon which such subdivision or combination becomes effective" within the meaning of paragraph (3) of this Section).

(6) For the purpose of any computation under paragraphs (2) and (4) of this Section, the current market price per share of Common Stock on any date shall be deemed to be the average of the daily closing prices for the 15 consecutive Business Days selected by the Company commencing not less than 20 nor more than 30 Business Days before the day in question. The closing price for each day shall be determined in the manner set forth in Section 1303.

(7) The Company may from time to time reduce, in addition to those required by paragraphs (1), (2), (3) and (4) of this Section, the conversion price of Debt Securities of any series by any amount for any period if the period is at least 20 days and if the reduction is irrevocable during the period.

(8) Notwithstanding the provisions of this Article, the conversion price per share shall not be reduced to less than the par value thereof as a result of any adjustment made hereunder.

(9) No adjustment in the conversion price shall be required unless such adjustment would require an increase or decrease of at least 1% in such price; provided, however, that any adjustment which by reason of this paragraph (9) is not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Article Thirteen shall be made to the nearest cent or the nearest one-hundredth of a share, as the case may be.

SECTION 1305. NOTICE OF ADJUSTMENTS OF CONVERSION PRICE.

Whenever the conversion price of any Debt Security is adjusted as herein provided:

(1) the Company shall compute the adjusted conversion price in accordance with Section 1304 and shall prepare an Officers' Certificate setting forth the adjusted conversion price and showing in reasonable detail the facts upon which such adjustment is based, and such certificate shall forthwith be filed at each office or agency maintained for the purpose of conversion of Debt Securities.

(2) a notice stating that the conversion price has been adjusted and setting forth the adjusted conversion price shall be mailed by the Company to the Holders of Debt Securities for which the conversion price has been adjusted as herein provided.

SECTION 1306. NOTICE OF CERTAIN CORPORATE ACTION.

In case:

- (1) the Company shall declare a dividend (or any other distribution) on its Common Stock payable otherwise than in cash out of its consolidated earnings or retained earnings; or
- (2) the Company shall authorize the granting to all the holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any other rights (other than a dividend or distribution payable in cash out of the consolidated earnings or retained earnings of the Company); or
- (3) of any reclassification of the Common Stock of the Company (other than a subdivision or combination of its outstanding shares of Common Stock); or
- (4) of the voluntary or involuntary dissolution liquidation or winding up of the Company;

then the Company shall cause to be filed at each office or agency maintained for the purpose of conversion of Debt Securities, and shall cause to be mailed to the Holders of Debt Securities entitled to the conversion privilege as herein provided, at least 20 days (or 10 days in any case specified in clause (a) or (b) above) prior to the applicable record date hereinafter specified, a notice stating (a) the date on which a record is to be taken for the purpose of such dividend, distribution, rights or warrants, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution, rights or warrants are to be determined, or (y) the date on which such reclassification, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, dissolution, liquidation or winding up.

SECTION 1307. TAXES ON CONVERSION.

The Company will pay any and all taxes that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of Debt Securities pursuant hereto. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the Holder of the Debt Security or Debt Securities to be converted, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such tax, or has established to the satisfaction of the Company that such tax has been paid.

ARTICLE FOURTEEN RESTRICTIONS ON TRANSFER

SECTION 1401. RESTRICTIONS ON TRANSFER.

Any transfer of Debt Securities that, if effective, would result in any Person becoming the Beneficial Owner of more than 9.9% of the outstanding stock of the Company shall be deemed void ab initio, and the intended transferee shall be deemed never to have had an interest therein. The Trustee shall have no duty, responsibility or liability in connection with the observation or enforcement of the aforementioned restriction on transfer or the consequences of such restriction or the correction of any such breach or violation.

ARTICLE FIFTEEN
DEFEASANCE AND COVENANT DEFEASANCE

SECTION 1501. APPLICABILITY OF ARTICLE: COMPANY'S OPTION TO EFFECT DEFEASANCE OR COVENANT DEFEASANCE.

If, pursuant to Section 301, provision is made for either or both of (a) defeasance of the Debt Securities of or within a series under 1502 or (b) covenant defeasance of the Debt Securities of or within a series under Section 1503, then the provisions of such Section or Sections, as the case may be, together with the other provisions of this Article (with such modifications thereto as may be specified pursuant to Section 301 with respect to any Debt Securities), shall be applicable to such Debt Securities, and the Company may at its option by Board Resolution, at any time, with respect to such Debt Securities, elect to have Section 1502 (if applicable) or Section 1503 (if applicable) be applied to such Outstanding Debt Securities upon compliance with the conditions set forth below in this Article.

SECTION 1502. DEFEASANCE AND DISCHARGE.

Upon the Company's exercise of the above option applicable to this Section with respect to any Debt Securities of or within a series, the Company shall be deemed to have been discharged from its obligations with respect to such Outstanding Debt Securities on the date the conditions set forth in Section 1504 are satisfied (hereinafter, "defeasance"). For this purpose, such defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by such Outstanding Debt Securities, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 1505 and the other Sections of this Indenture referred to in clauses (A) and (B) below, and to have satisfied all of its other obligations under such Debt Securities and this Indenture insofar as such Debt Securities are concerned (and the Trustee, at the expense of the Company, shall execute such appropriate instrument(s) acknowledging the same as the Company shall reasonably request), except for the following which shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of such outstanding Debt Securities to receive, solely from the trust fund described in Section 1504 and as more fully set forth in such Section, payments in respect of the principal of (and premium, if any) and interest, if any, on such Debt Securities when such payments are due, (B) the Company's obligations with respect to such Debt Securities under Sections 305, 306, 1002 and 1003, and Article Thirteen (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder and (D) this Article. Subject to compliance with this Article Fifteen, the Company may exercise its option under this Section notwithstanding the prior exercise of its option under Section 1503 with respect to such Debt Securities.

SECTION 1503. COVENANT DEFEASANCE.

Upon the Company's exercise of the above option applicable to this Section with respect to any Debt Securities of or within a series, the Company shall be released from its obligations under Sections 1004, 1006 and 1007, and, if specified pursuant to Section 301, its obligations under any other covenant contained herein or in any indenture supplemental hereto, with respect to such Outstanding Debt Securities thereto on and after the date the conditions set forth in Section 1504 are satisfied (hereinafter, "covenant defeasance"), and such Debt Securities shall thereafter be deemed to be not "Outstanding" for the purposes of any direction, waiver, consent or declaration or Act of Holders (and the consequences of any thereof) in connection with Sections 1004, 1006 and 1007, inclusive, or such other covenant contained herein or in any indenture supplemental hereto, but shall continue to be deemed "Outstanding" for all other purposes hereunder. For this purpose, such covenant defeasance means that, with respect to such Outstanding Debt Securities, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such Section or such other covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such Section or other covenant or by reason of reference in any such Section or such other covenant to any other provision herein and such omission to comply shall not constitute a default or an

Event of Default under Section 501(4) or 501(7) or otherwise, as the case may be, but except as specified above, the remainder of this Indenture and such Debt Securities shall be unaffected thereby.

SECTION 1504. CONDITIONS TO DEFEASANCE OR COVENANT DEFEASANCE.

The following shall be the conditions to application of Section 1502 or section 1503 to any Outstanding Debt Securities of or within a series:

(a) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 608 who shall agree to comply with the provisions of this Article Fifteen applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of such Debt Securities, (1) an amount in such currency, currencies or currency unit in which such Debt Securities are then specified as payable at Stated Maturity, or (2) Government Obligations applicable to such Debt Securities (determined on the basis of the currency, currencies or currency unit in which such Debt Securities are then specified as payable at Stated Maturity) which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than the due date of any payment of principal of (and premium if any) and interest, if any, on such Debt Securities, money in an amount, or (3) a combination thereof, in any case, in an amount, sufficient, without consideration of any reinvestment of such principal and interest, in the opinion of a nationally recognized firm of independent public accountants expressed in written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge, (i) the principal of (and premium, if any) and interest, if any, on such Outstanding Debt Securities on the Stated Maturity of such principal or installment of principal or interest and (ii) any mandatory sinking fund payments or analogous payments applicable to such Outstanding Debt Securities on the day on which such payments are due and payable in accordance with the terms of this Indenture and of such Debt Securities.

(b) Such defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other material agreement or instrument to which the Company is a party or by which it is bound.

(c) No Event of Default or event which with notice or lapse of time or both would become an Event of Default with respect to such Debt Securities shall have occurred and be continuing on the date of such deposit or, insofar as Sections 501(5) and 501(6) are concerned, at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(d) In the case of an election under Section 1502, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (i) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (ii) since the date of execution of this Indenture, there has been a change in the applicable Federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of such outstanding Debt Securities will not recognize income, gain or loss for Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such defeasance had not occurred.

(e) In the case of an election under Section 1503, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of such Outstanding Debt Securities will not recognize income, gain or loss for Federal income tax purposes as a result of such covenant defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.

(f) The Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent to the defeasance under Section 1502 or the covenant defeasance under Section 1503 (as the case may be) have been complied with and an Opinion

of Counsel to the effect that either (i) as a result of a deposit pursuant to subsection (a) above and the related exercise of the Company's option under Section 1502 or Section 1503 (as the case may be), registration is not required under the Investment Company Act of 1940, as amended, by the Company, with respect to the trust funds representing such deposit or by the Trustee for such trust funds or (ii) all necessary registrations under said Act have been effected.

(g) Notwithstanding any other provisions of this Section, such defeasance or covenant defeasance shall be effected in compliance with any additional or substitute terms, conditions or limitations which may be imposed on the Company in connection therewith pursuant to Section 301.

SECTION 1505. DEPOSITED MONEY AND GOVERNMENT OBLIGATIONS TO BE HELD IN TRUST; OTHER MISCELLANEOUS PROVISIONS.

Subject to the provisions of the last paragraph of Section 1003, all money and Government Obligations (or other property as may be provided pursuant to Section 301) (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 1505, the "Trustee") pursuant to Section 1504 in respect of any Outstanding Debt Securities of any series shall be held in trust and applied by the Trustee, in accordance with the provisions of such Debt Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Holders of such Debt Securities of all sums due and to become due thereon in respect of principal (and premium, if any) and interest, but such money need not be segregated from other funds except to the extent required by law.

Unless otherwise specified with respect to any Debt Security pursuant to Section 301, if, after a deposit referred to in Section 1504(A) has been made, (a) the Holder of a Debt Security in respect of which such deposit was made is entitled to, and does, elect pursuant to Section 301 or the terms of such Debt Security to receive payment in a currency or currency unit other than that in which the deposit pursuant to Section 1504(A) has been made in respect of such Debt Security, or (b) a Conversion Event occurs in respect of the currency or currency unit in which the deposit pursuant to Section 1504(A) has been made, the indebtedness represented by such Debt Security shall be deemed to have been, and will be, fully discharged and satisfied through the payment of the principal of (and premium if any), interest, if any, on such Security as the same becomes due out of the proceeds yielded by converting (from time to time as specified below in the case of any such election) the amount of other property deposited in respect of such Security into the currency or currency unit in which such Debt Security becomes payable as a result of such election or Conversion Event based on the applicable market exchange rate for such currency or currency unit in effect on the second Business Day prior to each payment date, except, with respect to a Conversion Event, for such currency or currency unit in effect (as nearly as feasible) at the time of the Conversion Event.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the Government Obligations deposited pursuant to Section 1504 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of such Outstanding Debt Securities.

Anything in this Article to the contrary notwithstanding, subject to Section 607, the Trustee shall deliver or pay to the Company from time to time upon Company Request any money or Government Obligations (or other property and any proceeds therefrom) held by it as provided in Section 1504 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof which would then be required to be deposited to effect a defeasance or covenant defeasance, as applicable, in accordance with this Article.

* * *

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

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed and attested, all as of the day and year first above written.

OMEGA HEALTHCARE INVESTORS, INC., a Maryland corporation

By:

Name:

Title:

Attest:

_____, as Trustee

By:

Name:

Title:

Attest:

[POWELL, GOLDSTEIN, FRAZER & MURPHY LLP LETTERHEAD]

July 26, 2004

Omega Healthcare Investors, Inc.
9690 Deereco Road
Suite 100
Timonium, Maryland 21093

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Omega Healthcare Investors, Inc., a Maryland corporation (the "Company"), in connection with the Company's Registration Statement on Form S-3 (the "Registration Statement") to be filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"), for the registration of \$345,257,199 aggregate offering price of securities of the Company consisting of (i) debt securities (the "Debt Securities"); (ii) shares of preferred stock, \$1.00 par value per share (the "Preferred Stock"); (iii) shares of common stock, \$0.10 par value per share (the "Common Stock"); and (iv) warrants to purchase Debt Securities (the "Debt Securities Warrants"), warrants to purchase Preferred Stock (the "Preferred Stock Warrants") and warrants to purchase Common Stock (the "Common Stock Warrants"). The Debt Securities Warrants, the Preferred Stock Warrants and the Common Stock Warrants are referred to herein as the "Securities Warrants." The Debt Securities, the Preferred Stock, the Common Stock and the Securities Warrants are referred to herein as the "Securities".

The Securities registered pursuant to the Registration Statement may be offered and sold by the Company from time to time pursuant to Rule 415 under the Securities Act as set forth in the base prospectus which forms a part of the Registration Statement (the "Prospectus"), and as to be set forth in one or more supplements to the Prospectus or term sheets that may be filed under the Securities Act. Pursuant to Rule 429 under the Securities Act, the Registration Statement also shall act, upon effectiveness, as a Post-Effective Amendment to the Company's Registration Statement on Form S-3 filed with the Commission on December 23, 1998 (Reg. No. 333-69675) pursuant to which the Company registered \$300,000,000 aggregate offering price of securities, \$154,742,801 of which remain unissued and unsold as of the date hereof, and the Prospectus also covers such additional securities.

In this capacity, we have examined and relied upon the Registration Statement in the form proposed to be filed with the Commission and originals or copies of such corporate records, documents, agreements or other instruments of the Company, such certificates and records of public officials, and such other documents, as we have deemed necessary or appropriate in connection herewith. As to all matters of fact (including factual conclusions and characterizations and descriptions of purpose, intention or other state of mind) we have relied entirely upon certificates of officers of the Company, and have assumed, without independent inquiry, the accuracy of those certificates. We have assumed the genuineness of all signatures, the conformity to the originals of all documents reviewed by us as copies, the authenticity and completeness of all original documents reviewed by us in original or copy form and the legal competence of each individual executing any applicable document.

For purposes of this opinion letter, we have also assumed that:

- (i) the issuance, sale, amount, and terms of the Securities to be offered from time to time will be duly authorized and established by proper action of the Board of Directors of the Company, and in accordance with the Articles of Incorporation of the Company, as amended from time to time, the By-laws of the Company, as amended from time to time, and applicable law; and that, at the time of each such issuance and sale of Securities, the Company will continue to be a validly existing corporation under the laws of the State of Maryland with the requisite corporate power and authority to issue and sell all such Securities at such time and will have received any
-

required approvals of any governmental authority or agency in connection therewith; and that the issuance of Securities to be offered from time to time, and the issuance of Preferred Stock and/or Common Stock upon conversion, exercise or exchange of any such Securities, will not violate the provisions of Section 4 of the Articles of Incorporation of the Company, as amended from time to time, relating to restrictions on beneficial ownership and transfer of shares of stock of the Company;

(ii) any Debt Securities will be issued pursuant to an indenture (each, an "Indenture"), entered into by the Company and a duly qualified trustee (each, a "Trustee"), substantially in the form of indenture filed as Exhibit 4.1 to the Registration Statement; and, that, at the time any Debt Securities are so issued, the related Indenture will have been duly executed and delivered by, and will constitute a valid, binding, enforceable agreement of, the Company and the applicable Trustee party thereto; and that the certificates representing such Debt Securities will be in the form of Debt Security certificate contained in or approved in accordance with such Indenture and otherwise will conform in all respects to the requirements of applicable law; and that the certificates representing such Debt Securities will have been duly executed, issued and delivered on the part of the Company, and authenticated by the Trustee pursuant to the Indenture; and that the number of shares of Preferred Stock and/or Common Stock issuable upon the conversion or exchange of any Debt Securities issued pursuant to the Registration Statement from time to time will not exceed the maximum authorized number of shares of Preferred Stock and/or Common Stock, as applicable, under the Articles of Incorporation, as the same may have been amended, less that number of shares of Preferred Stock and/or Common Stock that will have been issued and are outstanding, or are reserved for issuance for other purposes, at such time; and that such Debt Securities will be issued for consideration duly established by the Board of Directors the value of which, in the case of Debt Securities convertible into or exchangeable for shares of Preferred Stock and/or Common Stock, will not be less than the par value of the shares of Preferred Stock and/or Common Stock, as appropriate, issuable upon conversion or exchange;

(iii) any shares of Preferred Stock issued pursuant to the Registration Statement from time to time will not exceed the maximum authorized number of shares of Preferred Stock under the Articles of Incorporation of the Company, as the same may have been amended, less the number of shares of Preferred Stock that will have been issued and are outstanding, or are reserved for issuance for other purposes, at such time, will be issued pursuant to the Articles of Incorporation of the Company and Articles Supplementary the terms of which will be in compliance with the Maryland General Corporation Law, and will be duly authorized by the Board of Directors of the Company or a properly authorized committee thereof and duly executed on behalf of the Company and filed with the Department of Assessments and Taxation of the State of Maryland, and will be issued for consideration duly established by the Board of Directors the value of which will not be less than the par value of the Preferred Stock and, in the case of Preferred Stock convertible into or exchangeable for Common Stock, the par value of the Common Stock issuable upon conversion or exchange; and that the form of stock certificates representing the Preferred Stock will conform in all respects to the applicable requirements of Maryland law and will have been duly executed, issued and delivered on the part of the Company, and countersigned by the Company's transfer agent;

(iv) any shares of Common Stock issued pursuant to the Registration Statement from time to time will not exceed the maximum authorized number of shares of Common Stock under the Articles of Incorporation of the Company, as the same may have been amended, less the number of shares of Common Stock that will have been issued and are outstanding, or are reserved for issuance for other purposes, at such time, and will be issued for consideration duly established by the Board of Directors, the value of which will not be less than the par value thereof; and that the form of stock certificates representing the Common Stock will conform in all respects to the

applicable requirements of Maryland law and will have been duly executed, issued and delivered on the part of the Company, and countersigned by the Company's transfer agent; and

(v) any Securities Warrants will be issued pursuant to a warrant agreement (each, a "Warrant Agreement") entered into by the Company and a warrant agent (each, a "Warrant Agent") and containing the terms summarized in the Registration Statement and governed by and construed in accordance with the internal laws of the State of New York, except to the extent certain matters may be governed as a matter of law by the corporate laws of the State of Maryland; and that, at the time any Securities Warrants are so issued, the related Warrant Agreement will have been duly executed and delivered by, and will constitute a valid, binding, enforceable agreement of the Company and the applicable Warrant Agent party thereto; and that the certificates representing such Securities Warrants will be in the form of Securities Warrant certificate contained in or approved in accordance with such Warrant Agreement and otherwise will conform in all respects to the requirements of applicable law; and that the certificates representing such Securities Warrants will have been duly executed, issued and delivered on the part of the Company, and countersigned by the Warrant Agent pursuant to the Warrant Agreement; and that the number of shares of Preferred Stock and/or Common Stock issuable upon the exercise of any Securities Warrants issued pursuant to the Registration Statement from time to time will not exceed the maximum authorized number of shares of Preferred Stock and/or Common Stock, as applicable, under the Articles of Incorporation, as the same may have been amended, less that number of shares of Preferred Stock and/or Common Stock that will have been issued and are outstanding, or are reserved for issuance for other purposes, at such time; and that such Securities Warrants will be issued for consideration duly established by the Board of Directors the value of which, in the case of Securities Warranties exercisable for shares of Preferred Stock and/or Common Stock, will not be less than the par value of such Preferred Stock and/or Common Stock, as appropriate, issuable upon exercise.

This opinion is limited to (i) the Maryland General Corporation Law, and (ii) solely with respect to the Debt Securities and the Securities Warrants, the internal, substantive laws of the State of New York as applied by courts located in New York without regard to choice of law and we do not express any opinions herein covering any other law. While our Firm does not maintain an office or an active practice in the State of New York, members of our Firm are admitted to the Bar of the State of New York, and have reviewed this opinion letter and, to the extent the opinions expressed herein relate to the laws of the State of New York law, we advise you that we have, with your permission, considered only those laws of the State of New York which are typically applicable to debt securities and securities warrants similar to the Debt Securities and the Securities Warrants, and we express no opinion with respect to any other laws of the State of New York. Except as otherwise indicated herein, we have not undertaken any independent investigation of factual matters.

To the extent that the obligations of the Company under any Debt Securities may be dependent upon such matters, we assume for purposes of this opinion that the Trustee under any Indenture is duly organized, validly existing and in good standing under the laws of its jurisdiction or organization; that the Trustee is duly qualified to engage in the activities contemplated by such Indenture; that such Indenture has been duly authorized, executed and delivered by the Trustee and constitutes the valid and binding obligation of the Trustee enforceable against the Trustee in accordance with its terms; that the Trustee is in compliance, with respect to acting as a trustee under such Indenture, with all applicable laws and regulations; and that the Trustee has the requisite organizational and legal power and authority to perform its obligations under such Indenture.

Based upon and subject to the foregoing and the other qualifications set forth herein, it is our opinion that, as of the date hereof:

1. The Debt Securities registered under the Registration Statement, when duly authorized, executed, authenticated and delivered against full payment therefor in accordance with the

terms of the Indenture and as described in the Registration Statement, will constitute binding obligations of the Company subject to any limitations imposed by (a) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, or other similar laws affecting creditors' rights generally, and (b) general principles of equity (regardless of whether considered in a proceeding at law or in equity).

2. The shares of Preferred Stock registered under the Registration Statement, when duly authorized and issued against full payment therefor and as described in the Registration Statement, will be validly issued, fully paid and nonassessable.
3. The shares of Common Stock registered under the Registration Statement, when duly authorized and issued against full payment therefor and as described in the Registration Statement, will be validly issued, fully paid and nonassessable.
4. The Securities Warrants registered under the Registration Statement, when duly authorized, executed, countersigned and delivered against full payment therefor in accordance with the terms of the Warrant Agreement and as described in the Registration Statement, will constitute binding obligations of the Company subject to any limitations imposed by (a) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, or other similar laws affecting creditors' rights generally, and (b) general principles of equity (regardless of whether considered in a proceeding at law or in equity).

This opinion letter is given as of the date hereof, and we express no opinion as to the effect of subsequent events or changes in law occurring or becoming effective after the date hereof. We assume no obligation to update this opinion letter or otherwise advise you with respect to any facts or circumstances or changes in law that may hereafter occur or come to our attention.

We hereby consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement and to the reference to our firm under the heading "Legal Matters" in the Prospectus included in the Registration Statement. In rendering this opinion and giving this consent, we do not admit that we are an "expert" within the meaning of Section 7 of the Securities Act and the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Powell, Goldstein, Frazer & Murphy LLP

POWELL, GOLDSTEIN, FRAZER & MURPHY LLP

Powell, Goldstein, Frazer & Murphy LLP
16th Floor
191 Peachtree Street, NE
Atlanta, Georgia 30303

July 26, 2004

Omega Healthcare Investors, Inc.
9690 Deereco Road
Suite 100
Timonium, Maryland 21093

Ladies and Gentlemen:

We have acted as special counsel to Omega Healthcare Investors, Inc., a Maryland corporation (the "Company"), in connection with the preparation of the Prospectus, dated July 26, 2004, relating to the offering to the public of up to \$500,000,000 of the Company's debt securities, preferred stock, common stock and securities warrants (the "Prospectus"), which is being filed under a Registration Statement on Form S-3 (Registration No. 333-).

In rendering our opinion, we have examined and relied on originals or copies certified or otherwise identified to our satisfaction of (i) the Articles of Incorporation of the Company and the Articles of Amendment, Articles of Amendment and Restatement, and Articles Supplementary thereto, (ii) the Prospectus, and (iii) such other documents, certificates, and records as we have deemed necessary or appropriate. We also have relied upon factual statements and representations made to us by representatives of the Company and others that are set forth in a certificate executed and provided to us by the Company (the "Officer's Certificate"). We have also relied on a letter from Explorer Holdings, L.P., regarding the prior ownership of the stock of the Company by Explorer Holdings, L.P., Explorer Holdings Level II, L.P., and Hampstead Investment Partners III, L.P. For purposes of this opinion, we have assumed the validity and accuracy of the documents, certificates and records set forth above, and that the statements and representations made therein are and will remain true and complete. We also have assumed that the Prospectus and such other documents, certificates and records and that the statements as to factual matters contained in the Prospectus are true, correct and complete and will continue to be true, correct and complete through the completion of the transactions contemplated therein.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed or photo copies, and the authenticity of the originals of such copies. In making our examination of documents executed, or to be executed, by the parties indicated therein, we have assumed that each party (other than the Company) has, or will have, the power, corporate or other, to enter into and perform all obligations thereunder and we have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties and the validity and binding effect thereof on such parties. All of the documents we have reviewed will be complied with without waiver. Finally, in connection with the opinions rendered below, we have assumed that:

(i) During its taxable year ended December 31, 1992 and in each subsequent taxable year to present, the Company has operated and will continue to operate in such a manner that makes and will continue to make the representations contained in the Officer's Certificate true for such years;

(ii) Explorer Holdings, L.P., Explorer Holdings Level II, L.P., and Hampstead Investment Partners III, L.P. (collectively "Explorer") were partnerships for purposes of Section 544(a)(1) under the Internal Revenue Code of 1986, as amended (the "Code") for all periods during which they owned Company securities; and

(iii) Yale University and The Board of Trustees of Leland Stanford Junior University are organizations described in Section 170(b)(1)(A)(ii) of the Code.

In rendering our opinion, we have considered the applicable provisions of the Code, Treasury Department regulations promulgated thereunder, pertinent judicial authorities, interpretive rulings of the Internal Revenue Service and such other authorities as we have considered relevant, all in effect as of the date hereof. It should be noted that statutes, regulations, judicial decisions and administrative interpretations are subject to change at any time (possibly with retroactive effect). A change in the authorities or the accuracy or completeness of any of the information, documents, certificates, records, statements, representations, covenants, or assumptions on which our opinion is based could affect our conclusions.

Based on the foregoing, in reliance thereon and subject thereto and to the limitations stated below, it is our opinion that:

(a) From and including the Company's taxable year ended December 31, 1992, the Company was and is organized in conformity with the requirements for, and its method of operations as described in the Officer's Certificate has permitted and will permit the Company to meet the requirements for, qualification and taxation as a real estate investment trust ("REIT") under the Code, and, based on the Company's proposed method of operations as described in the Prospectus, the Company will continue to meet such requirements after consummation of the transactions contemplated in the Prospectus.

(b) The discussion in the Prospectus under the heading "CERTAIN FEDERAL INCOME TAX CONSIDERATIONS," fairly and accurately summarizes the federal income tax considerations that are likely to be material to a holder of the Company's securities being offered.

Except as set forth above, we express no opinion to any party as to the tax consequences, whether federal, state, local or foreign, of the offerings discussed in the Prospectus or of any transaction related thereto or contemplated thereby. This opinion is expressed as of the date hereof, and we are under no obligation to advise you of, supplement or to revise our opinion to reflect, any changes (including changes that have retroactive effect) in applicable law or any information, document, certificate, record, statement, representation, covenant or assumption relied upon herein that becomes incorrect or untrue.

Very truly yours,

/s/ Powell, Goldstein, Frazer & Murphy LLP

STATEMENT REGARDING COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES

The ratios of earnings to fixed charges is set forth below. We have calculated the ratio of earnings to fixed charges by adding net income (loss) from continuing operations to fixed charges and dividing that sum by such fixed charges. Fixed charges consist of interest expense and amortization of deferred financing costs.

	Year Ended December 31,					For the Three
	1999	2000	2001	2002	2003	Months Ended March 31, 2004
Unaudited (in thousands except ratios)						
RATIO OF EARNINGS TO FIXED CHARGES						
Net income (loss) from continuing operations	\$ 18,966	\$ (43,250)	\$ (15,588)	\$ (3,744)	\$ 23,341	\$ (9,945)
Interest expense	42,947	42,400	33,204	27,381	23,388	24,253
Earnings	\$ 61,913	\$ (850)	\$ 17,616	\$ 23,637	\$ 46,729	\$ 14,308
Interest expense	\$ 42,947	\$ 42,400	\$ 33,204	\$ 27,381	\$ 23,388	\$ 24,253
Total fixed charges	\$ 42,947	\$ 42,400	\$ 33,204	\$ 27,381	\$ 23,388	\$ 24,253
Ratio of earnings to fixed charges	1.4x	*	*	*	2.0x	*

* Our earnings were insufficient to cover our fixed charges by \$43,250, \$15,588, \$3,744 and \$9,945 in 2000, 2001, 2002 and the three months ended March 31, 2004, respectively.

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[STATEMENT REGARDING COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES](#)

STATEMENT REGARDING COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES AND PREFERRED STOCK DIVIDENDS

The ratio of earnings to combined fixed charges and preferred stock dividends is set forth below. The ratio of earnings to combined fixed charges and preferred stock dividends was calculated in the same manner as the ratio of earnings to fixed charges (by adding net income (loss) from continuing operations to fixed charges and dividing that sum by such fixed charges), except that accrued preferred stock dividends were included for each of the periods shown irrespective of whether or not such dividends were actually paid.

	Year Ended December 31,					For the Three Months Ended March 31, 2004
	1999	2000	2001	2002	2003	
Unaudited (in thousands except ratios)						
RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS						
Interest expense	\$ 42,947	\$ 42,400	\$ 33,204	\$ 27,381	\$ 23,388	\$ 24,253
Preferred dividends	9,631	16,928	19,994	20,115	20,115	4,687
Preferred stock conversion charge	—	—	—	—	—	38,743
Total fixed charges and preferred dividends	\$ 52,578	\$ 59,328	\$ 53,198	\$ 47,496	\$ 43,503	\$ 67,683
Ratio of earnings to combined fixed charges and preferred stock dividends	1.2x	*	*	*	1.1x	*

* Our earnings were insufficient to cover combined fixed charges and preferred stock dividends by \$60,178, \$35,582, \$23,859 and \$53,375 in 2000, 2001, 2002 and the three months ended March 31, 2004, respectively.

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[STATEMENT REGARDING COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES AND PREFERRED STOCK DIVIDENDS](#)

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Exhibit 23.1

Consent of Registered Independent Public Accounting Firm

We consent to the reference to our firm under the caption "Experts" in the Registration Statement (Form S-3 No. 333-) and related Prospectus of Omega Healthcare Investors, Inc. for the registration of common stock, preferred stock, debt securities and warrants and to the incorporation by reference therein of our report dated January 27, 2004, except for Note 20 as to which the date is February 13, 2004, with respect to the consolidated financial statements and schedules of Omega Healthcare Investors, Inc. included in its Annual Report (Form 10-K) for the year ended December 31, 2003, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

McLean, Virginia
July 22, 2004

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[Consent of Registered Independent Public Accounting Firm](#)