

FORM 10-Q

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

(Mark One)

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

For the quarterly period ended September 30, 2004

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

For the transition period from to

Commission File Number : 001-31911

American Equity Investment Life Holding Company

(Exact name of registrant as specified in its charter)

Iowa

(State of Incorporation)

42-1447959

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

5000 Westown Parkway, Suite 440

West Des Moines, Iowa

(Address of principal executive offices)

50266

(Zip Code)

Registrant's telephone number, including area code

(515) 221-0002

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Common Stock, par value \$1	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: Common Stock, par value \$1

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

Yes ☒ No ☐

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Yes ☒ No ☐

APPLICABLE TO CORPORATE ISSUERS:

Shares of common stock outstanding at October 29, 2004: 38,257,812

PART I. – FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

CONSOLIDATED BALANCE SHEETS

(Dollars in thousands, except per share data)

(Unaudited)

September 30,
2004

December 31,
2003

Assets

Cash and investments:

Fixed maturity securities:		
Available for sale, at market (amortized cost: 2004 – \$2,530,393; 2003 – \$3,703,756)	\$ 2,481,364	\$ 3,618,025
Held for investment, at amortized cost (market: 2004 – \$3,634,778; 2003 - \$1,717,224)	3,726,967	1,827,289
Equity securities, available for sale, at market (cost: 2004 - \$34,755; 2003 - \$21,794)	33,672	21,409
Mortgage loans on real estate	867,132	608,715
Derivative instruments	76,629	119,833
Policy loans	354	324
Cash and cash equivalents	38,225	32,598
Total cash and investments	<u>7,224,343</u>	<u>6,228,193</u>
Coinsurance deposits - related party	2,080,812	1,926,603
Premiums due and uncollected	1,437	1,213
Accrued investment income	49,095	29,386
Receivables from related parties	19,475	28,015
Property and equipment	3,362	1,574
Deferred policy acquisition costs	659,085	608,197
Deferred sales inducements	132,896	95,467
Deferred income tax asset	58,592	58,833
Federal income taxes recoverable	5,942	1,737
Other assets	38,974	6,333
Assets held in separate account	3,955	3,626
Total assets	<u>\$ 10,277,968</u>	<u>\$ 8,989,177</u>

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AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY
CONSOLIDATED BALANCE SHEETS
(Dollars in thousands, except per share data)
(Unaudited)

	<u>September 30, 2004</u>	<u>December 31, 2003</u>
Liabilities and Stockholders' Equity		
Liabilities:		
Policy benefit reserves:		
Traditional life and accident and health insurance products	\$ 57,966	\$ 44,497
Annuity and single premium universal life products	9,252,748	8,271,377
Other policy funds and contract claims	85,184	60,995
Amounts due to related party under General Agency Commission and Servicing Agreement	24,691	40,601
Other amounts due to related parties	20,103	22,551
Notes payable	8,500	31,833
Subordinated debentures	153,236	116,425
Amounts due under repurchase agreements	261,162	108,790
Other liabilities	96,482	24,766
Liabilities related to separate account	3,955	3,626
Total liabilities	<u>9,964,027</u>	<u>8,725,461</u>
Stockholders' equity:		
Series Preferred Stock, par value \$1 per share, 2,000,000 shares authorized; 1998 Series A Participating Preferred Stock issued and outstanding: 2003 - 625,000 shares	—	625
Common Stock, par value \$1 per share, 75,000,000 shares authorized; issued and outstanding: 2004 – 38,257,812 shares; 2003 – 35,294,035 shares	38,258	35,294
Additional paid-in capital	214,985	208,436
Accumulated other comprehensive loss	(12,909)	(22,742)
Retained earnings	73,607	42,103
Total stockholders' equity	<u>313,941</u>	<u>263,716</u>
Total liabilities and stockholders' equity	<u>\$ 10,277,968</u>	<u>\$ 8,989,177</u>

See accompanying notes.

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AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY
CONSOLIDATED STATEMENTS OF INCOME
(Dollars in thousands, except per share data)
(Unaudited)

	<u>Three Months Ended September 30,</u>		<u>Nine Months Ended September 30,</u>	
	<u>2004</u>	<u>2003</u>	<u>2004</u>	<u>2003</u>
Revenues:				
Traditional life and accident and health insurance premiums	\$ 3,581	\$ 4,230	\$ 11,680	\$ 11,088

Annuity and single premium universal life product charges	5,355	4,279	15,671	15,504
Net investment income	109,783	89,299	315,730	264,230
Realized gains (losses) on investments	422	(907)	811	6,881
Change in fair value of derivatives	(19,696)	6,050	(18,815)	25,141
Total revenues	99,445	102,951	325,077	322,844
Benefits and expenses:				
Policy benefits and change in future policy benefits	2,424	3,262	10,055	8,846
Interest credited to account balances	77,368	67,944	236,965	180,460
Change in fair value of embedded derivatives	(25,913)	(287)	(53,244)	40,947
Interest expense on General Agency Commission and Servicing Agreement	684	698	2,172	2,411
Interest expense on notes payable	97	327	601	1,131
Interest expense on subordinated debentures	2,428	1,916	6,821	5,745
Interest expense on amounts due under repurchase agreements and other interest expense	1,047	249	2,160	823
Amortization of deferred policy acquisition costs	16,551	12,062	46,442	36,293
Other operating costs and expenses	8,132	6,981	24,359	19,808
Total benefits and expenses	82,818	93,152	276,331	296,464
Income before income taxes	16,627	9,799	48,746	26,380
Income tax expense	5,938	3,431	17,242	9,152
Net income	<u>\$ 10,689</u>	<u>\$ 6,368</u>	<u>\$ 31,504</u>	<u>\$ 17,228</u>
Earnings per common share	<u>\$ 0.28</u>	<u>\$ 0.39</u>	<u>\$ 0.83</u>	<u>\$ 1.05</u>
Earnings per common share - assuming dilution	<u>\$ 0.26</u>	<u>\$ 0.34</u>	<u>\$ 0.75</u>	<u>\$ 0.90</u>

See accompanying notes.

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(Dollars in thousands, except per share data)
(Unaudited)

	Preferred Stock	Common Stock	Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Retained Earnings	Total Stockholders' Equity
Balance at January 1, 2003	\$ 625	\$ 14,438	\$ 56,811	\$ (11,944)	\$ 17,548	\$ 77,478
Comprehensive income:						
Net income for period	—	—	—	—	17,228	17,228
Change in net unrealized investment gains/losses	—	—	—	(1,951)	—	(1,951)
Total comprehensive income						15,277
Acquisition of 1,435,500 shares of common stock	—	(1,435)	(7,879)	—	—	(9,314)
Transfer of 1,591,083 shares of common stock to the NMO Deferred Compensation Trust	—	1,591	8,939	—	(533)	9,997
Balance at September 30, 2003	<u>\$ 625</u>	<u>\$ 14,594</u>	<u>\$ 57,871</u>	<u>\$ (13,895)</u>	<u>\$ 34,243</u>	<u>\$ 93,438</u>
Balance at January 1, 2004	\$ 625	\$ 35,294	\$ 208,436	\$ (22,742)	\$ 42,103	\$ 263,716
Comprehensive income:						
Net income for period	—	—	—	—	31,504	31,504
Change in net unrealized investment gains/losses	—	—	—	9,833	—	9,833
Total comprehensive income						41,337
Issuance of 805,000 shares of common stock less issuance expenses of \$507	—	805	5,933	—	—	6,738
Exercise of 6,000 management subscription rights	—	6	26	—	—	32
Conversion of \$2,250 of subordinated debentures	—	278	1,840	—	—	2,118
Conversion of 625,000 shares of Series Preferred Stock	(625)	1,875	(1,250)	—	—	—
Balance at September 30, 2004	<u>\$ —</u>	<u>\$ 38,258</u>	<u>\$ 214,985</u>	<u>\$ (12,909)</u>	<u>\$ 73,607</u>	<u>\$ 313,941</u>

Total comprehensive income for the third quarter of 2004 was \$34.2 million and was comprised of net income of \$10.7 million and a decrease in net unrealized depreciation of available for sale fixed maturity securities and equity securities of \$23.5 million.

Total comprehensive loss for the third quarter of 2003 was \$2.7 million and was comprised of net income of \$6.4 million and an increase in net unrealized depreciation of available for sale fixed maturity securities and equity securities of \$9.1 million.

See accompanying notes.

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Dollars in thousands)
(Unaudited)

	Nine months ended September 30,	
	2004	2003
Operating activities		
Net income	\$ 31,504	\$ 17,228
Adjustments to reconcile net income to net cash provided by operating activities:		
Adjustments related to interest sensitive products:		
Interest credited to account balances	236,965	180,460
Annuity and single premium universal life product charges	(15,671)	(15,504)
Change in fair value of embedded derivatives	(53,244)	40,947
Increase in traditional life and accident and health insurance reserves	13,469	8,730
Policy acquisition costs deferred	(116,913)	(81,936)
Amortization of deferred policy acquisition costs	46,442	36,293
Provision for depreciation and other amortization	1,052	979
Amortization of discount and premiums on fixed maturity securities	(99,732)	(117,072)
Realized gains on investments	(811)	(6,881)
Change in fair value of derivatives	18,815	(25,141)
Deferred income taxes	(5,054)	(2,355)
Reduction of amounts due to related party under General Agency Commission and Servicing Agreement	(15,910)	(14,174)
Changes in other operating assets and liabilities:		
Accrued investment income	(19,709)	(1,519)
Receivables from related parties	8,540	6,996
Federal income taxes recoverable	(4,205)	(2,809)
Other policy funds and contract claims	24,189	19,901
Other amounts due to related parties	27,964	11,283
Other liabilities	10,949	15,166
Other	(951)	(1,177)
Net cash provided by operating activities	87,689	69,415
Investing Activities		
Sales, maturities, or repayments of investments:		
Fixed maturity securities - available for sale	1,196,938	2,097,038
Fixed maturity securities - held for investment	746,826	869,205
Equity securities, available for sale	18,525	32,317
Mortgage loans on real estate	43,298	7,073
Derivative instruments	73,432	34,693
	2,079,019	3,040,326
Acquisition of investments:		
Fixed maturity securities - available for sale	(986,911)	(1,670,114)
Fixed maturity securities - held for investment	(1,550,797)	(1,419,534)
Equity securities, available for sale	(31,337)	(46,670)
Mortgage loans on real estate	(301,381)	(200,117)
Derivative instruments	(80,763)	(49,634)
Policy loans	(30)	(18)
	(2,951,219)	(3,386,087)
Purchases of property and equipment	(2,630)	(667)
Net cash used in investing activities	(874,830)	(346,428)

	Nine months ended September 30,	
	2004	2003
Financing activities		
Receipts credited to annuity and single premium universal life policyholder account balances	\$ 1,353,887	\$ 1,353,228
Coinurance deposits - related party	(201,102)	(507,148)
Return of annuity and single premium universal life policyholder account balances	(533,078)	(354,021)
Financing fees incurred and deferred	(1,418)	(92)
Increase (decrease) in amounts due under repurchase agreements	152,372	(193,390)
Repayments of notes payable	(23,333)	(11,500)
Amounts due to reinsurers	—	(10,908)

Net proceeds from issuance of common stock	6,770	—
Proceeds from subordinated debentures	38,670	—
Acquisition of common stock	—	(9,314)
Net cash provided by financing activities	792,768	266,855
Increase (decrease) in cash and cash equivalents	5,627	(10,158)
Cash and cash equivalents at beginning of period	32,598	21,163
Cash and cash equivalents at end of period	\$ 38,225	\$ 11,005

Supplemental disclosures of cash flow information

Cash paid during period for:

Interest on notes payable and repurchase agreements	\$ 2,884	\$ 1,994
Interest on subordinated debentures	6,053	5,354
Interest on General Agency Commission and Servicing Agreement	2,749	2,411
Income taxes - life subsidiaries	26,500	14,315

Non-cash financing and investing activities:

Premium and interest bonuses deferred as sales inducements	45,915	24,636
Transfer of 1,262,136 shares of common stock to NMO Deferred Compensation Trust	—	9,997
Conversion of subordinated debentures	2,118	—
Conversion of Series Preferred Stock	625	—

See accompanying notes.

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

September 30, 2004
(Unaudited)

1. Significant Accounting Policies

Consolidation and Basis of Presentation

The accompanying unaudited consolidated financial statements of American Equity Investment Life Holding Company (the Company) have been prepared in accordance with accounting principles generally accepted in the United States (GAAP) for interim financial information and the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all the information and notes required by GAAP for complete financial statements. The unaudited consolidated financial statements reflect all adjustments, consisting only of normal recurring items, which are necessary to present fairly the Company's financial position and results of operations on a basis consistent with the prior audited financial statements. Operating results for the three-month and nine-month periods ended September 30, 2004, are not necessarily indicative of the results that may be expected for the year ended December 31, 2004. For further information, refer to the audited consolidated financial statements and notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2003.

Sales Inducements

The Company adopted the Accounting Standards Executive Committee of the American Institute of Certified Public Accountants Statement of Position (SOP) 03-1, "Accounting and Reporting by Insurance Enterprises for Certain Nontraditional Long-Duration Contracts and for Separate Accounts" on January 1, 2004. As it applies to the Company, SOP 03-1 established guidance for the accounting and presentation of costs related to sales inducements ("premium bonuses and bonus interest"). There was no change to the Company's method of accounting for sales inducements; however, the capitalized costs are now separately disclosed in the consolidated balance sheets and the related amortization expense is included in interest credited to account balances in the consolidated statements of income. Prior to 2004, the capitalized costs were included in deferred policy acquisition costs and the amortization expense was included in the amortization of deferred policy acquisition costs. The 2003 amounts have been reclassified to conform with the 2004 presentation. The adoption of SOP 03-1 had no effect on net income or stockholders' equity. Amortization of sales inducements included as a component of interest credited to account balances was \$2.4 million for the third quarter of 2004 and \$6.5 million for the nine months ended September 30, 2004 compared to \$1.4 million and \$4.1 million for the same periods in 2003.

Reclassifications

Certain amounts in the unaudited consolidated financial statements for the periods ended September 30, 2003 have been reclassified to conform to the financial statement presentation as of and for the periods ended September 30, 2004.

Stock-Based Compensation

The Company has elected to follow Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees* (APB 25) and related Interpretations in accounting for its employee stock options. Under APB 25, because the exercise price of the Company's employee stock options equals the fair value of the underlying stock on the date of grant, no compensation expense is recognized.

options under the fair value method of these statements. The fair value for these options was estimated at the date of grant using a Black-Scholes option valuation model with the following assumptions:

	2004
Risk-free interest rate	2.48%
Dividend yield	0%
Weighted-average expected life	10 years
Expected volatility	29.5%

The Black-Scholes option valuation model was developed for use in estimating the fair value of traded options which have no vesting restrictions and are fully transferable. Because the Company's employee stock options have characteristics significantly different from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimate, in management's opinion, the existing models do not necessarily provide a reliable single measure of the fair value of its employee stock options.

For purposes of pro forma disclosures, the estimated fair value of the options is amortized to expense over the options' vesting period. The Company's pro forma net earnings and earnings per common share were as follows (dollars in thousands, except per share date):

	Three Months Ended September 30, 2004	Nine Months Ended September 30, 2004
Net income, as reported – numerator for earnings per common share	\$ 10,689	\$ 31,504
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related income tax effect	(451)	(758)
Net income, pro forma – numerator for earnings per common share, pro forma	10,238	30,746
Interest on convertible subordinated debentures (net of income tax benefit)	308	952
Numerator for earnings per common share - assuming dilution, pro forma	\$ 10,546	\$ 31,698
Earnings per common share, as reported	\$ 0.28	\$ 0.83
Earnings per common share, pro forma	\$ 0.27	\$ 0.81
Earnings per common share - assuming dilution, as reported	\$ 0.26	\$ 0.75
Earnings per common share - assuming dilution, pro forma	\$ 0.25	\$ 0.73

There is no compensation expense to be determined under the fair value based method for the three and nine months ended September 30, 2003 as there were no options granted or vesting during that period.

2. General Agency Commission and Servicing Agreement

The Company has a General Agency Commission and Servicing Agreement with American Equity Investment Service Company (the Service Company), wholly-owned by the Company's chairman, whereby, the Service Company acts as a national supervisory agent with responsibility for paying commissions to agents of the Company. This Agreement is more fully described in note 8 to the audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2003.

During the nine months ended September 30, 2004 and 2003, the Company paid renewal commissions to the Service Company of \$19.8 million and \$16.6 million, respectively, which reduced the amounts due under the General Agency Commission and Servicing Agreement and included amounts attributable to imputed interest.

Prior to 2004, the Service Company borrowed money from the Company as a source of funds. At September 30, 2004 and December 31, 2003, the amounts receivable from the Service Company totaled \$19.5 million and \$27.9 million, respectively. Principal and interest are payable quarterly over the five years from the date of the advance.

3. Subordinated Debentures

On April 29, 2004, American Equity Capital Trust III ("Trust III") issued 27 million shares of floating rate (three month London Interbank Offered Rate plus 4.00%) trust preferred securities. On September 14, 2004, American Equity Capital Trust VII ("Trust VII") issued 10.5 million shares of floating rate (three month London Interbank Offered Rate plus 3.75%) trust preferred securities. In connection with Trusts' issuance of these trust preferred securities and the related purchase by the Company of all of Trusts' common securities, the Company issued \$27.8 million and \$10.8 million in principal amount of its floating rate subordinated debentures due April 29, 2034 and September 14, 2034, to Trust III and VII, respectively. The sole assets of the Trusts are the subordinated debentures and any interest accrued thereon. The interest rate and payment dates on the subordinated debentures correspond to the dividend rate and distribution dates on the trust preferred securities issued by Trusts. The Trusts' preferred securities mature simultaneously with the subordinated debentures. All of the trust preferred securities are unconditionally guaranteed by the Company to the extent of the assets of Trusts. Although the Company owns all of the common securities of the Trusts, in accordance with FIN 46, "Consolidation of Variable Interest Entities, an Interpretation of Accounting Research Bulletin No. 51", the Company does not consolidate the Trusts. This accounting treatment is more fully described in note 9 to the audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2003.

4. Notes Payable

On September 22, 2004, the Company entered into a \$50 million revolving line of credit agreement with three banks. The revolving period of the facility will be three years followed by a two-year term out option. The applicable interest rate will be floating at LIBOR plus 1.75% or prime rate, as elected by the

Company. There is no amount outstanding under the revolving line of credit at September 30, 2004. Under this agreement, without obtaining a waiver from the lenders, the Company is required to maintain a minimum risk-based capital ratio at American Equity Investment Life Insurance Company, a maximum ratio of senior debt to total capital, and is prohibited from paying dividends on its capital stock in excess of 33% of consolidated net income for the prior year.

Notes payable of \$8.5 million are due in quarterly installments plus interest commencing on December 31, 2004 over the next five years. The applicable interest rate is floating at LIBOR plus 3.00%.

5. Reinsurance

Effective August 1, 2004, the Company suspended its coinsurance agreement with EquiTrust Life Insurance Company ("EquiTrust"), a subsidiary of FBL Financial Group. As a result of the suspension, new business will no longer be ceded to EquiTrust unless and until the parties mutually agree to resume the coinsurance of new business. For further information concerning the Company's coinsurance agreements, see note 5 to the audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2003.

6. Earnings Per Share

The following table sets forth the computation of earnings per common share and earnings per common share - assuming dilution:

	Three Months Ended September 30,		Nine months Ended September 30,	
	2004	2003	2004	2003
(Dollars in thousands, except per share data)				
Numerator:				
Net income - numerator for earnings per common share	\$ 10,689	\$ 6,368	\$ 31,504	\$ 17,228
Interest on convertible subordinated debentures (net of income tax benefit)	308	337	952	1,011
Numerator for earnings per common share - assuming dilution	<u>\$ 10,997</u>	<u>\$ 6,705</u>	<u>\$ 32,456</u>	<u>\$ 18,239</u>
Denominator:				
Weighted average common shares outstanding	38,257,812	14,411,764	37,261,111	14,455,124
Participating preferred stock	—	1,875,000	855,383	1,875,000
Denominator for earnings per common share	<u>38,257,812</u>	<u>16,286,764</u>	<u>38,116,494</u>	<u>16,330,124</u>
Effect of dilutive securities:				
Convertible subordinated debentures	2,920,940	2,591,014	3,038,539	2,591,014
Stock options and management subscription rights	1,301,630	377,812	1,524,661	377,812
Deferred compensation agreements	439,812	325,829	433,133	856,046
Denominator for earnings per common share - assuming dilution	<u>42,920,194</u>	<u>19,581,419</u>	<u>43,112,827</u>	<u>20,154,996</u>
Earnings per common share	<u>\$ 0.28</u>	<u>\$ 0.39</u>	<u>\$ 0.83</u>	<u>\$ 1.05</u>
Earnings per common share - assuming dilution	<u>\$ 0.26</u>	<u>\$ 0.34</u>	<u>\$ 0.75</u>	<u>\$ 0.90</u>

7. Contingencies

In recent years, companies in the life insurance and annuity business have faced litigation, including class action lawsuits alleging improper product design, improper sales practices and similar claims. The Company is currently a defendant in two purported class action lawsuits filed in state courts alleging improper sales practices. In both cases, the plaintiffs are seeking returns of premiums and other compensatory and punitive damages. A preliminary settlement has been reached in one of these cases involving primarily noneconomic relief. A hearing occurred during August 2004 to determine whether this settlement will become final, and the parties are awaiting the decision of the court. The financial impact to the Company is expected to be immaterial. In the other case, the class has not been certified at this time and the Company has denied all allegations in this lawsuit and intends to vigorously defend against it. The lawsuit is in the early stages of litigation and its outcome cannot at this time be determined. However, the Company does not believe that this lawsuit will have a material adverse effect on its business, financial condition or results of operations.

In addition, the Company is from time to time subject to other legal proceedings and claims in the ordinary course of business, none of which management believe are likely to have a material adverse effect on the Company's financial position, results of operations or cash flows. There can be no assurance that such litigation, or any future litigation, will not have a material adverse effect on the Company's financial position, results of operations or cash flows.

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

Management's discussion and analysis reviews our consolidated financial position at September 30, 2004, and the consolidated results of operations for the periods ended September 30, 2004 and 2003, and where appropriate, factors that may affect future financial performance. This analysis should be read in conjunction with the unaudited consolidated financial statements and notes thereto appearing elsewhere in this Form 10-Q, and the audited consolidated financial statements, notes thereto and selected consolidated financial data appearing in our Annual Report on Form 10-K for the year ended December 31, 2003.

All statements, trend analyses and other information contained in this report and elsewhere (such as in filings by us with the Securities and Exchange Commission, press releases, presentations by us or our management or oral statements) relative to markets for our products and trends in our operations or financial results, as well as other statements including words such as “anticipate,” “believe,” “plan,” “estimate,” “expect,” “intend,” and other similar expressions, constitute forward-looking statements under the Private Securities Litigation Reform Act of 1995. These forward-looking statements are subject to known and unknown risks, uncertainties and other factors which may cause actual results to be materially different from those contemplated by the forward-looking statements. Such factors include, among other things:

- general economic conditions and other factors, including prevailing interest rate levels and stock and credit market performance which may affect (among other things) our ability to sell our products, our ability to access capital resources and the costs associated therewith, the market value of our investments and the lapse rate and profitability of policies
- customer response to new products and marketing initiatives
- changes in Federal income tax laws and regulations which may affect the relative income tax advantages of our products
- increasing competition in the sale of annuities
- regulatory changes or actions, including those relating to regulation of financial services affecting (among other things) bank sales and underwriting of insurance products and regulation of the sale, underwriting and pricing of products
- the risk factors or uncertainties listed from time to time in our private placement memorandums or filings with the Securities and Exchange Commission

Results of Operations

Three and Nine Months Ended September 30, 2004 and 2003

Annuity deposits by product type collected during the three and nine months ended September 30, 2004 and 2003, were as follows:

Product Type	Three months ended September 30,		Nine months ended September 30,	
	2004	2003	2004	2003
(Dollars in thousands)				
Index Annuities:				
Index Strategies	\$ 246,317	\$ 266,564	\$ 749,312	\$ 573,712
Fixed Strategy	149,296	107,660	353,915	271,473
	395,613	374,224	1,103,227	845,185
Fixed Rate Annuities:				
Single-Year Rate Guaranteed	65,558	169,235	232,384	452,475
Multi-Year Rate Guaranteed	4,560	22,358	18,276	55,568
	70,118	191,593	250,660	508,043
Total before coinsurance ceded	465,731	565,817	1,353,887	1,353,228
Coinsurance ceded	30,746	212,093	201,102	507,148
Net after coinsurance ceded	\$ 434,985	\$ 353,724	\$ 1,152,785	\$ 846,080

For information related to our coinsurance agreements, see note 5 to our audited consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2003.

Gross annuity deposits for the nine months ended September 30, 2004 were unchanged from the same period in 2003. Deposits in the third quarter of 2003 were significantly higher than any of the other 2003 quarters because we reduced commission rates to agents effective August 1, 2003 and the advance announcement of that action precipitated an influx of deposits in the third quarter of 2003. Absent this effect on 2003 deposits, the trend of increasing deposits established in the first six months of 2004 would have continued for the nine months ended September 30, 2004.

Net annuity deposits after coinsurance ceded for the nine months ended September 30, 2004 increased 36% from the same period in 2003 because we reduced the coinsurance percent in our coinsurance agreement with EquiTrust Life Insurance Company (“EquiTrust”), a subsidiary of FBL Financial Group, from 40% in 2003 to 20% in 2004, and effective August 1, 2004, we suspended the EquiTrust coinsurance agreement. As a result of the suspension, new business will no longer be ceded to EquiTrust unless and until the parties mutually agree to resume the coinsurance of new business.

Net income increased 68% to \$10.7 million for the third quarter of 2004, and 83% to \$31.5 million for the nine months ended September 30, 2004, compared to \$6.4 million and \$17.2 million for the same periods in 2003. The growth in net income is due to (i) an increase in our invested assets of 23% (on an amortized cost basis) from September 30, 2003 to September 30, 2004 and (ii) a 36 basis point reduction in average crediting rates for the nine month periods. See our analysis of investment spread included in the discussion of interest credited to account balances.

Annuity and single premium universal life product charges (surrender charges assessed against policy withdrawals and mortality and expense charges assessed against single premium universal life policyholder account balances) increased 25% to \$5.4 million for the third quarter of 2004, and 1% to \$15.7 million for the nine months ended September 30, 2004 compared to \$4.3 million and \$15.5 million for the same periods in 2003. These increases are principally attributable to the growth and aging of our annuity business and correspondingly, increases in annuity policy withdrawals subject to surrender charges. The increase in the third quarter of 2004 compared to the same period in 2003 is also due to increased surrenders of products at higher surrender charges. The percentage increase for the nine month period is less than the third quarter period because surrenders of index annuities generated greater surrender charges in the first nine months of 2003 compared to the first nine months of 2004.

Net investment income increased 23% to \$109.8 million in the third quarter of 2004, and 19% to \$315.7 million for the nine months ended September 30, 2004 compared to \$89.3 million and \$264.2 million for the same periods in 2003. These increases are principally attributable to the growth in our annuity business and corresponding increases in our invested assets. Invested assets (amortized cost basis) increased 23% to \$7.16 billion at September 30, 2004 compared to \$5.81 billion at

September 30, 2003, while the average yield earned on average invested assets was 6.32% for the nine months ended September 30, 2004 compared to 6.58% for the same period in 2003.

Realized gains (losses) on investments were \$0.4 million in the third quarter of 2004 compared to realized losses of \$0.9 million for the same period in 2003. For the nine months ended September 30, 2004, we had realized gains of \$0.8 million compared to \$6.9 million for the same period in 2003. Realized gains and losses on investments fluctuate from period to period due to changes in the interest rate and economic environment and the timing of the sale of investments. Realized gains and losses on investments include gains and losses on the sale of securities as well as losses recognized when the fair value of a security is written down in recognition of an "other than temporary" impairment.

The components of realized gains (losses) on investments for the three months and nine months ended September 30, 2004 and 2003 are set forth as follows:

	Three months ended September 30,		Nine months ended September 30,	
	2004	2003	2004	2003
	(Dollars in thousands)		(Dollars in thousands)	
Available for sale fixed maturity securities:				
Gross realized gains	\$ 4,081	\$ 3,979	\$ 13,628	\$ 18,030
Gross realized losses	—	(233)	(136)	(3,902)
Writedowns (other than temporary impairments)	(3,659)	(4,223)	(12,828)	(7,126)
	422	(477)	664	7,002
Equity securities	—	(430)	147	(121)
	<u>\$ 422</u>	<u>\$ (907)</u>	<u>\$ 811</u>	<u>\$ 6,881</u>

See Financial Condition - Investments for additional discussion of writedowns of the fair value of securities for "other than temporary" impairments.

Change in fair value of derivatives (call options purchased to fund annual index credits on index annuities) was a decrease of \$19.7 million in the third quarter of 2004, and a decrease to \$18.8 million for the nine months ended September 30, 2004 compared to an increase of \$6.1 million and an increase of \$25.1 million for the same periods in 2003. The components of the change in fair value of derivatives are summarized as follows:

	Three months ended September 30,		Nine months ended September 30,	
	2004	2003	2004	2003
	(Dollars in thousands)		(Dollars in thousands)	
Change in fair value of derivatives:				
Gains received at expiration or recognized upon early termination	\$ 22,910	\$ 18,113	\$ 74,068	\$ 32,210
Cost of money for index annuities	(16,118)	(11,138)	(40,388)	(45,586)
Change in difference between fair value and remaining option cost at beginning and end of period	(26,488)	(925)	(52,495)	38,517
	<u>\$ (19,696)</u>	<u>\$ 6,050</u>	<u>\$ (18,815)</u>	<u>\$ 25,141</u>

The difference between the change in fair value of derivatives between the periods is primarily due to the performance of the indices upon which our options are based. A substantial portion of our options are based upon the S&P 500 Index with the remainder based upon other equity and bond market indices.

The amounts reported in the table above for gains at expiration primarily reflect the changes in the indices from the date the option was acquired to the date it expired. The range of index appreciation for options expiring in the three and nine months ended September 30, 2004 and 2003 is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
S&P 500 Index				
Point-to-point strategy	7.6% - 13.6%	3.6% - 19.0%	7.6% - 31.3%	0.0% - 19.0%
Monthly average strategy	7.5% - 12.5%	0.0% - 9.4%	6.8% - 29.2%	0.0% - 9.4%
Lehman Brothers U.S. Aggregate and U.S. Treasury indices	2.0% - 6.8%	0.0% - 6.4%	1.8% - 6.8%	0.0% - 14.2%

Actual amounts credited to policyholder account balances may be less than the index appreciation due to contractual features in the index annuity policies (participation rates and caps) which allow us to manage the cost of the options purchased to fund the annual index credits.

The change in fair value of derivatives is also influenced by the aggregate cost of options purchased which is related to the amount of policyholder funds allocated to the various indices, market volatility which affects option pricing and the policy terms and historical experience which affects the strikes and caps of the options we purchase. The aggregate cost of option purchases began declining in the second quarter of 2003 when we refined our hedging process to purchase options that were out of the money to the extent of anticipated minimum guaranteed interest on the index policies. Prior to that, all options were purchased at the money at a higher cost. The aggregate cost of option purchase increased in each of the 2004 quarters because more options were purchased at the money and option pricing increased due to greater market volatility. More options have been purchased at the money (or less out of the money than in preceding periods) because index returns have increased, thereby reducing the impact of minimum guaranteed interest on policy values and option purchases.

Interest credited to account balances increased 14% to \$77.4 million in the third quarter of 2004, and 31% to \$237.0 million for the nine months ended September 30, 2004 compared to \$67.9 million and \$180.5 for the same periods in 2003. These increases were principally attributable to index credits on index policies which increased to \$32.3 million and \$104.0 million during the three and nine month periods ended September 30, 2004, respectively, from \$16.1 million and \$25.9 million during the same periods in 2003 as a result of increases in the underlying indices (see discussion above under change in fair value of derivatives). The increase was also attributable to the increase in the average amount of annuity liabilities outstanding (net of annuity liabilities ceded under coinsurance agreements) during the nine months ended September 30, 2004 of 17% to \$6.76 billion from \$5.78 billion during the same period in 2003 and an increase in amortization of deferred sales inducements. Amortization of deferred sales inducements was \$2.4 million for the third quarter of 2004 and \$6.5 million for the nine months ended September 30, 2004 compared to \$1.4 million and \$4.1 million for the same periods in 2003. These increases were offset in part by a decrease in average crediting rates, which we implemented in connection with our spread management process, of 36 basis points for the nine months ended September 30, 2003 compared to the nine months ended September 30, 2004.

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Our investment spread is summarized as follows:

	Nine months ended September 30,	
	2004	2003
Average yield on invested assets	6.32%	6.58%
Average net cost of money for index annuities	3.37%	3.62%
Average crediting rate for fixed rate annuities:		
Annually adjustable	3.47%	3.91%
Multi-year rate guaranteed	5.59%	5.71%
Investment spread:		
Aggregate	2.39%	2.29%
Index annuities	2.95%	2.96%
Fixed rate annuities:		
Annually adjustable	2.85%	2.67%
Multi-year rate guaranteed	0.73%	0.87%

The average crediting rates and investment spreads are computed without the impact of amortization of deferred sales inducements. With respect to our index annuities, the cost of money includes the average crediting rate on amounts allocated to the fixed rate options, expenses we incur to fund the annual income credits and minimum guaranteed interest credited on the index business. Gains realized on call options purchased to fund annual index credits are recorded as part of the change in fair value of derivatives, and are largely offset by an expense for interest credited to annuity policyholder account balances. See Critical Accounting Policies - Derivative Instruments - Index Products and note 1 to our audited consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2003.

Change in fair value of embedded derivatives was a decrease of \$25.9 million in the third quarter of 2004 and a decrease of \$53.2 million for the nine months ended September 30, 2004 compared to a decrease of \$0.3 million and an increase of \$40.9 million for the same periods in 2003. The liabilities on our index annuities are treated as a "series of embedded derivatives" over the life of the applicable contracts. We are required to estimate the fair value of the future index reserve liabilities by valuing the "host" (or guaranteed) component of the liabilities and projecting (i) the expected index credits on the next policy anniversary dates and (ii) the net cost of annual options we will purchase in the future to fund index credits. The change in the amount of expense recognized during the three and nine months ended September 30, 2004 and 2003 primarily resulted from the increase or decrease in expected index credits on the next policy anniversary dates, which are related to the change in the fair value of the options acquired to fund these index credits discussed above in the "Change in fair value of derivatives". In addition, the host value of the index reserve liabilities increased primarily as a result of increases in index annuity premium deposits. See Critical Accounting Policies - Derivative Instruments - Index Products and note 1 to our audited consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2003.

Amortization of deferred policy acquisition costs increased 37% to \$16.6 million in the third quarter of 2004 and 28% to \$46.4 million for the nine months ended September 30, 2004 compared to \$12.1 million and \$36.3 million for the same periods in 2003. These increases are primarily due to additional annuity deposits as discussed above. Additional amortization associated with realized gains on investments sold during the second quarter of 2003 was \$3.7 million. The application of SFAS No. 133 resulted in a \$0.3 million increase in amortization in the third quarter of 2004 and an increase of \$1.1 million for the nine months ended September 30, 2004 compared to a decrease of \$0.3 million and a decrease of \$0.5 million for the same periods in 2003. See notes 1 and 4 to our audited consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2003.

Other operating costs and expenses increased 16% to \$8.1 million in the third quarter of 2004 and 23% to \$24.4 million for the nine months ended September 30, 2004 compared to \$7.0 million and \$19.8 million for the same periods in 2003. The increase in the third quarter of 2004 compared to the same period in 2003 was principally attributable to an increase of \$0.9 million in marketing expenses, \$0.4 million in salaries and related costs of employment due to growth in our annuity business and \$0.2 million in risk charges related to the reinsurance agreements entered into with Hannover Life Reassurance Company of America ("Hannover"). The increase for the nine months ended September 30, 2004 compared to the same period in 2003 was principally attributable to an increase of \$2.2 million in marketing expenses, \$1.3 million in salaries and related costs of employment due to growth in our annuity business and \$0.8 million in risk charges related to the reinsurance agreements with Hannover. The reinsurance agreements with Hannover are more fully described in note 5 to our audited consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2003.

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Our investment strategy is to maintain a predominantly investment grade fixed income portfolio, provide adequate liquidity to meet our cash obligations to policyholders and others and maximize current income and total investment return through active investment management. Consistent with this strategy, our investments principally consist of fixed maturity securities and short-term investments. We also had approximately 1.1% and 1.9% of our invested assets at September 30, 2004 and December 31, 2003 in derivative instruments (primarily equity market index call options) purchased in connection with the issuance of index annuities.

Insurance statutes regulate the type of investments that our life subsidiaries are permitted to make and limit the amount of funds that may be used for any one type of investment. In light of these statutes and regulations and our business and investment strategy, we generally seek to invest in United States government and government-agency securities and corporate securities rated investment grade by established nationally recognized rating organizations or in securities of comparable investment quality, if not rated.

We have classified approximately 40% of our fixed maturity investments as available for sale. Available for sale securities are reported at market value and unrealized gains and losses, if any, on these securities (net of income taxes and certain adjustments for changes in amortization of deferred policy acquisition costs and deferred sales inducements) are included directly in a separate component of stockholders' equity, thereby exposing stockholders' equity to volatility due to changes in market interest rates and the accompanying changes in the reported value of securities classified as available for sale, with stockholders' equity increasing as interest rates decline and, conversely, decreasing as interest rates rise.

Cash and investments increased to \$7.22 billion at September 30, 2004 compared to \$6.23 billion at December 31, 2003 as a result of the growth in our annuity business discussed above. At September 30, 2004, the fair value of our available for sale fixed maturity and equity securities was \$50.1 million less than the amortized cost of those investments, compared to \$86.1 million at December 31, 2003. At September 30, 2004, the amortized cost of our fixed maturity securities held for investment exceeded the market value by \$92.2 million, compared to \$110.1 million at December 31, 2003. The decrease in net unrealized investment losses at September 30, 2004 compared to December 31, 2003 is related to a decrease in market interest rates.

The composition of our investment portfolio is summarized as follows:

	September 30, 2004		December 31, 2003	
	Carrying Amount	Percent	Carrying Amount	Percent
	(Dollars in thousands)			
Fixed maturity securities:				
United States Government and agencies	\$ 5,147,899	71.3%	\$ 4,289,857	68.9%
Public utilities	44,824	0.6%	51,835	0.8%
Corporate securities	306,026	4.2%	409,482	6.6%
Redeemable preferred stocks	35,913	0.5%	10,079	0.2%
Mortgage and asset-backed securities:				
United States Government and agencies	271,401	3.7%	264,102	4.2%
Non-government	402,268	5.6%	419,959	6.7%
Total fixed maturity securities	6,208,331	85.9%	5,445,314	87.4%
Equity securities	33,672	0.5%	21,409	0.4%
Mortgage loans on real estate	867,132	12.0%	608,715	9.8%
Derivative instruments	76,629	1.1%	119,833	1.9%
Policy loans	354	—	324	—
Cash and cash equivalents	38,225	0.5%	32,598	0.5%
Total cash and investments	\$ 7,224,343	100.0%	\$ 6,228,193	100.0%

At September 30, 2004 and December 31, 2003, the amortized cost and estimated fair value of fixed maturity securities and equity securities that were in an unrealized loss position were as follows:

	Number of Positions	Amortized Cost	Unrealized Losses	Estimated Fair Value
	(Dollars in thousands)			
September 30, 2004				
Fixed maturity securities:				
Available for sale:				
United States Government and agencies	23	\$ 1,283,351	\$ (47,957)	\$ 1,235,394
Public utilities	1	248	(5)	243
Corporate securities	7	31,680	(8,887)	22,793
Redeemable preferred stocks	3	15,000	(807)	14,193
Mortgage and asset-backed securities:				
United States Government and agencies	1	2,892	(68)	2,824
Non-government	14	258,956	(15,195)	243,761
	49	\$ 1,592,127	\$ (72,919)	\$ 1,519,208
Held for investment:				
United States Government and agencies	43	\$ 2,418,116	\$ (93,447)	\$ 2,324,669
	43	\$ 2,418,116	\$ (93,447)	\$ 2,324,669
Equity securities:				
Non-redeemable preferred stocks	4	\$ 1,995	\$ (604)	\$ 1,391
Common stocks	2	16,722	(641)	16,081
	6	\$ 18,717	\$ (1,245)	\$ 17,472

	Number of Positions	Amortized Cost	Unrealized Losses	Estimated Fair Value
(Dollars in thousands)				
December 31, 2003				
Fixed maturity securities:				
Available for sale:				
United States Government and agencies	42	\$ 2,274,503	\$ (57,686)	\$ 2,216,817
Public utilities	4	27,057	(189)	26,868
Corporate securities	14	101,027	(10,753)	90,274
Mortgage and asset-backed securities:				
United States Government and agencies	4	111,257	(1,258)	109,999
Non-government	22	421,583	(37,725)	383,858
	<u>86</u>	<u>\$ 2,935,427</u>	<u>\$ (107,611)</u>	<u>\$ 2,827,816</u>
Held for investment:				
United States Government and agencies	33	\$ 1,751,532	\$ (110,065)	\$ 1,641,467
	<u>33</u>	<u>\$ 1,751,532</u>	<u>\$ (110,065)</u>	<u>\$ 1,641,467</u>
Equity securities:				
Non-redeemable preferred stocks	2	\$ 13,683	\$ (132)	\$ 13,551
Common stocks	2	1,995	(294)	1,701
	<u>4</u>	<u>\$ 15,678</u>	<u>\$ (426)</u>	<u>\$ 15,252</u>

The amortized cost and estimated fair value of fixed maturity securities at September 30, 2004 and December 31, 2003, by contractual maturity, that were in an unrealized loss position are shown below. Actual maturities will differ from contractual maturities because borrowers may have the right to call or prepay obligations with or without call or prepayment penalties. All of our mortgage-backed and asset-backed securities provide for periodic payments throughout their lives, and are shown below as a separate line.

	Available-for-sale		Held for investment	
	Amortized Cost	Estimated Fair Value	Amortized Cost	Estimated Fair Value
(Dollars in thousands)				
September 30, 2004				
Due after one year through five years	\$ 5	\$ 4	\$ —	\$ —
Due after five years through ten years	208,745	195,314	—	—
Due after ten years through twenty years	563,538	539,898	410,071	407,391
Due after twenty years	557,991	537,407	2,008,045	1,917,278
	<u>1,330,279</u>	<u>1,272,623</u>	<u>2,418,116</u>	<u>2,324,669</u>
Mortgage-backed and asset-backed securities	261,848	246,585	—	—
	<u>\$ 1,592,127</u>	<u>\$ 1,519,208</u>	<u>\$ 2,418,116</u>	<u>\$ 2,324,669</u>
December 31, 2003				
Due after one year through five years	\$ 5	\$ 4	\$ —	\$ —
Due after five years through ten years	200,268	188,072	—	—
Due after ten years through twenty years	838,834	816,539	35,000	34,324
Due after twenty years	1,363,480	1,329,344	1,716,532	1,607,143
	<u>2,402,587</u>	<u>2,333,959</u>	<u>1,751,532</u>	<u>1,641,467</u>
Mortgage-backed and asset-backed securities	532,840	493,857	—	—
	<u>\$ 2,935,427</u>	<u>\$ 2,827,816</u>	<u>\$ 1,751,532</u>	<u>\$ 1,641,467</u>

The table below presents our fixed maturity securities by NAIC designation and the equivalent ratings of the nationally recognized securities rating organizations.

NAIC Designation	Rating Agency Equivalent	September 30, 2004		December 31, 2003	
		Carrying Amount	Percent	Carrying Amount	Percent
(Dollars in thousands)					
1	Aaa/Aa/A	\$ 6,017,672	96.9%	\$ 5,191,006	95.3%
2	Baa	129,962	2.1%	174,519	3.2%
3	Ba	25,860	0.4%	47,904	0.9%
4	B	12,748	0.2%	21,109	0.4%
5	Caa and lower	15,635	0.3%	10,773	0.2%
6	In or near default	6,454	0.1%	3	—
	Total fixed maturities	\$ 6,208,331	100.0%	\$ 5,445,314	100.0%

At September 30, 2004 and December 31, 2003, the fair value of investments we owned that were non-investment grade or not rated were \$60.7 million and \$91.5 million, respectively. Non-investment grade or not rated securities represented 1.0% and 1.7% at September 30, 2004 and December 31, 2003, respectively, of the fair value of our fixed maturity securities. The unrealized losses on investments we owned that were non-investment grade or not rated at September 30, 2004 and December 31, 2003, were \$11.7 million and \$10.8 million, respectively. The unrealized losses on such securities at September 30, 2004 and December 31, 2003 represented 7.0% and 4.9%, respectively, of gross unrealized losses on fixed maturity securities.

At September 30, 2004, we identified certain invested assets which have characteristics (i.e. significant unrealized losses compared to book value and industry trends) creating uncertainty as to our future assessment of other than temporary impairments. This list is referred to as our watch list. We have excluded from this list securities with unrealized losses which are related to market movements in interest rates.

At September 30, 2004, the amortized cost and estimated fair value of each fixed maturity security on the watch list are as follows:

Issuer	Amortized Cost	Unrealized Losses	Estimated Fair Value	Maturity Date	Months Below Amortized Cost
(Dollars in thousands)					
Continental Airlines 2001-001-B	\$ 8,588	\$ (2,181)	\$ 6,407	6/15/2017	25
Land O' Lakes Capital Securities	8,074	(3,234)	4,840	3/15/2028	45
Northwest Airlines Pass Thru Certificates					
1999-1 Class C	8,214	(3,387)	4,827	8/1/2015	42
Pegasus Aviation 1999-1A C1	5,834	(2,934)	2,900	3/25/2029	37
	<u>\$ 30,710</u>	<u>\$ (11,736)</u>	<u>\$ 18,974</u>		

We have reviewed these investments and concluded that there was no other than temporary impairment on these investments at September 30, 2004. The factors that we considered in making this determination included the financial condition and near-term prospects of the issuer, whether the issuer is current on all payments and all contractual payments have been made, our intent and ability to hold the investment to allow for any anticipated recovery and the length of time and extent to which the fair value has been less than cost.

Our analysis of these securities and their credit performance at September 30, 2004 is as follows:

Continental Airlines Pass Thru Certificates 2001-001 Class B are backed by the general credit of Continental Airlines as well as the collateral from a pool of airplanes. We determined that an other than temporary impairment charge was not necessary for the following reasons: (i) we believed that Continental Airlines' improving liquidity reduced the likelihood of bankruptcy and (ii) even if Continental Airlines were to declare bankruptcy, the chance of full recovery on this security was high due to the excess collateral coverage supplied by the aircraft collateral.

Land O' Lakes is a national, farmer-owned food and agricultural cooperative. We determined that an other than temporary impairment charge was not necessary for the following reasons: (i) Land O' Lakes operates in a cyclical industry and had successfully managed through previous cyclical lows; (ii) we calculated that Land O' Lakes had an EBITDA to interest coverage of 4.51 times for bank debt and determined that Land O' Lakes had adequate liquidity; (iii) Land O' Lakes was in the process of improving its balance sheet by maintaining liquidity and selling non-strategic assets and investments and (iv) further improvements are expected in the future.

Northwest Airlines Pass Thru Certificates 1999-1 Class C are backed by the general credit of Northwest Airlines as well as the collateral from a pool of airplanes. We determined that an other than temporary impairment charge was not necessary for the following reasons: (i) we believed that a bankruptcy was unlikely since Northwest had begun to see benefits from its attempts to return to profitability; (ii) we believed Northwest had adequate liquidity; (iii) we calculated Northwest to have unrestricted cash at June 30, 2004 of approximately \$2.9 billion; (iv) even if Northwest declared bankruptcy, these bonds would have remained current for at least 18 months due to a liquidity coverage feature and the bonds could remain current after 18 months if Northwest affirmed the leases on the planes in the collateral pool in the unlikely event of a bankruptcy and (v) based upon the liquidity of Northwest (\$2.9 billion at June 30, 2004) and the improving conditions in the airline industry we believe the event of a default is remote.

Pegasus Aviation 1999-1A C1 is backed by leases on airplanes and is structured as a pass-through security. We took an impairment charge of \$1.9 million on this security in the fourth quarter of 2001 because we did not expect to receive further principal payments. However, due to the continued problems in the leased airplane industry, the market value of this security had declined further. We determined that no additional other than temporary impairment change was necessary for the following reasons: (i) although we did not expect to receive principal payments on this security, we expected that interest payments would continue to be made until 2019 and (ii) the value of the expected future interest payments supported the current book value.

Each of the four securities on the watch list is current in respect to payments of principal and interest. We have concluded for each of the four securities on the watch list that we have the intent and ability to hold these securities for a period of time sufficient to allow for a recovery in fair value.

We took writedowns on certain other investments that we concluded did have an other than temporary impairment during the nine months ended September 30, 2004 and 2003 of \$12.8 million and \$7.1 million, respectively. Following is a discussion

of each security for which we have taken write downs on during the nine months ended September 30, 2004 and 2003.

Oakwood Mortgage 2000-C Class M1 is backed by installment sales contracts secured by manufactured homes and liens on real estate. We wrote this security down by \$7.6 million in the first quarter of 2004 due to an increase in default rates and realized losses above expected levels along with a downgrade to below investment grade on March 8, 2004. We took an additional writedown on this security of \$3.7 million in the third quarter of 2004 due to continued deterioration in default rates.

Diversified Asset Securities II Class B-1 is a pool of asset-backed securities that entitle the holders thereof to receive payments that depend primarily on the cash flow from a specified pool of financial assets. We wrote this security down by \$1.5 million during the second quarter of 2004 based upon the deterioration of the underlying collateral along with a downgrade to below investment grade on June 2, 2004.

Oakwood Mortgage 1999-E Class M2 is an asset-backed security backed by installment sales contracts secured by manufactured homes and liens on real estate. We wrote down this security by \$4.2 million in the third quarter of 2003 due to continuing high default rates for the manufactured

housing industry causing doubt about the return of the entire principal balance.

Pegasus 2001-1A C2 is an asset-backed security backed by leases on 41 specific aircraft. We wrote down this security by \$3.0 million in the third quarter of 2002. The downturn in the airline industry had caused lease rates on renewing leases to be significantly below expectations and this was exacerbated by the terrorist attacks on September 11, 2001. Due to the continuing problems in the airline industry and continued lower lease rates on renewing leases, we took an additional write down of \$2.9 million on this security in the first quarter of 2003.

In making the decisions to write down the securities described above, we considered whether the factors leading to those write downs impacted any other securities held in our portfolio. In cases where we determined that a decline in value was related to an industry-wide concern, we considered the impact of such concern on all securities we held within that industry classification.

There were no sales of securities during the nine months ended September 30, 2004 that resulted in a material loss. Securities sold at a material loss during the nine months ended September 30, 2003 are as follows:

Issuer	Nine Months Ended September 30, 2003			
	Amortized Cost	Fair Value	Realized Losses	Months Below Amortized Cost
	(Dollars in thousands)			
Calpine Canada	\$ 5,023	\$ 3,613	\$ 1,410	20
American Airlines Pass Thru Certificates	1,750	902	848	10
	<u>\$ 6,773</u>	<u>\$ 4,515</u>	<u>\$ 2,258</u>	

Generally, for each of these sales there was an unexpected event resulting in a decline in credit quality which occurred shortly before the sale. This led to the decision to sell a security at a loss concurrent with the decision that an initial or additional impairment charge was required. Accordingly, in all cases, this did not contradict our previous assertion that we had the ability and intent to hold the security until recovery in value. Each of these securities and the factors resulting in the sales of such securities are discussed individually below.

Calpine Canada was sold because it engaged in re-financing activities that threatened its long term profitability and exacerbated its reliance on leverage. The wholesale power market in which it was engaged was expected to be weak.

American Airlines Pass Thru Certificates, which were collateralized by a pool of airplanes, were sold as a result of inadequate collateral coverage in a potential bankruptcy situation and recent changes regarding the airline's bank covenants regarding required minimum unrestricted cash balances.

At September 30, 2004 and December 31, 2003, we held \$867.1 million and \$608.7 million, respectively, of mortgage loans with commitments outstanding of \$63.6 million at September 30, 2004. These mortgage loans are diversified as to property type, location, and loan size, and are collateralized by the related properties. Our mortgage lending policies establish limits on the amount that can be loaned to one borrower and require diversification by geographic location and collateral type. As of September 30, 2004, there were no delinquencies in our mortgage portfolio. The commercial mortgage loan portfolio is diversified by geographic region and specific collateral property type as follows:

	September 30, 2004		December 31, 2003	
	Carrying Amount	Percent	Carrying Amount	Percent
(Dollars in thousands)				
Geographic distribution				
East	\$ 158,288	18.2%	\$ 115,817	19.0%
Middle Atlantic	73,370	8.5%	56,563	9.3%
Mountain	141,117	16.3%	79,777	13.1%
New England	51,007	5.9%	38,539	6.3%
Pacific	73,878	8.5%	42,327	7.0%
South Atlantic	144,079	16.6%	105,635	17.4%
West North Central	166,349	19.2%	125,163	20.5%
West South Central	59,044	6.8%	44,894	7.4%
Total	\$ 867,132	100.0%	\$ 608,715	100.0%
	September 30, 2004		December 31, 2003	
	Carrying Amount	Percent	Carrying Amount	Percent
(Dollars in thousands)				
Property type distribution				
Office	\$ 244,644	28.2%	\$ 145,490	23.9%
Medical Office	57,057	6.6%	55,314	9.1%
Retail	217,385	25.1%	163,434	26.8%
Industrial/Warehouse	214,764	24.8%	162,943	26.8%
Hotel	25,826	3.0%	20,819	3.4%
Apartment	36,847	4.2%	29,565	4.9%
Mixed use/other	70,609	8.1%	31,150	5.1%
Total	\$ 867,132	100.0%	\$ 608,715	100.0%

Liquidity

On January 7, 2004, the underwriters of our December 2003 initial public offering exercised their remaining over-allotment option and purchased an additional 805,000 shares of our common stock at a price of \$9.00 per share (\$8.37 per share net of underwriting discount.)

On April 29, 2004, our wholly owned subsidiary, American Equity Capital Trust III ("Trust III") issued 27 million shares of floating rate (three month London Interbank Offered Rate plus 4.00%) trust preferred securities. On September 14, 2004, our wholly owned subsidiary, American Equity Capital Trust

VII (“Trust VII”) issued 10.5 million shares of floating rate (three month London Interbank Offered Rate plus 3.75%) trust preferred securities. In connection with Trusts’ issuance of these trust preferred securities and the related purchase by us of all of Trusts’ common securities, we issued \$27.8 million and \$10.8 million in principal amount of floating rate subordinated debentures due April 29, 2034 and September 14, 2034 to Trust III and Trust VII, respectively. The sole assets of Trusts III and VII are the subordinated debentures and any interest accrued thereon. The interest rate and payment dates on the subordinated debentures correspond to the dividend rate and distribution dates on the trust preferred securities issued by Trusts III and VII. The trust preferred securities mature simultaneously with the subordinated debentures. All of the trust preferred securities are unconditionally guaranteed by us to the extent of the assets of Trusts III and VII. We used \$23.3 million of the proceeds from the issuance of the subordinated debentures to Trust III to repay a portion of our notes payable outstanding under our bank credit facility.

On September 22, 2004, we entered into a \$50 million revolving line of credit agreement with three banks. The revolving period of the facility will be three years followed by a two-year term out option. The applicable interest rate will be floating at LIBOR plus 1.75% or prime rate, as elected by us. There is no amount outstanding under this revolving line of credit at

September 30, 2004. Under this agreement, without obtaining a waiver from the lenders, we are required to maintain a minimum risk-based capital ratio at American Equity Life, a maximum ratio of senior debt to total capital, and is prohibited from paying dividends on our capital stock in excess of 33% of consolidated net income for the prior year.

Notes payable of \$8.5 million are due in quarterly installments plus interest commencing on December 31, 2004 over the next five years. The applicable interest rate is floating at LIBOR plus 3.00%.

The statutory capital and surplus of our life insurance subsidiaries at September 30, 2004 was \$386.3 million. American Equity Life made surplus note interest payments to us of \$3.1 million during the nine months ended September 30, 2004. For the remainder of 2004, up to \$37.5 million can be distributed by American Equity Life as dividends without prior regulatory approval. Dividends may be made only out of earned surplus, and all surplus note payments are subject to prior approval by regulatory authorities. American Equity Life had \$62.0 million of earned surplus at September 30, 2004.

The transfer of funds by American Equity Life is also restricted by a covenant in our line of credit facility, which requires American Equity Life to maintain a minimum 200% risk based capital ratio. At September 30, 2004, American Equity Life’s risk based capital ratio exceeded 200%.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We seek to invest our available funds in a manner that will maximize shareholder value and fund future obligations to policyholders and debtors, subject to appropriate risk considerations. We seek to meet this objective through investments that: (i) consist predominately of investment grade fixed maturity securities; (ii) have projected returns which satisfy our spread targets; and (iii) have characteristics which support the underlying liabilities. Many of our products incorporate surrender charges, market interest rate adjustments or other features to encourage persistency.

We seek to maximize the total return on our available for sale investments through active investment management. Accordingly, we have determined that our available for sale portfolio of fixed maturity securities is available to be sold in response to: (i) changes in market interest rates; (ii) changes in relative values of individual securities and asset sectors; (iii) changes in prepayment risks; (iv) changes in credit quality outlook for certain securities; (v) liquidity needs; and (vi) other factors. We have a portfolio of held for investment securities which consists principally of long duration bonds issued by U.S. government agencies. These securities are purchased to secure long-term yields which meet our spread targets and support the underlying liabilities.

Interest rate risk is our primary market risk exposure. Substantial and sustained increases and decreases in market interest rates can affect the profitability of our products, the amount of interest we pay on our notes payable, and the market value of our investments. Our notes payable bear interest at prime or LIBOR plus 3.00%. Our floating rate trust preferred securities issued by Trusts III, IV and VII bear interest at the three month LIBOR plus 3.75% - 4.00%. Our outstanding balance of notes payable and floating rate trust preferred securities was \$58.0 million and \$43.8 million at September 30, 2004 and December 31, 2003, respectively. The profitability of most of our products depends on the spreads between interest yield on investments and rates credited on insurance liabilities. We have the ability to adjust crediting rates (participation or asset fee rates for index annuities) on substantially all of our annuity policies at least annually (subject to minimum guaranteed values). In addition, substantially all of our annuity products have surrender and withdrawal penalty provisions designed to encourage persistency and to help ensure targeted spreads are earned. However, competitive factors, including the impact of the level of surrenders and withdrawals, may limit our ability to adjust or maintain crediting rates at levels necessary to avoid narrowing of spreads under certain market conditions.

A major component of our interest rate risk management program is structuring the investment portfolio with cash flow characteristics consistent with the cash flow characteristics of our insurance liabilities. We use computer models to simulate cash flows expected from our existing business under various interest rate scenarios. These simulations enable us to measure the potential gain or loss in fair value of our interest rate-sensitive financial instruments, to evaluate the adequacy of expected cash flows from our assets to meet the expected cash requirements of our liabilities and to determine if it is necessary to lengthen or shorten the average life and duration of our investment portfolio. The “duration” of a security is the time weighted present value of the security’s expected cash flows and is used to measure a security’s sensitivity to changes in interest rates. When the durations of assets and liabilities are similar, exposure to interest rate risk is minimized because a change in value of assets should be largely offset by a change in the value of liabilities.

If interest rates were to increase 10% (49 basis points) from levels at September 30, 2004, we estimate that the fair value of our fixed maturity securities would decrease by approximately \$311.1 million. The impact on stockholders’ equity of such

decrease (net of income taxes and certain adjustments for changes in amortization of deferred policy acquisition costs and deferred sales inducements) would be an increase of \$29.6 million in the accumulated other comprehensive loss. The computer models used to estimate the impact of a 10% change in market interest rates incorporate numerous assumptions, require significant estimates and assume an immediate and parallel change in interest rates without any management of the investment portfolio in reaction to such change. Consequently, potential changes in value of our financial instruments indicated by the simulations will likely be different from the actual changes experienced under given interest rate scenarios, and the differences may be material. Because we

actively manage our investments and liabilities, our net exposure to interest rates can vary over time. However, any such decreases in the fair value of our fixed maturity securities (unless related to credit concerns of the issuer requiring recognition of an other than temporary impairment) would generally be realized only if we were required to sell such securities at losses prior to their maturity to meet our liquidity needs, which we manage using the surrender and withdrawal provisions of our annuity contracts and through other means as discussed earlier. See Financial Condition - Liquidity for Insurance Operations included in Management's Discussion and Analysis in our Annual Report on Form 10-K for the year ended December 31, 2003.

At September 30, 2004 and December 31, 2003, 84% and 74%, respectively, of our fixed income securities have call features and 16% and 19%, respectively, were subject to call redemption. Another 26% will become subject to call redemption through December 31, 2004. During the nine months ended September 30, 2004 and 2003, we received \$1.6 billion and \$2.5 billion, respectively, in net redemption proceeds related to the exercise of such call options. We have reinvestment risk related to these redemptions to the extent we cannot reinvest the net proceeds in assets with credit quality and yield characteristics similar to the redeemed bonds. Such reinvestment risk typically occurs in a declining rate environment. Should rates decline to levels which tighten the spread between our average portfolio yield and average cost of interest credited on our annuity liabilities, we have the ability to reduce crediting rates on most of our annuity liabilities to maintain the spread at our targeted level. At September 30, 2004 and December 31, 2003, approximately 78% and 74%, respectively, of our annuity liabilities were subject to annual adjustment of the applicable crediting rates at our discretion, limited by minimum guaranteed crediting rates of 2.25% to 4.00%.

With respect to our index annuities, we purchase call options on the applicable indices to fund the annual index credits on such annuities. These options are primarily one-year instruments purchased to match the funding requirements of the underlying policies. Market value changes associated with those investments are substantially offset by an increase or decrease in the amounts added to policyholder account balances for index products. For the nine months ended September 30, 2004 and 2003, index credits to policyholders on their anniversaries were \$104.0 million and \$25.9 million, respectively. Gains on options related to such credits were \$74.1 million and \$31.8 million, respectively. The difference between gains on options and index credits for 2004 is primarily due to credits attributable to minimum guaranteed interest self funded by us. During the second quarter of 2003, we refined our hedging process to purchase options out of the money to the extent of anticipated minimum guaranteed interest on index policies. On the anniversary dates of the index policies, we purchase new one-year call options to fund the next annual index credits. The risk associated with these prospective purchases is the uncertainty of the cost, which will determine whether we are able to earn our spread on our index business. This is a risk we attempt to manage through the terms of our index annuities, which permit us to change annual participation rates, asset fees, and caps, subject to contractual features. By modifying participation rates, asset fees or caps, we can limit option costs to budgeted amounts, except in cases where the contractual features would prevent further modifications. Based upon actuarial testing which we conduct as a part of the design of our index products and on an ongoing basis, we believe the risk that contractual features would prevent us from controlling option costs is not material.

ITEM 4. CONTROLS AND PROCEDURES

In accordance with the Securities and Exchange Act Rules 13a-15 and 15d-15, our management, under the supervision of our Chief Executive Officer and Chief Financial Officer, conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of the end of the period covered by this quarterly report. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the design and operation of our Company's disclosure controls and procedures were effective. There have been no significant changes in our internal controls over financial reporting or in other factors that could significantly affect internal controls over financial reporting subsequent to the date of such evaluation.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

We are occasionally involved in litigation, both as a defendant and as a plaintiff. In addition, state regulatory bodies, such as state insurance departments, the SEC, the National Association of Securities Dealers, Inc., the Department of Labor, and other regulatory bodies regularly make inquiries and conduct examinations or investigations concerning our compliance with, among other things, insurance laws, securities laws, the Employee Retirement Income Security Act of 1974, as amended and laws governing the activities of broker-dealers.

Companies in the life insurance and annuity business have faced litigation, including class action lawsuits, alleging improper product design, improper sales practices and similar claims. We are currently a defendant in two purported class action lawsuits filed in state courts alleging improper sales practices. In both lawsuits, the plaintiffs are seeking returns of premiums and other compensatory and punitive damages. A preliminary settlement has been reached in one of those cases involving primarily noneconomic relief. A hearing occurred during August 2004 to determine whether this settlement will become final and the parties are awaiting the decision of the court. The financial impact to us is expected to be immaterial. In the other case, the class has not been certified at this time and we have denied all allegations in this lawsuit and intend to vigorously defend against it. The lawsuit is in the early stages of litigation and its outcome cannot at this time be determined. However, we do not believe that this lawsuit will have a material adverse effect on our business, financial condition, or results of operations.

In addition, we are from time to time subject to other legal proceedings and claims in the ordinary course of business, none of which we believe are likely to have a material adverse effect on our financial position, results of operations, or cash flows. There can be no assurance that such litigation, or any future litigation, will not have a material adverse effect on our business, financial condition, or results of operations.

ITEM 6. EXHIBITS

- | | |
|------|--|
| 4.13 | Indenture dated April 29, 2004, between American Equity Investment Life Holding Company and JP Morgan Chase Bank, as trustee |
| 4.14 | Guarantee Agreement dated April 29, 2004, between American Equity Investment Life Holding Company and JP Morgan Chase Bank, as trustee |
| 4.15 | Indenture dated September 14, 2004, between American Equity Investment Life Holding Company and JP Morgan Chase Bank, as trustee |

- 4.16 Guarantee Agreement dated September 14, 2004, between American Equity Investment Life Holding Company and JP Morgan Chase Bank, as trustee
- 10.20 Amended and Restated Credit Agreement dated September 22, 2004 among American Equity Investment Life Holding Company, West Des Moines State Bank, LaSalle Bank and U.S. Bank National Association, as agent
- 31.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 31.2 Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 32.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- 32.2 Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

SIGNATURES

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

Date: November 9, 2004

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: /s/ David J. Noble

David J. Noble, Chief Executive Officer
(Principal Executive Officer)

By: /s/ Wendy L. Carlson

Wendy L. Carlson, Chief Financial Officer
(Principal Financial Officer)

By: /s/ Ted M. Johnson

Ted M. Johnson, Vice President - Accounting
(Principal Accounting Officer)

JUNIOR SUBORDINATED INDENTURE

between

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

and

JPMORGAN CHASE BANK,
as Trustee

Dated as of April 29, 2004

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JUNIOR SUBORDINATED INDENTURE, dated as of April 29, 2004, between AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “*Company*”), and JPMORGAN CHASE BANK, a New York banking corporation, as Trustee (in such capacity, the “*Trustee*”).

RECITALS OF THE COMPANY

WHEREAS, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of its unsecured junior subordinated deferrable interest notes (the “*Securities*”) issued to evidence loans made to the Company of the proceeds from the issuance by American Equity Capital Trust III, a Delaware statutory trust (the “*Trust*”), of undivided preferred beneficial interests in the assets of the Trust (the “*Preferred Securities*”) and undivided common beneficial interests in the assets of the Trust (the “*Common Securities*” and, collectively with the Preferred Securities, the “*Trust Securities*”), and to provide the terms and conditions upon which the Securities are to be authenticated, issued and delivered; and

WHEREAS, 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 Securities by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of the Securities, as follows:

ARTICLE I

SECTION 1.1. *Definitions.*

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

- (a) the terms defined in this Article I have the meanings assigned to them in this Article I;
- (b) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”;
- (c) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP;
- (d) unless the context otherwise requires, any reference to an “Article” or a “Section” refers to an Article or a Section, as the case may be, of this Indenture;
- (e) the words “hereby”, “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;

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- (f) a reference to the singular includes the plural and vice versa; and
- (g) the masculine, feminine or neuter genders used herein shall include the masculine, feminine and neuter genders.

“Act” when used with respect to any Holder, has the meaning specified in Section 1.4.

“*Administrative Trustee*” means, with respect to the Trust, each Person identified as an “Administrative Trustee” in the Trust Agreement, solely in its capacity as Administrative Trustee of the Trust under the Trust Agreement and not in its individual capacity, or its successor in interest in such capacity, or any successor Administrative Trustee appointed as therein provided.

“*Additional Interest*” means the interest, if any, that shall accrue on any amounts payable on the Securities, the payment of which has not been made on the applicable Interest Payment Date and which shall accrue at the rate per annum specified or determined as specified in such Security, in each case to the extent legally enforceable.

“*Additional Tax Sums*” has the meaning specified in Section 10.5.

“*Additional Taxes*” means taxes, duties or other governmental charges imposed on the Trust as a result of a Tax Event (which, for the sake of clarity, does not include amounts required to be deducted or withheld by the Trust from payments made by the Trust to or for the benefit of the Holder of, or any Person that acquires a beneficial interest in, the Securities).

“*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 purposes of this definition, “control,” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“*Applicable Accounting Principles*” means accounting practices prescribed or permitted by the National Association of Insurance Commissioners and, with respect to the Company’s subsidiary insurance companies, the applicable insurance department of the state of domicile of such insurance subsidiary, and in each case, applied consistently throughout the periods involved.

“*Applicable Depository Procedures*” means, with respect to any transfer or transaction involving a Global Security or beneficial interest therein, the rules and procedures of the Depository for such Security, in each case to the extent applicable to such transaction and as in effect from time to time.

“*Applicable Insurance Regulatory Authority*” means the Iowa Insurance Division or, if at any time after the execution of this Indenture any such entity is not existing and performing the duties now assigned to it, any successor body performing similar duties or functions.

“*Authenticating Agent*” means any Person authorized by the Trustee pursuant to Section 6.11 to act on behalf of the Trustee to authenticate the Securities.

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“*Bankruptcy Code*” means Title 11 of the United States Code or any successor statute(s) thereto, or any similar federal or state law for the relief of debtors, in each case as amended from time to time.

“*Board of Directors*” means the board of directors of the Company or any duly authorized committee of that board.

“*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 and to be in full force and effect on the date of such certification.

“*Business Day*” means any day other than (i) a Saturday or Sunday, (ii) a day on which banking institutions in the City of New York are authorized or required by law or executive order to remain closed or (iii) a day on which the Corporate Trust Office of the Trustee is closed for business.

“*Calculation Agent*” has the meaning specified in [Section 10.4](#).

“*Common Securities*” has the meaning specified in the first recital of this Indenture.

“*Common Stock*” means the common stock, par value \$1.00 per share, of the Company.

“*Company*” means the Person named as the “*Company*” in the first paragraph of this Indenture 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, the written request or order signed in the name of the Company by its Chairman of the Board of Directors, its Vice Chairman of the Board of Directors, its Chief Executive Officer, President or a Vice President, and by its Chief Financial Officer, its Treasurer, an Assistant Treasurer, its Secretary or an Assistant Secretary, and delivered to the Trustee.

“*Corporate Trust Office*” means the principal office of the Trustee at which at any particular time its corporate trust business shall be administered, which office at the date of this Indenture is located at 600 Travis, 50th Floor, Houston, Texas 77002, Attn: Institutional Trust Services, American Equity Capital Trust III.

“*Debt*” means, with respect to any Person, whether recourse is to all or a portion of the assets of such Person, whether currently existing or hereafter incurred and whether or not contingent and without duplication, (i) every obligation of such Person for money borrowed; (ii) every obligation of such Person evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses; (iii) every reimbursement obligation of such Person with respect to letters of credit, bankers’ acceptances or similar facilities issued for the account of such Person; (iv) every obligation of such Person issued or assumed as the deferred purchase price of property or services (but excluding trade accounts payable or other accrued liabilities arising in the ordinary course of business); (v) every capital lease obligation of such Person; (vi) all indebtedness of such Person, whether incurred on or prior to the date of this Indenture or thereafter incurred, for claims in respect of derivative products, including interest rate, foreign exchange rate and

commodity forward contracts, options and swaps and similar arrangements; (vii) every obligation of the type referred to in clauses (i) through (vi) of another Person and all dividends of another Person the payment of which, in either case, such Person has guaranteed or is responsible or liable for, directly or indirectly, as obligor or otherwise; and (viii) any renewals, extensions, refundings, amendments or modifications of any obligation of the type referred to in clauses (i) through (vii).

“*Defaulted Interest*” has the meaning specified in [Section 3.1](#).

“*Delaware Trustee*” means, with respect to the Trust, the Person identified as the “Delaware Trustee” in the Trust Agreement, solely in its capacity as Delaware Trustee of the Trust under the Trust Agreement and not in its individual capacity, or its successor in interest in such capacity, or any successor Delaware Trustee appointed as therein provided.

“*Depository*” means an organization registered as a clearing agency under the Exchange Act that is designated as Depository by the Company or any successor thereto. DTC will be the initial Depository.

“*Depository Participant*” means a broker, dealer, bank, other financial institution or other Person for whom from time to time a Depository effects book-entry transfers and pledges of securities deposited with the Depository.

“*Distributions*” means amounts payable in respect of the Trust Securities as provided in the Trust Agreement and referred to therein as “Distributions.”

“*Dollar*” or “\$” means the currency of the United States of America that, as at the time of payment, is legal tender for the payment of public and private debts.

“*DTC*” means The Depository Trust Company, a New York corporation, or any successor thereto.

“*Event of Default*” has the meaning specified in [Section 5.1](#).

“*Exchange Act*” means the Securities Exchange Act of 1934 or any statute successor thereto, in each case as amended from time to time.

“*Expiration Date*” has the meaning specified in [Section 1.4](#).

“*Extension Period*” has the meaning specified in [Section 3.9](#).

“*GAAP*” means United States generally accepted accounting principles, consistently applied, from time to time in effect.

“*Global Security*” means a Security that evidences all or part of the Securities, the ownership and transfers of which shall be made through book entries by a Depository.

“*Government Obligation*” means (a) any security that is (i) a direct obligation of the United States of America of which the full faith and credit of the United States of America is pledged or (ii) an obligation of a Person controlled or supervised by and acting as an agency or

instrumentality of the United States of America or the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case (i) or (ii), is not callable or redeemable at the option of the issuer thereof, and (b) any depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any Government Obligation that is specified in clause (a) above and held by such bank for the account of the holder of such depositary receipt, or with respect to any specific payment of principal or interest on any Government Obligation that is so specified and held, *provided*, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the Government Obligation or the specific payment of principal or interest evidenced by such depositary receipt.

“*Guarantee Agreement*” means the Guarantee Agreement executed by the Company and JPMorgan Chase Bank, as Guarantee Trustee, contemporaneously with the execution and delivery of this Indenture, for the benefit of the holders of the Preferred Securities, as modified, amended or supplemented from time to time.

“*Holder*” means a Person in whose name a Security is registered in the Securities Register.

“*Indenture*” means this instrument as originally executed or as it may from time to time be amended or supplemented by one or more amendments or indentures supplemental hereto entered into pursuant to the applicable provisions hereof.

“*Interest Payment Date*” means February 15, May 15, August 15, and November 15 of each year, commencing on August 15, 2004, during the term of this Indenture.

“*Investment Company Act*” means the Investment Company Act of 1940 or any successor statute thereto, in each case as amended from time to time.

“*Investment Company Event*” means the receipt by the Company of an Opinion of Counsel experienced in such matters to the effect that, as a result of the occurrence of a change in law or regulation (including any announced prospective change) or a written change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority, there is more than an insubstantial risk that the Trust is or, within ninety (90) days of the date of such opinion will be, considered an “investment company” that is required to be registered under the Investment Company Act, which change or prospective change becomes effective or would become effective, as the case may be, on or after the date of the issuance of the Securities.

“*LIBOR*” has the meaning specified in Schedule A.

“*LIBOR Business Day*” has the meaning specified in Schedule A.

“*LIBOR Determination Date*” has the meaning specified in Schedule A.

“*Liquidation Amount*” has the meaning specified in the Trust Agreement.

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

“*Notice of Default*” means a written notice of the kind specified in Section 5.1(c).

“*Officers’ Certificate*” means a certificate signed by the Chairman of the Board, a Vice Chairman of the Board, the Chief Executive Officer, the President or a Vice President, and by the Chief Financial Officer, the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary, of the Company and delivered to the Trustee.

“*Operative Documents*” means the Trust Agreement, the Indenture, the Purchase Agreement, the Guarantee Agreement and the Securities.

“*Opinion of Counsel*” means a written opinion of counsel, who may be counsel for or an employee of the Company or any Affiliate of the Company.

“*Optional Redemption Price*” has the meaning set forth in Section 11.1.

“*Original Issue Date*” means the date of original issuance of each Security.

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

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

(ii) 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 Securities; *provided*, that, if such 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) Securities that have been paid or in substitution for or in lieu of which other Securities have been authenticated and delivered pursuant to the provisions of this Indenture, unless proof satisfactory to the Trustee is presented that any such Securities are held by Holders in whose hands such Securities are valid, binding and legal obligations of the Company;

provided, that, in determining whether the Holders of the requisite principal amount of Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities that a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded.

Securities so owned that 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 Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor. Notwithstanding anything herein to the contrary, Securities initially issued to the Trust that are owned by the Trust shall be deemed to be Outstanding notwithstanding the ownership by the Company or an Affiliate of any beneficial interest in the Trust.

"*Paying Agent*" means the Trustee or any Person authorized by the Company to pay the principal of or any premium or interest on, or other amounts in respect of, any Securities on behalf of the Company.

"*Person*" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, government or any agency or political subdivision thereof, or any other entity of whatever nature.

"*Place of Payment*" means, with respect to the Securities, the Corporate Trust Office of the Trustee.

"*Preferred Securities*" has the meaning specified in the first recital of this Indenture.

"*Predecessor Security*" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security. For the purposes of this definition, any security authenticated and delivered under Section 3.6 in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

"*Proceeding*" has the meaning specified in Section 12.2.

"*Property Trustee*" means the Person identified as the "Property Trustee" in the Trust Agreement, solely in its capacity as Property Trustee of the Trust under the Trust Agreement and not in its individual capacity, or its successor in interest in such capacity, or any successor Property Trustee appointed as therein provided.

"*Purchase Agreement*" means the agreement, dated as of the date hereof, between the Company and the Trust and Cohen Bros. & Company.

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

"*Redemption Price*" means, when used with respect to any Security to be redeemed, in whole or in part, the Special Redemption Price or the Optional Redemption Price, as applicable, at which such Security or portion thereof is to be redeemed as fixed by or pursuant to this Indenture.

"*Reference Banks*" has the meaning specified in Schedule A.

"*Regular Record Date*" for the interest payable on any interest Payment Date with respect to the Securities means the date that is fifteen (15) days preceding such Interest Payment Date (whether or not a Business Day).

"*Responsible Officer*" means, when used with respect to the Trustee, the officer in the Institutional Trust Services department of the Trustee having direct responsibility for the administration of this Indenture.

"*Rights Plan*" means a plan of the Company providing for the issuance by the Company to all holders of its Common Stock of rights entitling the holders thereof to subscribe for or purchase shares of any class or series of capital stock of the Company which rights (i) are deemed to be transferred with such shares of such Common Stock and (ii) are also issued in respect of future issuances of such Common Stock, in each case until the occurrence of a specified event or events.

"*Securities*" or "*Security*" means any debt securities or debt security, as the case may be, authenticated and delivered under this Indenture.

"*Securities Act*" means the Securities Act of 1933 or any successor statute thereto, in each case as amended from time to time.

"*Securities Register*" and "*Securities Registrar*" have the respective meanings specified in Section 3.5.

"*Senior Debt*" means the principal of and any premium and interest on (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company, whether or not such claim for post-petition interest is allowed in such proceeding) all Debt of the Company, whether incurred on or prior to the date of this Indenture or thereafter incurred, unless it is provided in the instrument creating or evidencing the same or pursuant to which the same is outstanding, that such obligations are not superior in right of payment to the Securities issued under this Indenture; *provided, however*, that if the Company is subject to the regulation and supervision of any Applicable Insurance Regulatory Authority, the Company shall have received the approval of each appropriate Applicable Insurance Regulatory Authority prior to issuing any such obligation if then required; *and provided, further*, that Senior Debt shall not be deemed to include any other debt securities and guarantees in respect of such debt securities issued to any trust other than the Trust (or a trustee of any such trust), partnership or other entity affiliated with the Company that is a financing vehicle of the Company (a "financing entity") in connection with the issuance by such financing entity of equity securities or other securities that are treated as equity capital for regulatory capital purposes guaranteed by the Company pursuant to an instrument that ranks *pari passu* with or junior in right of payment to this Indenture, including, without limitation, securities issued by American Equity Capital Trust I, American Equity Capital Trust II, American Equity Capital Trust III and American Equity Capital Trust IV.

"*Special Event*" means the occurrence of an Investment Company Event or a Tax Event.

“Special Redemption Price” has the meaning set forth in Section 11.2.

“Stated Maturity” means April 29, 2034.

“Statutory Financial Statements” means all financial statements of the Company’s subsidiary insurance companies for each relevant period, each prepared in accordance with Applicable Accounting Principles.

“Subsidiary” means a Person more than fifty percent (50%) of the outstanding voting stock or other voting interests of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries. For purposes of this definition, “voting stock” means stock that ordinarily has voting power for the election of directors, whether at all times or only so long as no senior class of stock has such voting power by reason of any contingency.

“Tax Event” means the receipt by the Company of an Opinion of Counsel experienced in such matters to the effect that, as a result of (a) any amendment to or change (including any announced prospective change) in the laws or any regulations thereunder of the United States or any political subdivision or taxing authority thereof or therein or (b) any judicial decision or any official administrative pronouncement (including any private letter ruling, technical advice memorandum or field service advice) or regulatory procedure, including any notice or announcement of intent to adopt any such pronouncement or procedure (an “Administrative Action”), regardless of whether such judicial decision or Administrative Action is issued to or in connection with a proceeding involving the Company or the Trust and whether or not subject to review or appeal, which amendment, change, judicial decision or Administrative Action is enacted, promulgated or announced, in each case, on or after the date of issuance of the Securities, there is more than an insubstantial risk that (i) the Trust is, or will be within ninety (90) days of the date of such opinion, subject to United States federal income tax with respect to income received or accrued on the Securities, (ii) interest payable by the Company on the Securities is not, or within ninety (90) days of the date of such opinion, will not be, deductible by the Company, in whole or in part, for United States federal income tax purposes, or (iii) the Trust is, or will be within ninety (90) days of the date of such opinion, subject to more than a *de minimis* amount of other taxes, duties or other governmental charges.

“Trust” has the meaning specified in the first recital of this Indenture.

“Trust Agreement” means the Amended and Restated Trust Agreement executed and delivered by the Company, the Property Trustee, Chase Manhattan Bank USA, National Association, as Delaware Trustee and the Administrative Trustees named therein, contemporaneously with the execution and delivery of this Indenture, for the benefit of the holders of the Trust Securities, as amended or supplemented from time to time.

“Trustee” means the Person named as the “Trustee” in the first paragraph of this instrument, solely in its capacity as such and not in its individual capacity, until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and, thereafter, “Trustee” shall mean or include each Person who is then a Trustee hereunder.

“Trust Indenture Act” means the Trust Indenture Act of 1939, as amended and as in effect on the date as of this Indenture.

“Trust Securities” has the meaning specified in the first recital of this Indenture.

SECTION 1.2. *Compliance Certificate and Opinions.*

(a) Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall, if requested by the Trustee, furnish to the Trustee an Officers’ Certificate stating that all conditions precedent (including covenants compliance with which constitutes a condition 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 (including covenants compliance with which constitutes a condition precedent), if any, have been complied with.

(b) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than the certificate provided pursuant to Section 10.3) shall include:

(i) a statement by each individual signing such certificate or opinion that such individual has read such covenant or condition and the definitions herein relating thereto;

(ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions of such individual contained in such certificate or opinion are based;

(iii) a statement that, in the opinion of such individual, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether, in the opinion of such individual, such condition or covenant has been complied with.

SECTION 1.3. *Forms of Documents Delivered to Trustee.*

(a) 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.

(b) 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, or representations by, counsel, unless such officer knows, or after reasonable inquiry should know, that the certificate or opinion or representations with respect to matters upon which his or her certificate or opinion is based are erroneous. Any such certificate or Opinion 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 after reasonable inquiry should know, that the certificate or opinion or representations with respect to such matters are erroneous.

(c) 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.

(d) Whenever, subsequent to the receipt by the Trustee of any Board Resolution, Officers' Certificate, Opinion of Counsel or other document or instrument, a clerical, typographical or other inadvertent or unintentional error or omission shall be discovered therein, a new document or instrument may be substituted therefor in corrected form with the same force and effect as if originally received in the corrected form and, irrespective of the date or dates of the actual execution and/or delivery thereof, such substitute document or instrument shall be deemed to have been executed and/or delivered as of the date or dates required with respect to the document or instrument for which it is substituted. Without limiting the generality of the foregoing, any Securities issued under the authority of such defective document or instrument shall nevertheless be the valid obligations of the Company entitled to the benefits of this Indenture equally and ratably with all other Outstanding Securities.

SECTION 1.4. *Acts of Holders.*

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given to 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 thereof duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments (including any appointment of an agent) is or 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 conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 1.4.

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

(c) The ownership of Securities shall be proved by the Securities Register.

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

(e) Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

(f) Except as set forth in paragraph (g) of this Section 1.4, the Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of Securities. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to take the relevant action, whether or not such Holders remain Holders after such record date; *provided*, that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date (as defined in Section 1.4(h)) by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect). Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities in the manner set forth in Section 1.6.

(g) The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to join in the giving or making of (i) any Notice of Default, (ii) any declaration of acceleration or rescission or annulment thereof referred to in Section 5.2, (iii) any request to institute proceedings referred to in Section 5.7(b) or (iv) any direction referred to in Section 5.12. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date; *provided*, that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect). Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities in the manner set forth in Section 1.6.

(h) With respect to any record date set pursuant to paragraph (f) or (g) of this Section 1.4, the party hereto that sets such record date may designate any day as the “*Expiration Date*” and from time to time may change the Expiration Date to any earlier or later day; *provided*, that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities in the manner set forth in Section 1.6, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section 1.4, the party hereto that set such record date shall be deemed to have initially designated the ninetieth (90th) day after such record

date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the one hundred eightieth (180th) day after the applicable record date.

SECTION 1.5. Notices, Etc. to Trustee and Company.

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

(a) the Trustee by any Holder, any holder of Preferred Securities or the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with and received by the Trustee at its Corporate Trust Office, or

(b) the Company by the Trustee, any Holder or any holder of Preferred Securities shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid, to the Company addressed to it at American Equity Investment Life Holding Company, 5000 Westown Parkway, Suite 440, West Des Moines, IA 50266, Attention: Wendy Carlson, Chief Financial Officer or at any other address previously furnished in writing to the Trustee by the Company.

SECTION 1.6. Notice to Holders; Waiver.

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class, postage prepaid, to each Holder affected by such event to the address of such Holder as it appears in the Securities Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. If, by reason of the suspension of or irregularities in regular mail service or for any other reason, it shall be impossible or impracticable to mail notice of any event to Holders when said notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be a sufficient 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.

SECTION 1.7. 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 of this Indenture.

SECTION 1.8. Successors and Assigns.

This Indenture shall be binding upon and shall inure to the benefit of any successor to the Company and the Trustee, including any successor by operation of law. Except in connection

with a transaction involving the Company that is permitted under Article VIII and pursuant to which the assignee agrees in writing to perform the Company's obligations hereunder, the Company shall not assign its obligations hereunder.

SECTION 1.9. Separability Clause.

If any provision in this Indenture or in the 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, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.

SECTION 1.10. Benefits of Indenture.

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto and their successors and assigns, the holders of Senior Debt, the Holders of the Securities and, to the extent expressly provided in Sections 5.2, 5.8, 5.9, 5.11, 5.13, 9.2 and 10.7, the holders of Preferred Securities, any benefit or any legal or equitable right, remedy or claim under this Indenture.

SECTION 1.11. Governing Law.

This Indenture and the rights and obligations of each of the Holders, the Company and the Trustee shall be construed and enforced in accordance with and governed by the laws of the State of New York without reference to its conflict of laws provisions (other than Section 5-1401 of the General Obligations Law).

SECTION 1.12. Submission to Jurisdiction.

ANY LEGAL ACTION OR PROCEEDING BY OR AGAINST ANY PARTY HERETO OR WITH RESPECT TO OR ARISING OUT OF THIS INDENTURE MAY BE BROUGHT IN OR REMOVED TO THE COURTS OF THE STATE OF NEW YORK, IN AND FOR THE COUNTY OF NEW YORK, OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK (IN EACH CASE SITTING IN THE BOROUGH OF MANHATTAN). BY EXECUTION AND DELIVERY OF THIS INDENTURE, EACH PARTY ACCEPTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS (AND COURTS OF APPEALS THEREFROM) FOR LEGAL PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS INDENTURE.

SECTION 1.13. *Non-Business Days.*

If any Interest Payment Date, Redemption Date or Stated Maturity of any Security shall not be a Business Day, then (notwithstanding any other provision of this Indenture or the Securities) payment of interest, premium, if any, or principal or other amounts in respect of such Security shall not be made on such date, but shall be made on the next succeeding Business Day (and no interest shall accrue in respect of the amounts whose payment is so delayed for the period from and after such Interest Payment Date, Redemption Date or Stated Maturity, as the case may be, until such next succeeding Business Day) except that, if such Business Day falls in the next succeeding calendar year, such payment shall be made on the immediately preceding

Business Day, in each case with the same force and effect as if made on the Interest Payment Date or Redemption Date or at the Stated Maturity.

ARTICLE II

SECURITY FORMS

SECTION 2.1. *Form of Security.*

Any Security issued hereunder shall be in substantially the following form:

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

Floating Rate Junior Subordinated Note due 2034

No.

\$27,840,000

American Equity Investment Life Holding Company, a corporation organized and existing under the laws of Iowa (hereinafter called the “Company,” which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to _____, or registered assigns, the principal sum of Twenty-Seven Million Eight Hundred Forty Thousand Dollars (\$27,840,000) or such other principal amount represented hereby as may be set forth in the records of the Securities Registrar hereinafter referred to in accordance with the Indenture on April 29, 2034. The Company further promises to pay interest on said principal sum from April 29, 2004, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, quarterly (subject to deferral as set forth herein) in arrears on February 15, May 15, August 15, and November 15 of each year, commencing August 15, 2004, or if any such day is not a Business Day, on the next succeeding Business Day (and no interest shall accrue in respect of the amounts whose payment is so delayed for the period from and after such Interest Payment Date until such next succeeding Business Day), except that, if such Business Day falls in the next succeeding calendar year, such payment shall be made on the immediately preceding Business Day, in each case, with the same force and effect as if made on the Interest Payment Date, at a variable rate equal to LIBOR plus 3.90% per annum, together with Additional Tax Sums, if any, as provided in Section 10.5 of the Indenture, until the principal hereof is paid or duly provided for or made available for payment; *provided, further*, that any overdue principal, premium, if any, or Additional Tax Sums and any overdue installment of interest shall bear Additional Interest at a variable rate equal to LIBOR plus 3.90% per annum (to the extent that the payment of such interest shall be legally enforceable), compounded quarterly, from the dates such amounts are due until they are paid or made available for payment, and such interest shall be payable on demand.

The amount of interest payable shall be computed on the basis of a 360-day year and the actual number of days elapsed in the relevant interest period. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date shall, as provided in the Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest installment. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of

business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities not less than ten (10) days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, all as more fully provided in the Indenture.

So long as no Event of Default has occurred and is continuing, the Company shall have the right, at any time and from time to time during the term of this Security, to defer the payment of interest on this Security for a period of up to twenty (20) consecutive quarterly interest payment periods (each such period, an “*Extension Period*”), during which Extension Period(s), no interest shall be due and payable (except any Additional Tax Sums that may be due and payable). No Extension Period shall end on a date other than an Interest Payment Date, and no Extension Period shall extend beyond the Stated Maturity of the principal of this Security. No interest shall be due and payable during an Extension Period (except any Additional Tax Sums that may be due and payable), except at the end thereof, but each installment of interest that would otherwise have been due and payable during such Extension Period shall bear Additional Interest (to the extent payment of such interest would be legally enforceable) at a variable rate equal to LIBOR plus 3.90% per annum, compounded quarterly, from the dates on which amounts would have otherwise been due and payable until paid or made available for payment. At the end of any such Extension Period, the Company shall pay all interest then accrued and unpaid on this Security, together with such Additional Interest. Prior to the termination of any such Extension Period, the Company may further defer the payment of interest; *provided*, that (i) all such previous and further extensions comprising such Extension Period do not exceed twenty (20) quarterly interest payment periods, (ii) no Extension Period shall end on a date other than an Interest Payment

Date and (iii) no Extension Period shall extend beyond the Stated Maturity of the principal of this Security. Upon the termination of any such Extension Period and upon the payment of all accrued and unpaid interest and any Additional Interest then due on any Interest Payment Date, the Company may elect to begin a new Extension Period; *provided*, that (i) such Extension Period does not exceed twenty (20) quarterly interest payment periods, (ii) no Extension Period shall end on a date other than an Interest Payment Date and (iii) no Extension Period shall extend beyond the Stated Maturity of the principal of this Security. The Company shall give the Holder of this Security and the Trustee written notice of its election to begin any such Extension Period at least one Business Day prior to the next succeeding Interest Payment Date on which interest on this Security would be payable but for such deferral or, so long as this Security is held by the Trust, at least one Business Day prior to the earlier of (i) the next succeeding date on which Distributions on the Preferred Securities of American Equity Capital Trust III would be payable but for such deferral and (ii) the date on which the Property Trustee of such Trust is required to give notice to any securities exchange or other applicable self-regulatory organization or to holders of such Preferred Securities of the record date for the payment of such Distributions.

During any such Extension Period, the Company shall not (i) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any of the Company's capital stock or (ii) make any payment of principal of or any interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Company that rank *pari passu* in all respects with or junior in interest to this Security (other than (a) repurchases, redemptions or other acquisitions of shares of capital stock of the Company in connection with (1) any employment contract, benefit plan or other similar arrangement with or

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for the benefit of any one or more employees, officers, directors or consultants, (2) a dividend reinvestment or stockholder stock purchase plan and (3) the issuance of capital stock of the Company (or securities convertible into or exercisable for such capital stock) as consideration in an acquisition transaction entered into prior to the applicable Extension Period, (b) as a result of an exchange or conversion of any class or series of the Company's capital stock (or any capital stock of a Subsidiary of the Company) for any class or series of the Company's capital stock or of any class or series of the Company's indebtedness for any class or series of the Company's capital stock, (c) the purchase of fractional interests in shares of the Company's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged, (d) any declaration of a dividend in connection with any Rights Plan, the issuance of rights, stock or other property under any Rights Plan, or the redemption or repurchase of rights pursuant thereto or (e) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks *pari passu* with or junior to such stock).

Payment of principal of, premium, if any, and interest on this Security shall be made in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payments of principal, premium, if any, and interest due at the Maturity of this Security shall be made at the Place of Payment upon surrender of such Securities to the Paying Agent, and payments of interest shall be made, subject to such surrender where applicable, by wire transfer at such place and to such account at a banking institution in the United States as may be designated in writing to the Paying Agent at least ten (10) Business Days prior to the date for payment by the Person entitled thereto unless proper written transfer instructions have not been received by the relevant record date, in which case such payments shall be made by check mailed to the address of such Person as such address shall appear in the Security Register. Notwithstanding the foregoing, so long as the Holder of this Security is the Property Trustee, the payment of the principal of (and premium, if any) and interest (including any overdue installment of interest and Additional Tax Sums, if any) on this Security will be made at such place and to such account as may be designated by the Property Trustee.

The indebtedness evidenced by this Security is, to the extent provided in the Indenture, subordinate and junior in right of payment to the prior payment in full of all Senior Debt, and this Security is issued subject to the provisions of the Indenture with respect thereto. Each Holder of this Security, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee on his or her behalf to take such actions as may be necessary or appropriate to effectuate the subordination so provided and (c) appoints the Trustee his or her attorney-in-fact for any and all such purposes. Each Holder hereof, by his or her acceptance hereof, waives all notice of the acceptance of the subordination provisions contained herein and in the Indenture by each holder of Senior Debt, whether now outstanding or hereafter incurred, and waives reliance by each such holder upon said provisions.

Unless the certificate of authentication hereon has been executed by the Trustee by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

[FORM OF REVERSE OF SECURITY]

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This Security is one of a duly authorized issue of securities of the Company (the "*Securities*") issued under the Junior Subordinated Indenture, dated as of April 29, 2004 (the "*Indenture*"), between the Company and JPMorgan Chase Bank, as Trustee (in such capacity, the "*Trustee*," which term includes any successor trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee, the holders of Senior Debt, the Holders of the Securities and the holders of the Preferred Securities, and of the terms upon which the Securities are, and are to be, authenticated and delivered.

All terms used in this Security that are defined in the Indenture or in the Amended and Restated Trust Agreement, dated as of April 29, 2004 (as modified, amended or supplemented from time to time, the "*Trust Agreement*"), relating to the American Equity Capital Trust III (the "*Trust*") among the Company, as Depositor, the Trustees named therein and the Holders from time to time of the Trust Securities issued pursuant thereto, shall have the meanings assigned to them in the Indenture or the Trust Agreement, as the case may be.

The Company may, on any Interest Payment Date, at its option, upon not less than thirty (30) days' nor more than sixty (60) days' written notice to the Holders of the Securities (unless a shorter notice period shall be satisfactory to the Trustee) on or after April 29, 2009 and subject to the terms and conditions of Article XI of the Indenture, redeem this Security in whole at any time or in part from time to time at a Redemption Price equal to one hundred percent (100%) of the principal amount hereof, together, in the case of any such redemption, with accrued interest, including any Additional Interest, through but excluding the date fixed as the Redemption Date; *provided*, that the Company shall have received the prior approval of any Applicable Insurance Regulatory Authority then required.

In addition, upon the occurrence and during the continuation of a Special Event, the Company may, at its option, upon not less than thirty (30) days' nor more than sixty (60) days' written notice to the Holders of the Securities (unless a shorter notice period shall be satisfactory to the Trustee), redeem this Security, in whole but not in part, subject to the terms and conditions of Article XI of the Indenture at a Redemption Price equal to one hundred seven and one half percent (107.5%) of the principal amount hereof, together, in the case of any such redemption, with accrued interest, including any Additional Interest, through but excluding the date fixed as the Redemption Date; *provided*, that the Company shall have received the prior approval of any Applicable Insurance Regulatory Authority then required.

In the event of redemption of this Security in part only, a new Security or Securities for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof. If less than all the Securities are to be redeemed, the particular Securities to be redeemed shall be selected not more than sixty (60) days prior to the Redemption Date by the Trustee from the Outstanding Securities not previously called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of a portion of the principal amount of any Security.

The Indenture permits, with certain exceptions as therein provided, the Company and the Trustee at any time to enter into a supplemental indenture or indentures for the purpose of modifying in any manner the rights and obligations of the Company and of the Holders of the

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Securities, with the consent of the Holders of not less than a majority in principal amount of the Outstanding Securities. The Indenture also contains provisions permitting Holders of specified percentages in principal amount of the Securities, on behalf of the Holders of all Securities, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium, if any, and interest, including any Additional Interest, on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Securities Register, upon surrender of this Security for registration of transfer at the office or agency of the Company maintained for such purpose, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Securities Registrar and duly executed by, the Holder hereof or such Holder's attorney duly authorized in writing, and thereupon one or more new Securities, of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities are issuable only in registered form without coupons in minimum denominations of \$100,000 and any integral multiple of \$1,000 in excess thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities are exchangeable for a like aggregate principal amount of Securities and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

The Company and, by its acceptance of this Security or a beneficial interest therein, the Holder of, and any Person that acquires a beneficial interest in, this Security agree that, for United States federal, state and local tax purposes, it is intended that this Security constitute indebtedness.

This Security shall be construed and enforced in accordance with and governed by the laws of the State of New York, without reference to its conflict of laws provisions (other than Section 5-1401 of the General Obligations Law).

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IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed on this day of , 20 .

**AMERICAN EQUITY INVESTMENT LIFE HOLDING
COMPANY**

By: _____

Name: _____

Title: _____

SECTION 2.2. *Restricted Legend.*

(a) Any Security issued hereunder shall bear a legend in substantially the following form:

“THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITORY TRUST COMPANY (“DTC”) OR A NOMINEE OF DTC. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN DTC OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS SECURITY (OTHER THAN A TRANSFER OF THIS SECURITY AS A WHOLE BY DTC TO A NOMINEE OF DTC OR BY A NOMINEE OF DTC TO DTC OR ANOTHER NOMINEE OF DTC) MAY BE REGISTERED EXCEPT IN LIMITED CIRCUMSTANCES.

UNLESS THIS SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE WERE ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND SUCH SECURITIES, AND ANY INTEREST THEREIN, MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF ANY SECURITIES IS HEREBY NOTIFIED THAT THE SELLER OF THE SECURITIES MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A UNDER THE SECURITIES ACT.

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THE HOLDER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) SUCH SECURITIES MAY BE OFFERED, RESOLD OR OTHERWISE TRANSFERRED ONLY (I) TO THE COMPANY, (II) TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (III) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a) (1), (2), (3) OR (7) OF RULE 501 UNDER THE SECURITIES ACT THAT IS ACQUIRING THE SECURITY FOR ITS OWN ACCOUNT, OR FOR THE ACCOUNT OF AN "ACCREDITED INVESTOR," FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, (IV) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (V) PURSUANT TO AN EXEMPTION FROM THE SECURITIES ACT, IN EACH CASE IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND, IN THE CASE OF (III) OR (V), SUBJECT TO THE RIGHT OF THE COMPANY TO REQUIRE AN OPINION OF COUNSEL AND OTHER INFORMATION SATISFACTORY TO IT AND (B) THE HOLDER WILL NOTIFY ANY PURCHASER OF ANY SECURITIES FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE.

THE SECURITIES WILL BE ISSUED AND MAY BE TRANSFERRED ONLY IN BLOCKS HAVING AN AGGREGATE PRINCIPAL AMOUNT OF NOT LESS THAN \$100,000. TO THE FULLEST EXTENT PERMITTED BY LAW, ANY ATTEMPTED TRANSFER OF SECURITIES, OR ANY INTEREST THEREIN, IN A BLOCK HAVING AN AGGREGATE PRINCIPAL AMOUNT OF LESS THAN \$100,000 AND MULTIPLES OF \$1,000 IN EXCESS THEREOF SHALL BE DEEMED TO BE VOID AND OF NO LEGAL EFFECT WHATSOEVER. TO THE FULLEST EXTENT PERMITTED BY LAW, ANY SUCH PURPORTED TRANSFEREE SHALL BE DEEMED NOT TO BE THE HOLDER OF SUCH SECURITIES FOR ANY PURPOSE, INCLUDING, BUT NOT LIMITED TO, THE RECEIPT OF PRINCIPAL OF OR INTEREST ON SUCH SECURITIES, OR ANY INTEREST THEREIN, AND SUCH PURPORTED TRANSFEREE SHALL BE DEEMED TO HAVE NO INTEREST WHATSOEVER IN SUCH SECURITIES.

THE HOLDER OF THIS SECURITY, OR ANY INTEREST THEREIN, BY ITS ACCEPTANCE HEREOF OR THEREOF ALSO AGREES, REPRESENTS AND WARRANTS THAT IT IS NOT AN EMPLOYEE BENEFIT, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER PLAN OR ARRANGEMENT SUBJECT TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA"), OR SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") (EACH A "PLAN"), OR AN ENTITY WHOSE UNDERLYING ASSETS INCLUDE "PLAN ASSETS" BY REASON OF ANY PLAN'S INVESTMENT IN THE ENTITY, AND NO PERSON INVESTING "PLAN ASSETS" OF ANY PLAN MAY ACQUIRE OR HOLD THIS SECURITY OR ANY INTEREST THEREIN. ANY PURCHASER OR HOLDER OF

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THE SECURITIES OR ANY INTEREST THEREIN WILL BE DEEMED TO HAVE REPRESENTED BY ITS PURCHASE AND HOLDING THEREOF THAT IT IS NOT AN EMPLOYEE BENEFIT PLAN WITHIN THE MEANING OF SECTION 3(3) OF ERISA, OR A PLAN TO WHICH SECTION 4975 OF THE CODE IS APPLICABLE, A TRUSTEE OR OTHER PERSON ACTING ON BEHALF OF AN EMPLOYEE BENEFIT PLAN OR PLAN, OR ANY OTHER PERSON OR ENTITY USING THE ASSETS OF ANY EMPLOYEE BENEFIT PLAN OR PLAN TO FINANCE SUCH PURCHASE."

(b) The above legends shall not be removed from any Security unless there is delivered to the Company satisfactory evidence, which may include an Opinion of Counsel, as may be reasonably required to ensure that any future transfers thereof may be made without restriction under or violation of the provisions of the Securities Act and other applicable law. Upon provision of such satisfactory evidence, the Company shall execute and deliver to the Trustee, and the Trustee shall deliver, upon receipt of a Company Order directing it to do so, a Security that does not bear the legend.

SECTION 2.3. *Form of Trustee's Certificate of Authentication.*

The Trustee's certificate of authentication shall be in substantially the following form:

This is one of the Securities referred to in the within-mentioned Indenture.

Dated:

JPMORGAN CHASE BANK, as Trustee

SECTION 2.4. *Temporary Securities.*

(a) Pending the preparation of definitive Securities, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

(b) If temporary Securities are issued, the Company will cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at the office or agency of the Company designated for that purpose without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor one or more definitive Securities of any authorized denominations having the same Original Issue Date and Stated Maturity and having the same terms as such temporary Securities. Until so

exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

SECTION 2.5. *Definitive Securities.*

The Securities issued on the Original Issue Date shall be in definitive form. The definitive Securities shall be printed, lithographed or engraved, or produced by any combination of these methods, if required by any securities exchange on which the Securities may be listed, on a steel engraved border or steel engraved borders or may be produced in any other manner permitted by the rules of any securities exchange on which the Securities may be listed, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

ARTICLE III

THE SECURITIES

SECTION 3.1. *Payment of Principal and Interest.*

(a) The unpaid principal amount of the Securities shall bear interest at a variable rate of LIBOR plus 3.90% per annum until paid or duly provided for, such interest to accrue from the Original Issue Date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, and any overdue principal, premium, if any, or Additional Tax Sums and any overdue installment of interest shall bear Additional Interest at the rate equal to a variable rate of LIBOR plus 3.90% per annum, compounded quarterly from the dates such amounts are due until they are paid or funds for the payment thereof are made available for payment.

(b) Interest and Additional Interest on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, except that interest and any Additional Interest payable on the Stated Maturity (or any date of principal repayment upon early maturity) of the principal of a Security or on a Redemption Date shall be paid to the Person to whom principal is paid. The initial payment of interest on any Security that is issued between a Regular Record Date and the related Interest Payment Date shall be payable as provided in such Security.

(c) Any interest on any Security that is due and payable, but is not timely paid or duly provided for, on any Interest Payment Date for Securities (herein called "*Defaulted Interest*") shall forthwith cease to be payable to the registered Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in paragraph (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest (a "*Special Record Date*"), which shall be fixed in the following manner. At least thirty (30) days prior to the date of the proposed payment, the Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid

on each 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. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest, which shall be not more than fifteen (15) days and not less than ten (10) days prior to the date of the proposed payment and not less than ten (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 a Security at the address of such Holder as it appears in the Securities Register not less than ten (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 so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered on such Special Record Date; or

(ii) 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 Securities may be listed and, upon such notice as may be required by such exchange (or by the Trustee if the Securities are not listed), if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such payment shall be deemed practicable by the Trustee.

(d) Payments of interest on the Securities shall include interest accrued to but excluding the respective Interest Payment Dates. Interest payments for the Securities shall be computed and paid on the basis of a 360-day year and the actual number of days elapsed in the relevant interest period.

(e) Payment of principal of, premium, if any, and interest on the Securities shall be made in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payments of principal, premium, if any, and interest due at the Maturity of such Securities shall be made at the Place of Payment upon surrender of such Securities to the Paying Agent and payments of interest shall be made subject to such surrender where applicable, by wire transfer at such place and to such account at a banking institution in the United States as may be designated in writing to the Paying Agent at least ten (10) Business Days prior to the date for payment by the Person entitled thereto unless proper written transfer instructions have not been received by the relevant record date, in which case such payments shall be made by check mailed to the address of such Person as such address shall appear in the Security Register. Notwithstanding the foregoing, so long as the holder of this Security is the Property Trustee, the payment of the principal of (and premium, if any) and interest (including any overdue installment of interest and Additional Tax Sums, if any) on this Security will be made at such place and to such account as may be designated by the Property Trustee.

(f) Subject to the foregoing provisions of this Section 3.1, each Security delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Security.

SECTION 3.2. *Denominations.*

The Securities shall be in registered form without coupons and shall be issuable in minimum denominations of \$100,000 and any integral multiple of \$1,000 in excess thereof.

SECTION 3.3. *Execution, Authentication, Delivery and Dating.*

(a) At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities in an aggregate principal amount (including all then Outstanding Securities) not in excess of Twenty-Seven Million Eight Hundred Forty Thousand Dollars (\$27,840,000) executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities, and the Trustee in accordance with the Company Order shall authenticate and deliver such Securities. In authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and shall be fully protected in relying upon:

(i) a copy of any Board Resolution relating thereto; and

(ii) an Opinion of Counsel stating that: (1) such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute, and the Indenture constitutes, valid and legally binding obligations of the Company, each enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles; (2) the Securities have been duly authorized and executed by the Company and have been delivered to the Trustee for authentication in accordance with this Indenture; (3) the Securities are not required to be registered under the Securities Act; and (4) the Indenture is not required to be qualified under the Trust Indenture Act.

(b) The Securities shall be executed on behalf of the Company by its Chairman of the Board, its Vice Chairman of the Board, its Chief Executive Officer, its President or one of its Vice Presidents. The signature of any of these officers on the Securities may be manual or facsimile. 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 have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

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

hereunder. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 3.8, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

(d) Each Security shall be dated the date of its authentication.

SECTION 3.4. *Global Securities.*

(a) Upon the election of the Holder after the Original Issue Date, which election need not be in writing, the Securities owned by such Holder shall be issued in the form of one or more Global Securities registered in the name of the Depositary or its nominee. Each Global Security issued under this Indenture shall be registered in the name of the Depositary designated by the Company for such Global Security or a nominee thereof and delivered to such Depositary or a nominee thereof or custodian therefor, and each such Global Security shall constitute a single Security for all purposes of this Indenture.

(b) Notwithstanding any other provision in this Indenture, no Global Security may be exchanged in whole or in part for Securities registered, and no transfer of a Global Security in whole or in part may be registered, in the name of any Person other than the Depositary for such Global Security or a nominee thereof unless (i) such Depositary advises the Trustee and the Company in writing that such Depositary is no longer willing or able to properly discharge its responsibilities as Depositary with respect to such Global Security, and no qualified successor is appointed by the Company within ninety (90)

days of receipt by the Company of such notice, (ii) such Depository ceases to be a clearing agency registered under the Exchange Act and no successor is appointed by the Company within ninety (90) days after obtaining knowledge of such event, (iii) the Company executes and delivers to the Trustee a Company Order stating that the Company elects to terminate the book-entry system through the Depository or (iv) an Event of Default shall have occurred and be continuing. Upon the occurrence of any event specified in clause (i), (ii), (iii) or (iv) above, the Trustee shall notify the Depository and instruct the Depository to notify all owners of beneficial interests in such Global Security of the occurrence of such event and of the availability of Securities to such owners of beneficial interests requesting the same. The Trustee may conclusively rely, and be protected in relying, upon the written identification of the owners of beneficial interests furnished by the Depository, and shall not be liable for any delay resulting from a delay by the Depository. Upon the issuance of such Securities and the registration in the Securities Register of such Securities in the names of the Holders of the beneficial interests therein, the Trustees shall recognize such holders of beneficial interests as Holders.

(c) If any Global Security is to be exchanged for other Securities or canceled in part, or if another Security is to be exchanged in whole or in part for a beneficial interest in any Global Security, then either (i) such Global Security shall be so surrendered for exchange or cancellation as provided in this Article III or (ii) the principal amount thereof shall be reduced or increased by an amount equal to the portion thereof to be so exchanged or canceled, or equal to the principal amount of such other Security to be so exchanged for a beneficial interest therein, as the case may be, by means of an appropriate adjustment made on the records of the Securities Registrar, whereupon the Trustee, in accordance with the Applicable Depository Procedures,

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shall instruct the Depository or its authorized representative to make a corresponding adjustment to its records. Upon any such surrender or adjustment of a Global Security by the Depository, accompanied by registration instructions, the Company shall execute and the Trustee shall authenticate and deliver any Securities issuable in exchange for such Global Security (or any portion thereof) in accordance with the instructions of the Depository. The Trustee shall not be liable for any delay in delivery of such instructions and may conclusively rely on, and shall be fully protected in relying on, such instructions.

(d) Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Security or any portion thereof shall be authenticated and delivered in the form of, and shall be, a Global Security, unless such Security is registered in the name of a Person other than the Depository for such Global Security or a nominee thereof.

(e) Securities distributed to holders of Book-Entry Preferred Securities (as defined in the applicable Trust Agreement) upon the dissolution of the Trust shall be distributed in the form of one or more Global Securities registered in the name of a Depository or its nominee, and deposited with the Securities Registrar, as custodian for such Depository, or with such Depository, for credit by the Depository to the respective accounts of the beneficial owners of the Securities represented thereby (or such other accounts as they may direct). Securities distributed to holders of Preferred Securities other than Book-Entry Preferred Securities upon the dissolution of the Trust shall not be issued in the form of a Global Security or any other form intended to facilitate book-entry trading in beneficial interests in such Securities.

(f) The Depository or its nominee, as the registered owner of a Global Security, shall be the Holder of such Global Security for all purposes under this Indenture and the Securities, and owners of beneficial interests in a Global Security shall hold such interests pursuant to the Applicable Depository Procedures. Accordingly, any such owner's beneficial interest in a Global Security shall be shown only on, and the transfer of such interest shall be effected only through, records maintained by the Depository or its nominee or its Depository Participants. The Securities Registrar and the Trustee shall be entitled to deal with the Depository for all purposes of this Indenture relating to a Global Security (including the payment of principal and interest thereon and the giving of instructions or directions by owners of beneficial interests therein and the giving of notices) as the sole Holder of the Security and shall have no obligations to the owners of beneficial interests therein. Neither the Trustee nor the Securities Registrar shall have any liability in respect of any transfers effected by the Depository.

(g) The rights of owners of beneficial interests in a Global Security shall be exercised only through the Depository and shall be limited to those established by law and agreements between such owners and the Depository and/or its Depository Participants.

(h) No holder of any beneficial interest in any Global Security held on its behalf by a Depository shall have any rights under this Indenture with respect to such Global Security, and such Depository may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the owner of such Global Security for all purposes whatsoever. None of the Company, the Trustee nor any agent of the Company or the Trustee will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Notwithstanding the foregoing, nothing herein

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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 such holders of beneficial interests, the operation of customary practices governing the exercise of the rights of the Depository (or its nominee) as Holder of any Security.

SECTION 3.5. *Registration, Transfer and Exchange Generally.*

(a) The Trustee shall cause to be kept at the Corporate Trust Office a register (the "*Securities Register*") in which the registrar and transfer agent with respect to the Securities (the "*Securities Registrar*"), subject to such reasonable regulations as it may prescribe, shall provide for the registration of Securities and of transfers and exchanges of Securities. The Trustee shall at all times also be the Securities Registrar. The provisions of Article VI shall apply to the Trustee in its role as Securities Registrar.

(b) Subject to compliance with Section 2.2(b), upon surrender for registration of transfer of any Security at the offices or agencies of the Company designated for that purpose the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations of like tenor and aggregate principal amount.

(c) At the option of the Holder, Securities may be exchanged for other Securities of any authorized denominations, of like tenor and aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities that the Holder making the exchange is entitled to receive.

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

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

(f) No service charge shall be made to a Holder for any transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Securities.

(g) Neither the Company nor the Trustee shall be required pursuant to the provisions of this Section 3.5 (g): (i) to issue, register the transfer of or exchange any Security during a period beginning at the opening of business fifteen (15) days before the day of selection for redemption of Securities pursuant to Article XI and ending at the close of business on the day of mailing of the notice of redemption or (ii) to register the transfer of or exchange any Security so selected for redemption in whole or in part, except, in the case of any such Security to be redeemed in part, any portion thereof not to be redeemed.

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(h) The Company shall designate an office or offices or agency or agencies where Securities may be surrendered for registration or transfer or exchange. The Company initially designates the Corporate Trust Office as its office and agency for such purposes. The Company shall give prompt written notice to the Trustee and to the Holders of any change in the location of any such office or agency.

SECTION 3.6. *Mutilated, Destroyed, Lost and Stolen Securities.*

(a) If any mutilated Security is surrendered to the Trustee together with such security or indemnity as may be required by the Trustee to save the Company and the Trustee harmless, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of like tenor and aggregate principal amount and bearing a number not contemporaneously outstanding.

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

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

(d) Upon the issuance of any new Security under this Section 3.6, 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.

(e) Every new Security issued pursuant to this Section 3.6 in lieu of any mutilated, destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen 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 Securities duly issued hereunder.

(f) The provisions of this Section 3.6 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 3.7. *Persons Deemed Owners.*

The Company, the Trustee and any agent of the Company or the Trustee shall treat the Person in whose name any Security is registered as the owner of such Security for the purpose of receiving payment of principal of and any interest on such Security and for all other purposes whatsoever, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

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SECTION 3.8. *Cancellation.*

All Securities surrendered for payment, redemption, transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee, and any such Securities and Securities surrendered directly to the Trustee for any such purpose shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly canceled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities canceled as provided in this Section 3.8, except as expressly permitted by this Indenture. All canceled Securities shall be retained by the Trustee in accordance with its customary practices.

SECTION 3.9. *Deferrals of Interest Payment Dates.*

(a) So long as no Event of Default has occurred and is continuing, the Company shall have the right, at any time and from time to time during the term of the Security, to defer the payment of interest on the Securities for a period of up to twenty (20) consecutive quarterly interest payment periods (each such period, an "Extension Period"), during which Extension Period(s), the Company shall have the right to make no payments or partial payments of interest on any Interest Payment Date (except any Additional Tax Sums that otherwise may be due and payable). No Extension Period shall end on a date

other than an Interest Payment Date and no Extension Period shall extend beyond the Stated Maturity of the principal of the Securities. No interest shall be due and payable during an Extension Period, except at the end thereof, but each installment of interest that would otherwise have been due and payable during such Extension Period shall bear Additional Interest (to the extent payment of such interest would be legally enforceable) at the rate equal to a variable rate equal to LIBOR plus 3.90% per annum, compounded quarterly, from the dates on which amounts would have otherwise been due and payable until paid or until funds for the payment thereof have been made available for payment. At the end of any such Extension Period, the Company shall pay all interest then accrued and unpaid on the Securities together with such Additional Interest. Prior to the termination of any such Extension Period, the Company may extend such Extension Period and further defer the payment of interest; *provided*, that (i) all such previous and further extensions comprising such Extension Period do not exceed twenty (20) quarterly interest payment periods, (ii) no Extension Period shall end on a date other than an Interest Payment Date and (iii) no Extension Period shall extend beyond the Stated Maturity of the principal of the Securities. Upon the termination of any such Extension Period and upon the payment of all accrued and unpaid interest and any Additional Interest then due on any Interest Payment Date, the Company may elect to begin a new Extension Period; *provided*, that (i) such Extension Period does not exceed twenty (20) quarterly interest payment periods, (ii) no Extension Period shall end on a date other than an Interest Payment Date and (iii) no Extension Period shall extend beyond the Stated Maturity of the principal of the Securities. The Company shall give the Holders of the Securities and the Trustee written notice of its election to begin any such Extension Period at least one Business Day prior to the next succeeding Interest Payment Date on which interest on the Securities would be payable but for such deferral or, so long as any Securities are held by the Trust, at least one Business Day prior to the earlier of (i) the next succeeding date on which Distributions on the Preferred Securities of such Trust would be payable but for such deferral and (ii) the date on which the Property Trustee of such Trust is required to give notice to any securities exchange or

other applicable self-regulatory organization or to holders of such Preferred Securities of the record date for the payment of such Distributions.

- (b) In connection with any such Extension Period, the Company shall be subject to the restrictions set forth in Section 10.6(a).

SECTION 3.10. *Right of Set-Off.*

Notwithstanding anything to the contrary herein, the Company shall have the right to set off any payment it is otherwise required to make in respect of any Security to the extent the Company has theretofore made, or is concurrently on the date of such payment making, a payment under the Guarantee Agreement relating to such Security or to a holder of Preferred Securities pursuant to an action undertaken under Section 5.8 of this Indenture.

SECTION 3.11. *Agreed Tax Treatment.*

Each Security issued hereunder shall provide that the Company and, by its acceptance or acquisition of a Security or a beneficial interest therein, the Holder of, and any Person that acquires a direct or indirect beneficial interest in, such Security, intend and agree to treat such Security as indebtedness of the Company for United States Federal, state and local tax purposes and to treat the Preferred Securities (including but not limited to all payments and proceeds with respect to the Preferred Securities) as an undivided beneficial ownership interest in the Securities (and any other Trust property) (and payments and proceeds therefrom, respectively) for United States Federal, state and local tax purposes. The provisions of this Indenture shall be interpreted to further this intention and agreement of the parties.

SECTION 3.12. *CUSIP Numbers.*

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

ARTICLE IV

SATISFACTION AND DISCHARGE

SECTION 4.1. *Satisfaction and Discharge of Indenture.*

This Indenture shall, upon Company Request, cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for and as otherwise provided in this Section 4.1) 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

- (a) either

(i) all Securities theretofore authenticated and delivered (other than (A) Securities that have been mutilated, destroyed, lost or stolen and that have been replaced or paid as provided in Section 3.6 and (B) 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 10.2) have been delivered to the Trustee for cancellation; or

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

(A) have become due and payable, or

(B) will become due and payable at their Stated Maturity within one year of the date of deposit, or

(C) 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 subclause (ii)(A), (B) or (C) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for such purpose (x) an amount in the currency or currencies in which the Securities are payable, (y) Government Obligations 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, money in an amount or (z) a combination thereof, in each case sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal and any premium and interest (including any Additional Interest) to the date of such deposit (in the case of Securities that have become due and payable) or to the Stated Maturity (or any date of principal repayment upon early maturity) or Redemption Date, as the case may be;

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

(c) 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 Section 6.6, the obligations of the Company to any Authenticating Agent under Section 6.11 and, if money shall have been deposited with the Trustee pursuant to subclause (a)(ii) of this Section 4.1, the obligations of the Trustee under Section 4.2 and Section 10.2(e) shall survive.

SECTION 4.2. *Application of Trust Money.*

Subject to the provisions of Section 10.2(e), all money deposited with the Trustee pursuant to Section 4.1 shall be held in trust and applied by the Trustee, in accordance with the

provisions of the Securities and this Indenture, to the payment in accordance with Section 3.1, either directly or through any 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 any premium and interest (including any Additional Interest) for the payment of which such money or obligations have been deposited with or received by the Trustee. Moneys held by the Trustee under this Section 4.2 shall not be subject to the claims of holders of Senior Debt under Article XII.

ARTICLE V

REMEDIES

SECTION 5.1. *Events of Default.*

"Event of Default" means, wherever used herein with respect to the Securities, 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):

(a) default in the payment of any interest upon any Security, including any Additional Interest in respect thereof, when it becomes due and payable, and continuance of such default for a period of thirty (30) days (subject to the deferral of any due date in the case of an Extension Period); or

(b) default in the payment of the principal of or any premium on any Security at its Maturity; or

(c) default in the performance, or breach, of any covenant or warranty of the Company in this Indenture and continuance of such default or breach for a period of thirty (30) 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 twenty five percent (25%) in aggregate principal amount of the Outstanding Securities 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;

(d) the entry by a court having jurisdiction in the premises of a decree or order adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or state bankruptcy, insolvency, reorganization or other similar law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator 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 decree or order for relief or any such other decree or order unstayed and in effect for a period of sixty (60) consecutive days;

(e) the institution by the Company of proceedings to be adjudicated a bankrupt or insolvent, or the consent by the Company to the institution of bankruptcy or insolvency proceedings against it, or the filing by the Company of a petition or answer or consent seeking reorganization or relief under any applicable Federal or state bankruptcy, insolvency, reorganization or other similar law, or the consent by it to the filing of such petition or to the

appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due and its willingness to be adjudicated a bankrupt or insolvent, or the taking of corporate action by the Company in furtherance of any such action; or

(f) the Trust shall have voluntarily or involuntarily liquidated, dissolved, wound-up its business or otherwise terminated its existence, except in connection with (1) the distribution of the Securities to holders of the Preferred Securities in liquidation of their interests in the Trust, (2) the redemption of all

SECTION 5.2. *Acceleration of Maturity; Rescission and Annulment.*

(a) If an Event of Default occurs and is continuing, then and in every such case the Trustee or the Holders of not less than twenty five percent (25%) in aggregate principal amount of the Outstanding Securities may declare the principal amount of all the Securities to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), provided, that if, upon an Event of Default, the Trustee or the Holders of not less than twenty five percent (25%) in principal amount of the Outstanding Securities fail to declare the principal of all the Outstanding Securities to be immediately due and payable, the holders of at least twenty five percent (25%) in aggregate Liquidation Amount of the Preferred Securities then outstanding shall have the right to make such declaration by a notice in writing to the Property Trustee, the Company and the Trustee; and upon any such declaration the principal amount of and the accrued interest (including any Additional Interest) on all the Securities shall become immediately due and payable.

(b) At any time after such a declaration of acceleration with respect to Securities has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter provided in this Article V, the Holders of a majority in aggregate principal amount of the Outstanding Securities, by written notice to the Indenture Trustee, or the holders of a majority in aggregate Liquidation Amount of the Preferred Securities, by written notice to the Property Trustee, the Company and the Trustee, may rescind and annul such declaration and its consequences if:

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

- (A) all overdue installments of interest on all Securities,
- (B) any accrued Additional Interest on all Securities,
- (C) the principal of and any premium on any Securities that have become due otherwise than by such declaration of acceleration and interest (including any Additional Interest) thereon at the rate borne by the Securities, and
- (D) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, the Property Trustee and their agents and counsel; and

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(ii) all Events of Default with respect to Securities, other than the non-payment of the principal of Securities that has become due solely by such acceleration, have been cured or waived as provided in Section 5.13;

provided, that if the Holders of such Securities fail to annul such declaration and waive such default, the holders of not less than a majority in aggregate Liquidation Amount of the Preferred Securities then outstanding shall also have the right to rescind and annul such declaration and its consequences by written notice to the Property Trustee, the Company and the Trustee, subject to the satisfaction of the conditions set forth in paragraph (b) of this Section 5.2. No such rescission shall affect any subsequent default or impair any right consequent thereon.

SECTION 5.3. *Collection of Indebtedness and Suits for Enforcement by Trustee.*

(a) The Company covenants that if:

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

(ii) default is made in the payment of the principal of and any premium on any Security at the Maturity thereof,

the Company will, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and any premium and interest (including any Additional Interest) and, in addition thereto, all amounts owing the Trustee under Section 6.6.

(b) 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 or any other obligor upon such Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Securities, wherever situated.

(c) If an Event of Default with respect to Securities occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities 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 5.4. *Trustee May File Proofs of Claim.*

In case of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or similar judicial proceeding relative to the Company (or any other obligor upon the Securities), its property or its creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized hereunder in order to have claims of the Holders and the Trustee allowed in any such

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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 first pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts owing the Trustee, any predecessor Trustee and other Persons under Section 6.6.

SECTION 5.5. *Trustee May Enforce Claim Without Possession of Securities.*

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the 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, subject to Article XII and after provision for the payment of all the amounts owing the Trustee, any predecessor Trustee and other Persons under Section 6.6, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

SECTION 5.6. *Application of Money Collected.*

Any money or property collected or to be applied by the Trustee with respect to the Securities pursuant to this Article V 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 or property on account of principal or any premium or interest (including any Additional Interest), upon presentation of the 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, any predecessor Trustee and other Persons under Section 6.6;

SECOND: To the payment of all Senior Debt of the Company if and to the extent required by Article XII;

THIRD: Subject to Article XII, to the payment of the amounts then due and unpaid upon the Securities for principal and any premium and interest (including any Additional Interest) 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 the Securities for principal and any premium and interest (including any Additional Interest), respectively; and

FOURTH: The balance, if any, to the Person or Persons entitled thereto.

SECTION 5.7. *Limitation on Suits.*

Subject to Section 5.8, no Holder of any Securities shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture or for the appointment of a custodian, receiver, assignee, trustee, liquidator, sequestrator (or other similar official) or for any other remedy hereunder, unless:

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(a) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities;

(b) the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(c) 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;

(d) the Trustee after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding for sixty (60) days; and

(e) no direction inconsistent with such written request has been given to the Trustee during such sixty (60)-day period by the Holders of a majority in aggregate principal amount of the Outstanding Securities;

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

SECTION 5.8. *Unconditional Right of Holders to Receive Principal, Premium, if any, and Interest; Direct Action by Holders of Preferred Securities.*

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of and any premium on such Security at its Maturity and payment of interest (including any Additional Interest) on such Security when due and payable and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder. Any registered holder of the Preferred Securities shall have the right, upon the occurrence of an Event of Default described in Section 5.1(a) or Section 5.1(b), to institute a suit directly against the Company for enforcement of payment to such holder of principal of and any premium and interest (including any Additional Interest) on the Securities having a principal amount equal to the aggregate Liquidation Amount of the Preferred Securities held by such holder.

SECTION 5.9. *Restoration of Rights and Remedies.*

If the Trustee, any Holder or any holder of Preferred Securities 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, such Holder or such holder of Preferred Securities, then and in every such case the Company, the Trustee, such Holders and such holder of Preferred Securities shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Trustee, such Holder and such holder of Preferred Securities shall continue as though no such proceeding had been instituted.

SECTION 5.10. *Rights and Remedies Cumulative.*

Except as otherwise provided in Section 3.6(f), no right or remedy herein conferred upon or reserved to the Trustee or 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 5.11. *Delay or Omission Not Waiver.*

No delay or omission of the Trustee, any Holder of any Securities or any holder of any Preferred 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 V or by law to the Trustee or to the Holders and the right and remedy given to the holders of Preferred Securities by Section 5.8 may be exercised from time to time, and as often as may be deemed expedient, by the Trustee, the Holders or the holders of Preferred Securities, as the case may be.

SECTION 5.12. *Control by Holders.*

The Holders of not less than a majority in aggregate principal amount of the Outstanding Securities (or, as the case may be, the holders of a majority in aggregate Liquidation Amount of Preferred Securities) 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; *provided*, that:

- (a) such direction shall not be in conflict with any rule of law or with this Indenture,
- (b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction, and
- (c) subject to the provisions of Section 6.2, the Trustee shall have the right to decline to follow such direction if a Responsible Officer or Officers of the Trustee shall, in good faith, reasonably determine that the proceeding so directed would be unjustly prejudicial to the Holders not joining in any such direction or would involve the Trustee in personal liability.

SECTION 5.13. *Waiver of Past Defaults.*

(a) The Holders of not less than a majority in aggregate principal amount of the Outstanding Securities or the holders of not less than a majority in aggregate Liquidation Amount of the Preferred Securities may waive any past Event of Default hereunder and its consequences except an Event of Default:

- (i) in the payment of the principal of or any premium or interest (including any Additional Interest) on any Security (unless such Event of Default has been cured and the Company has paid to or deposited with the Trustee a sum sufficient to pay all installments of interest (including any Additional Interest) due and past due and all principal of and any premium on all Securities due otherwise than by acceleration), or

(ii) in respect of a covenant or provision hereof that under Article IX cannot be modified or amended without the consent of each Holder of any Outstanding Security.

(b) Any such waiver shall be deemed to be on behalf of the Holders of all the Securities or, in the case of a waiver by holders of Preferred Securities issued by such Trust, by all holders of Preferred Securities.

(c) Upon any such waiver, such Event of 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 Event of Default or impair any right consequent thereon.

SECTION 5.14. *Undertaking for Costs.*

All parties to this Indenture agree, and each Holder of any Security by his or her 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 or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 5.14 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than ten percent (10%) in aggregate principal amount of the Outstanding Securities, or to any suit instituted by any Holder for the enforcement of the payment of the principal of or any premium on the Security after the Stated Maturity or any interest (including any Additional Interest) on any Security after it is due and payable.

SECTION 5.15. *Waiver of Usury, 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 usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 6.1. *Corporate Trustee Required.*

There shall at all times be a Trustee hereunder with respect to the Securities. The Trustee shall be a corporation organized and doing business under the laws of the United States or of any state thereof, authorized 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 and having an office within the United States. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then, for the purposes of this Section 6.1, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 6.1, it shall resign immediately in the manner and with the effect hereinafter specified in this Article VI.

SECTION 6.2. *Certain Duties and Responsibilities.*

Except during the continuance of an Event of Default:

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

(ii) 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; *provided*, that in the case of any such certificates or opinions that 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 substantially conform on their face to the requirements of this Indenture.

(b) If an Event of Default known to the Trustee has occurred and is continuing, the Trustee shall, prior to the receipt of directions, if any, from the Holders of at least a majority in aggregate principal amount of the Outstanding Securities (or, if applicable, from the holders of at least a majority in aggregate Liquidation Amount of Preferred Securities), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) Notwithstanding the foregoing, 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. 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 6.2. To the extent that, at law or in equity, the Trustee has duties and liabilities relating to the Holders, the Trustee shall not be liable to any Holder or any holder of Preferred Securities for the Trustee's good faith reliance on the provisions of this Indenture. The provisions of this Indenture, to the extent that they restrict the duties and liabilities of the Trustee otherwise existing at law or in equity, are agreed by the Company and the Holders and the holders of Preferred Securities to replace such other duties and liabilities of the Trustee.

(d) No provisions of this indenture shall be construed to relieve the Trustee from liability with respect to matters that are within the authority of the Trustee under this Indenture for its own negligent action, negligent failure to act or willful misconduct, except that:

(i) the Trustee shall not be liable for any error or judgment made in good faith by an authorized officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(ii) 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 at least a majority in aggregate principal amount of the Outstanding Securities (or, as the case may be, the holders of a majority in aggregate Liquidation Amount of Preferred Securities) relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee under this Indenture; and

(iii) the Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company and money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law.

(e) if at any time the Trustee hereunder is not the same Person as the Property Trustee under the Trust Agreement:

(i) whenever a reference is made herein to the dissolution, termination or liquidation of the Trust, the Trustee shall be entitled to assume that no such dissolution, termination, or liquidation has occurred so long as the Securities are or continue to be registered in the name of such Property Trustee, and the Trustee shall be charged with notice or knowledge of such dissolution, termination or liquidation only upon written notice thereof given to the Trustee by the Depositor under the Trust Agreement; and

(ii) the Trustee shall not be charged with notice or knowledge that any Person is a holder of Preferred Securities or Common Securities issued by the Trust or whether any group of holders of Preferred Securities constitutes any specified percentage of all outstanding Preferred Securities for any purpose under this Indenture, unless and until the Trustee is furnished with a list of holders by such Property Trustee and the aggregate Liquidation Amount of the Preferred Securities then outstanding. The Trustee may conclusively rely and shall be protected in relying on such list.

(f) Notwithstanding Section 1.10, the Trustee shall not, and shall not be deemed to, owe any fiduciary duty to the holders of any of the Trust Securities issued by the Trust and shall not be liable to any such holder (other than for the willful misconduct or negligence of the Trustee) if the Trustee in good faith (i) pays over or distributes to a registered Holder of the Securities or to the Company or to any other Person, cash, property or securities to which such holders of such Trust Securities shall be entitled or (ii) takes any action or omits to take any action at the request of the Holder of such Securities. Nothing in this paragraph shall affect the obligation of any other such Person to hold such payment for the benefit of, and to pay such amount over to, such holders of Preferred Securities or Common Securities or their representatives.

SECTION 6.3. *Notice of Defaults.*

Within ninety (90) days after the occurrence of any default actually known to the Trustee, the Trustee shall give the Holders notice of such default unless such default shall have been cured or waived; *provided*, that in the case of any default of the character specified in Section 5.1 c), no such notice to Holders shall be given until at least thirty (30) days after the occurrence thereof. For the purpose of this Section 6.3, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default.

SECTION 6.4. *Certain Rights of Trustee.*

Subject to the provisions of Section 6.2:

(a) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting in good faith and in accordance with the terms hereof upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) if (i) in performing its duties under this Indenture the Trustee is required to decide between alternative courses of action, (ii) in construing any of the provisions of this Indenture the Trustee finds ambiguous or inconsistent with any other provisions contained herein or (iii) the Trustee is unsure of the application of any provision of this Indenture, then, except as to any matter as to which the Holders are entitled to decide under the terms of this Indenture, the Trustee shall deliver a notice to the Company requesting the Company’s written instruction as to the course of action to be taken and the Trustee shall take such action, or refrain from taking such action, as the Trustee shall be instructed in writing to take, or to refrain from taking, by the Company; *provided*, that if the Trustee does not receive such instructions from the Company within ten Business Days after it has delivered such notice or such reasonably shorter period of time set forth in such notice the Trustee may, but shall be under no duty to, take such action, or refrain from taking such action, as the Trustee shall deem advisable and in the best interests of the Holders, in which event the Trustee shall have no liability except for its own negligence, bad faith or willful misconduct;

(c) any request or direction of the Company 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 Resolution;

(d) the Trustee may consult with counsel (which counsel may be counsel to the Trustee, the Company or any of its Affiliates, and may include any of its employees) and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) 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 or any holder of Preferred Securities pursuant to this Indenture, unless such Holders (or such holders of Preferred Securities) shall have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses (including reasonable attorneys’ fees and expenses) and liabilities that

might be incurred by it in compliance with such request or direction, including reasonable advances as may be requested by the Trustee;

(f) 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, indenture, note or other paper or document, but the Trustee in its discretion may make such inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney;

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

(h) whenever in the administration of this Indenture the Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action with respect to enforcing any remedy or right hereunder, the Trustees (i) may request instructions from the Holders (which instructions may only be given by the Holders of the same aggregate principal amount of Outstanding Securities as would be entitled to direct the Trustee under this Indenture in respect of such remedy, right or action), (ii) may refrain from enforcing such remedy or right or taking such action until such instructions are received and (iii) shall be protected in acting in accordance with such instructions;

(i) except as otherwise expressly provided by this Indenture, the Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Indenture;

(j) without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with any bankruptcy, insolvency or other proceeding referred to in clauses (d) or (e) of the definition of Event of Default, such expenses (including legal fees and expenses of its agents and counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy laws or law relating to creditors rights generally;

(k) 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, conclusively rely upon an Officers' Certificate addressing such matter, which, upon receipt of such request, shall be promptly delivered by the Company;

(l) the Trustee shall not be charged with knowledge of any Event of Default unless either (i) a Responsible Officer of the Trustee shall have actual knowledge or (ii) the Trustee shall have received written notice thereof from the Company or a Holder; and

(m) in the event that the Trustee is also acting as Paying Agent, Authenticating Agent or Securities Registrar hereunder, the rights and protections afforded to the Trustee pursuant to this Article VI shall also be afforded such Paying Agent, Authenticating Agent, or Securities Registrar.

SECTION 6.5. *May Hold Securities.*

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

SECTION 6.6. *Compensation; Reimbursement; Indemnity.*

(a) The Company agrees

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

(ii) 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 any such expense, disbursement or advance as may be attributable to its negligence, bad faith or willful misconduct; and

(iii) to the fullest extent permitted by applicable law, to indemnify the Trustee and its Affiliates, and their officers, directors, shareholders, agents, representatives and employees for, and to hold them harmless against, any loss, damage, liability, tax (other than income, franchise or other taxes imposed on amounts paid pursuant to (i) or (ii) hereof), penalty, expense or claim of any kind or nature whatsoever incurred without negligence, bad faith or willful misconduct on its part arising out of or in connection with the acceptance or administration of this trust or the performance of the Trustee's duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

(b) To secure the Company's payment obligations in this Section 6.6, the Company hereby grants and pledges to the Trustee and the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee, other than money or property held in trust to pay principal and interest on particular Securities. Such lien shall survive the satisfaction and discharge of this Indenture or the resignation or removal of the Trustee.

(c) The obligations of the Company under this Section 6.6 shall survive the satisfaction and discharge of this Indenture and the earlier resignation or removal of the Trustee.

(d) In no event shall the Trustee be liable for any indirect, special, punitive or consequential loss or damage of any kind whatsoever, including, but not limited to, lost profits, even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(e) In no event shall the Trustee be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond its control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, embargo, government action, including any laws, ordinances, regulations, governmental action or the like which delay, restrict or prohibit the providing of the services contemplated by this Indenture.

SECTION 6.7. *Resignation and Removal; Appointment of Successor.*

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article VI shall become effective until the acceptance of appointment by the successor Trustee under Section 6.8.

(b) The Trustee may resign at any time by giving written notice thereof to the Company.

(c) Unless an Event of Default shall have occurred and be continuing, the Trustee may be removed at any time by the Company by a Board Resolution. If an Event of Default shall have occurred and be continuing, the Trustee may be removed by Act of the Holders of a majority in aggregate principal amount of the Outstanding Securities, delivered to the Trustee and to the Company.

(d) 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 reason, at a time when no Event of Default shall have occurred and be continuing, the Company, by a Board Resolution, shall promptly appoint a successor Trustee, and such successor Trustee and the retiring Trustee shall comply with the applicable requirements of Section 6.8. 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 reason, at a time when an Event of Default shall have occurred and be continuing, the Holders, by Act of the Holders of a majority in aggregate principal amount of the Outstanding Securities, shall promptly appoint a successor Trustee, and such successor Trustee and the retiring Trustee shall comply with the applicable requirements of Section 6.8. If no successor Trustee shall have

been so appointed by the Company or the Holders and accepted appointment within sixty (60) days after the giving of a notice of resignation by the Trustee or the removal of the Trustee in the manner required by Section 6.8, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of such Holder and all others similarly situated, and any resigning Trustee may, at the expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(e) The Company shall give notice to all Holders in the manner provided in Section 1.6 of each resignation and each removal of the Trustee and each appointment of a successor Trustee. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

SECTION 6.8. *Acceptance of Appointment by Successor.*

(a) In case of the appointment hereunder of a successor Trustee, each 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

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the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

(b) 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 rights, powers and trusts referred to in paragraph (a) of this Section 6.8.

(c) 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 VI.

SECTION 6.9. *Merger, Conversion, Consolidation or Succession to Business.*

Any Person into which the Trustee may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any Person succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto, *provided*, that such Person shall be otherwise qualified and eligible under this Article VI. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation or as otherwise provided above in this Section 6.9 to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated, and in case any Securities shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor Trustee or in the name of such successor Trustee, and in all cases the certificate of authentication shall have the full force which it is provided anywhere in the Securities or in this Indenture that the certificate of the Trustee shall have.

SECTION 6.10. *Not Responsible for Recitals or Issuance of Securities.*

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and neither the Trustee nor any Authenticating Agent assumes any responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities. Neither the Trustee nor any Authenticating Agent shall be accountable for the use or application by the Company of the Securities or the proceeds thereof.

SECTION 6.11. *Appointment of Authenticating Agent.*

(a) The Trustee may appoint an Authenticating Agent or Agents with respect to the Securities, which shall be authorized to act on behalf of the Trustee to authenticate Securities issued upon original issue and upon exchange, registration of transfer or partial redemption thereof or pursuant to Section 3.6, and 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 and

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delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery 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 organized and doing business under the laws of the United States of America, or of any State or Territory thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by Federal or state authority. If such Authenticating Agent publishes reports of condition at least annually pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 6.11 the combined capital and surplus of such Authenticating Agent 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 6.11, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section 6.11.

(b) Any Person into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any Person succeeding to all or substantially all of the corporate trust business of an Authenticating Agent shall be the successor Authenticating Agent hereunder, provided such Person shall be otherwise eligible under this Section 6.11, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

(c) An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof 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 such Authenticating Agent shall cease to be eligible in accordance with the

provisions of this Section 6.11, the Trustee may appoint a successor Authenticating Agent eligible under the provisions of this Section 6.11, which shall be acceptable to the Company, and shall give notice of such appointment to all Holders. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent.

(d) The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section 6.11 in such amounts as the Company and the Authenticating Agent shall agree from time to time.

(e) If an appointment of an Authenticating Agent is made pursuant to this Section 6.11, the Securities may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Securities referred to in the within mentioned Indenture.

Dated:

JPMORGAN CHASE BANK, not in its individual capacity, but solely as Trustee

By: _____
Authenticating Agent

By: _____
Authorized signatory

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ARTICLE VII

HOLDER'S LISTS AND REPORTS BY COMPANY

SECTION 7.1. *Company to Furnish Trustee Names and Addresses of Holders.*

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

- (a) semiannually, on or before June 30 and December 31 of each year, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of a date not more than fifteen (15) days prior to the delivery thereof, and
- (b) at such other times as the Trustee may request in writing, within thirty (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 fifteen (15) days prior to the time such list is furnished,

in each case to the extent such information is in the possession or control of the Company and has not otherwise been received by the Trustee in its capacity as Securities Registrar.

SECTION 7.2. *Preservation of Information, Communications to Holders.*

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.1 and the names and addresses of Holders received by the Trustee in its capacity as Securities Registrar. The Trustee may destroy any list furnished to it as provided in Section 7.1 upon receipt of a new list so furnished.

(b) The rights of Holders to communicate with other Holders with respect to their rights under this Indenture or under the Securities, and the corresponding rights and privileges of the Trustee, shall be as provided in the Trust Indenture Act.

(c) Every Holder of Securities, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of the disclosure of information as to the names and addresses of the Holders made pursuant to the Trust Indenture Act.

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SECTION 7.3. *Reports by Company.*

(a) The Company shall furnish to the Holders and to prospective purchasers of Securities, upon their request, the information required to be furnished pursuant to Rule 144A(d)(4) under the Securities Act. The Company shall furnish to the Trustee and, so long as the Property Trustee holds any of the Securities, the Company shall furnish to the Property Trustee, Statutory Financial Statements promptly following their filing with the Applicable Insurance Regulatory Authority. The delivery requirement set forth in the preceding sentence may be satisfied by compliance with Section 7.3(b) hereof.

(b) The Company shall furnish to each of (i) the Trustee, (ii) the Holders and to subsequent holders of Securities, (iii) Dekania Capital Management, LLC (at 1818 Market Street, 28th Floor, Philadelphia, Pennsylvania 19103, or such other address as designated by Dekania Capital Management, LLC) and (iv) any beneficial owner of the Securities reasonably identified to the Company (which identification may be made either by such beneficial owner or by Dekania Capital Management, LLC), a duly completed and executed certificate substantially and substantively in the form attached hereto as Exhibit A, including the financial statements referenced in such Exhibit, which certificate and financial statements shall be so furnished by the Company not later than forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Company and not later than ninety (90) days after the end of each fiscal year of the Company.

(c) If the Company intends to file its annual and quarterly information with the Securities and Exchange Commission (the “*Commission*”) in electronic form pursuant to Regulation S-T of the Commission using the Commission’s Electronic Data Gathering, Analysis and Retrieval (“*EDGAR*”) system, the Company shall notify the Trustee in the manner prescribed herein of each such annual and quarterly filing. The Trustee is hereby authorized and directed to access the EDGAR system for purposes of retrieving the financial information so filed. Compliance with the foregoing shall constitute delivery by the Company of its financial statements to the Trustee in compliance with the provisions of Section 314(a) of the Trust Indenture Act, if applicable. The Trustee shall have no duty to search for or obtain any electronic or other filings that the Company makes with the Commission, regardless of whether such filings are periodic, supplemental or otherwise. Delivery of reports, information and documents to the Trustee pursuant to this Section 7.3(c) shall be solely for purposes of compliance with this Section 7.3(c) and, if applicable, with Section 314(a) of the Trust Indenture Act. The Trustee’s receipt of such reports, information and documents shall not constitute notice to it of the content thereof or any matter determinable from the content thereof, including the Company’s compliance with any of its covenants hereunder, as to which the Trustee is entitled to rely upon Officers’ Certificates.

ARTICLE VIII

CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

SECTION 8.1. *Company May Consolidate, Etc., Only on Certain Terms.*

The Company shall not consolidate with or merge into any other Person or convey, transfer or lease its properties and assets substantially as an entirety to any Person, and no Person

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shall consolidate with or merge into the Company or convey, transfer or lease its properties and assets substantially as an entirety to the Company, unless:

(a) if the Company shall consolidate with or merge into another Person or convey, transfer or lease its properties and assets substantially as an entirety to any Person, the entity formed by such consolidation or into which the Company is merged or the Person that acquires by conveyance or transfer, or that leases, the properties and assets of the Company substantially as an entirety shall be an entity organized and existing under the laws of the United States of America or any State or Territory thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, the due and punctual payment of the principal of and any premium and interest (including any Additional Interest) on all the Securities and the performance of every covenant of this Indenture on the part of the Company to be performed or observed;

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

(c) the Company has delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, any such supplemental indenture comply with this Article VIII and that all conditions precedent herein provided for relating to such transaction have been complied with; and the Trustee may rely upon such Officers’ Certificate and Opinion of Counsel as conclusive evidence that such transaction complies with this Section 8.1.

SECTION 8.2. *Successor Company Substituted.*

(a) Upon any consolidation or merger by the Company with or into any other Person, or any conveyance, transfer or lease by the Company of its properties and assets substantially as an entirety to any Person in accordance with Section 8.1 and the execution and delivery to the Trustee of the supplemental indenture described in Section 8.1(a), the successor entity formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease 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 in the event of any such conveyance or transfer, following the execution and delivery of such supplemental indenture, the Company shall be discharged from all obligations and covenants under the Indenture and the Securities.

(b) Such successor Person may cause to be executed, and may issue either in its own name or in the name of the Company, any or all of the Securities issuable hereunder that 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 Securities that previously shall have been signed and delivered by the officers of the Company to the Trustee for authentication, and any Securities that such successor Person thereafter shall cause to be executed and delivered to the Trustee on its behalf. All the Securities

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so issued shall in all respects have the same legal rank and benefit under this Indenture as the Securities theretofore or thereafter issued in accordance with the terms of this Indenture.

(c) In case of any such consolidation, merger, sale, conveyance or lease, such changes in phraseology and form may be made in the Securities thereafter to be issued as may be appropriate to reflect such occurrence.

ARTICLE IX

SUPPLEMENTAL INDENTURES

SECTION 9.1. *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 indentures supplemental hereto, in form reasonably satisfactory to the Trustee, for any of the following purposes:

- (a) to evidence the succession of another Person to the Company, and the assumption by any such successor of the covenants of the Company herein and in the Securities; or
- (b) to cure any ambiguity, to correct or supplement any provision herein that may be defective or inconsistent with any other provision herein, or to make or amend any other provisions with respect to matters or questions arising under this Indenture, which shall not be inconsistent with the other provisions of this Indenture, *provided*, that such action pursuant to this clause (b) shall not adversely affect in any material respect the interests of any Holders or the holders of the Preferred Securities; or
- (c) to add to the covenants, restrictions or obligations of the Company or to add to the Events of Default, *provided*, that such action pursuant to this clause (c) shall not adversely affect in any material respect the interests of any Holders or the holders of the Preferred Securities; or
- (d) to modify, eliminate or add to any provisions of the Indenture or the Securities to such extent as shall be necessary to ensure that the Securities are treated as indebtedness of the Company for United States Federal income tax purposes, *provided*, that such action pursuant to this clause (d) shall not adversely affect in any material respect the interests of any Holders or the holders of the Preferred Securities.

SECTION 9.2. *Supplemental Indentures with Consent of Holders.*

(a) With the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities, 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 an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of Securities under this Indenture; *provided*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security,

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(i) change the Stated Maturity of the principal or any premium of any Security or change the date of payment of any installment of interest (including any Additional Interest) on any Security, or reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof or change the place of payment where, or the coin or currency in which, any Security or interest thereon is payable, or restrict or impair the right to institute suit for the enforcement of any such payment on or after such date, or

(ii) reduce the percentage in aggregate principal amount of the Outstanding Securities, 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 any provision of this Indenture or of defaults hereunder and their consequences provided for in this Indenture, or

(iii) modify any of the provisions of this [Section 9.2](#), [Section 5.13](#) or [Section 10.7](#), except to increase any percentage in aggregate principal amount of the Outstanding Securities, the consent of whose Holders is required for any reason, or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Security;

provided, further, that, so long as any Preferred Securities remain outstanding, no amendment under this [Section 9.2](#) shall be effective until the holders of a majority in Liquidation Amount of the Preferred Securities shall have consented to such amendment; *provided, further*, that if the consent of the Holder of each Outstanding Security is required for any amendment under this Indenture, such amendment shall not be effective until the holder of each Outstanding Preferred Security shall have consented to such amendment.

(b) It shall not be necessary for any Act of Holders under this [Section 9.2](#) to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

SECTION 9.3. *Execution of Supplemental Indentures.*

In executing or accepting the additional trusts created by any supplemental indenture permitted by this [Article IX](#) or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and shall be fully protected in conclusively relying upon, an Officers' Certificate and an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture, and that all conditions precedent herein provided for relating to such action have been complied with. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture that affects the Trustee's own rights, duties, indemnities or immunities under this Indenture or otherwise. Copies of the final form of each supplemental indenture shall be delivered by the Trustee at the expense of the Company to each Holder, and, if the Trustee is the Property Trustee, to each holder of Preferred Securities, promptly after the execution thereof.

SECTION 9.4. *Effect of Supplemental Indentures.*

Upon the execution of any supplemental indenture under this [Article IX](#), this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of

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this Indenture for all purposes; and every Holder of Securities and every holder of Preferred Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

SECTION 9.5. *Reference in Securities to Supplemental Indentures.*

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

ARTICLE X

COVENANTS

SECTION 10.1. *Payment of Principal, Premium, if any, and Interest.*

The Company covenants and agrees for the benefit of the Holders of the Securities that it will duly and punctually pay the principal of and any premium and interest (including any Additional Interest) on the Securities in accordance with the terms of the Securities and this Indenture. As of the date of this Indenture, the Company represents that it has no present intention to exercise its right under Section 2.11 to defer payments of interest on the Securities.

SECTION 10.2. *Money for Security Payments to be Held in Trust.*

(a) If the Company shall at any time act as its own Paying Agent with respect to the Securities, it will, on or before each due date of the principal of and any premium or interest (including any Additional Interest) on the Securities, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal and any premium or interest (including Additional Interest) 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 in writing of its failure so to act.

(b) Whenever the Company shall have one or more Paying Agents, it will, prior to 10:00 a.m., New York City time, on each due date of the principal of or any premium or interest (including any Additional Interest) on any Securities, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held as provided in the Trust Indenture Act and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its failure so to act.

(c) The Company will cause each Paying Agent for the 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 10.2, that such Paying Agent will (i) comply with the provisions of this Indenture and the Trust Indenture Act applicable to it as a Paying Agent and (ii) during the continuance of any default by the Company (or any other obligor upon the Securities) in the making of any payment in respect of the Securities, upon the written request of the Trustee, forthwith pay to the Trustee all sums held in trust by such Paying Agent for payment in respect of the Securities.

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(d) 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.

(e) 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 any premium or interest (including any Additional Interest) on any Security and remaining unclaimed for two years after such principal and any premium or interest has become due and payable shall (unless otherwise required by mandatory provision of applicable escheat or abandoned or unclaimed property law) be paid on Company Request to the Company, or (if then held by the Company) shall (unless otherwise required by mandatory provision of applicable escheat or abandoned or unclaimed property law) be discharged from such trust; and the Holder of such 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*, 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 Borough of Manhattan, The City of New York, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than thirty (30) days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 10.3. *Statement as to Compliance.*

The Company shall deliver to the Trustee, within one hundred and twenty (120) days after the end of each fiscal year of the Company ending after the date hereof, an Officers' Certificate covering the preceding calendar year, stating whether or not to the knowledge of the signers thereof the Company is in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder), and if the Company shall be in default, specifying all such defaults and the nature and status thereof of which they may have knowledge.

SECTION 10.4. *Calculation Agent.*

(a) The Company hereby agrees that for so long as any of the Securities remain Outstanding, there will at all times be an agent appointed to calculate LIBOR in respect of each Interest Payment Date in accordance with the terms of Schedule A (the "*Calculation Agent*"). The Company has initially appointed the Property Trustee as Calculation Agent for purposes of determining LIBOR for each Interest Payment Date. The Calculation Agent may be removed by the Company at any time. So long as the Property Trustee holds any of the Securities, the Calculation Agent shall be the Property Trustee, except as described in the immediately preceding sentence. If the Calculation Agent is unable or unwilling to act as such or is removed by the Company, the Company will promptly appoint as a replacement Calculation Agent the London office of a leading bank which is engaged in transactions in Eurodollar deposits in the

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international Eurodollar market and which does not control or is not controlled by or under common control with the Company or its Affiliates. The Calculation Agent may not resign its duties without a successor having been duly appointed.

(b) The Calculation Agent shall be required to agree that, as soon as possible after 11:00 a.m. (London time) on each LIBOR Determination Date (as defined in Schedule A), but in no event later than 11:00 a.m. (London time) on the Business Day immediately following each LIBOR Determination Date, the Calculation Agent will calculate the interest rate (the Interest Payment shall be rounded to the nearest cent, with half a cent being rounded upwards) for the related Interest Payment Date, and will communicate such rate and amount to the Company, the Trustee, each Paying Agent and the Depositary. The Calculation Agent will also specify to the Company the quotations upon which the foregoing rates and amounts are based and, in any event, the Calculation Agent shall notify the Company before 5:00 p.m. (London time) on each LIBOR Determination Date that either: (i) it has determined or is in the process of determining the foregoing rates and amounts or (ii) it has not determined and is not in the process of determining the foregoing rates and amounts, together with its reasons therefor. The Calculation Agent's determination of the foregoing rates and amounts for any Interest Payment Date will (in the absence of manifest error) be final and binding upon all parties. For the sole purpose of calculating the interest rate for the Securities, "Business Day" shall be defined as any day on which dealings in deposits in Dollars are transacted in the London interbank market.

SECTION 10.5. *Additional Tax Sums.*

So long as no Event of Default has occurred and is continuing, if (a) the Trust is the Holder of all of the Outstanding Securities and (b) a Tax Event described in clause (i) or (iii) in the definition of Tax Event in Section 1.1 hereof has occurred and is continuing, the Company shall pay to the Trust (and its permitted successors or assigns under the related Trust Agreement) for so long as the Trust (or its permitted successor or assignee) is the registered holder of the Outstanding Securities, such amounts as may be necessary in order that the amount of Distributions (including any Additional Interest Amount (as defined in the Trust Agreement)) then due and payable by the Trust on the Preferred Securities and Common Securities that at any time remain outstanding in accordance with the terms thereof shall not be reduced as a result of any Additional Taxes arising from such Tax Event (additional such amounts payable by the Company to the Trust, the "Additional Tax Sums"). Whenever in this Indenture or the Securities there is a reference in any context to the payment of principal of or interest on the Securities, such mention shall be deemed to include mention of the payments of the Additional Tax Sums provided for in this Section 10.5 to the extent that, in such context, Additional Tax Sums are, were or would be payable in respect thereof pursuant to the provisions of this Section 10.5 and express mention of the payment of Additional Tax Sums (if applicable) in any provisions hereof shall not be construed as excluding Additional Tax Sums in those provisions hereof where such express mention is not made; *provided*, that the deferral of the payment of interest pursuant to Section 3.9 on the Securities shall not defer the payment of any Additional Tax Sums that may be due and payable.

SECTION 10.6. *Additional Covenants.*

(a) The Company covenants and agrees with each Holder of Securities that if an Event of Default shall have occurred and be continuing or the Company shall have given notice

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of its election to begin an Extension Period with respect to the Securities or such Extension Period, or any extension thereof, shall be continuing, it shall not (i) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any shares of the Company's capital stock, or (ii) make any payment of principal of or any interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Company that rank *pari passu* in all respects with or junior in interest to the Securities (other than (A) repurchases, redemptions or other acquisitions of shares of capital stock of the Company in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants, in connection with a dividend reinvestment or stockholder stock purchase plan or in connection with the issuance of capital stock of the Company (or securities convertible into or exercisable for such capital stock) as consideration in an acquisition transaction entered into prior to the applicable Extension Period, (B) as a result of an exchange or conversion of any class or series of the Company's capital stock (or any capital stock of a Subsidiary of the Company) for any class or series of the Company's capital stock or of any class or series of the Company's indebtedness for any class or series of the Company's capital stock, (C) the purchase of fractional interests in shares of the Company's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged, (D) any declaration of a dividend in connection with any Rights Plan, the issuance of rights, stock or other property under any Rights Plan or the redemption or repurchase of rights pursuant thereto or (E) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks *pari passu* with or junior to such stock).

(b) The Company also covenants with each Holder of Securities (i) to hold, directly or indirectly, one hundred percent (100%) of the Common Securities of the Trust, *provided*, that any permitted successor of the Company hereunder may succeed to the Company's ownership of such Common Securities, (ii) as holder of such Common Securities, not to voluntarily dissolve, wind-up or liquidate the Trust other than (A) in connection with a distribution of the Securities to the holders of the Preferred Securities in liquidation of the Trust or (B) in connection with certain mergers, consolidations or amalgamations permitted by the Trust Agreement and (iii) to use its reasonable commercial efforts, consistent with the terms and provisions of the Trust Agreement, to cause the Trust to continue to be taxable as a grantor trust and not as a corporation for United States Federal income tax purposes.

SECTION 10.7. *Waiver of Covenants.*

The Company may omit in any particular instance to comply with any covenant or condition contained in Section 10.6 if, before or after the time for such compliance, the Holders of at least a majority in aggregate principal amount of the Outstanding Securities shall, by Act of such Holders, and at least a majority of the aggregate Liquidation Amount of the Preferred Securities then outstanding, by consent 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 in respect of any such covenant or condition shall remain in full force and effect.

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SECTION 10.8. *Treatment of Securities.*

The Company will treat the Securities as indebtedness, and the amounts, other than payments of principal, payable in respect of the principal amount of such Securities as interest, for all U.S. federal income tax purposes. All payments in respect of the Securities will be made free and clear of U.S. withholding tax to any beneficial owner thereof that has provided an Internal Revenue Service Form W-9 or W-8BEN (or any substitute or successor form) establishing its U.S. or non-U.S. status for U.S. federal income tax purposes, or any other applicable form establishing a complete exemption from U.S. withholding tax.

ARTICLE XI

REDEMPTION OF SECURITIES

SECTION 11.1. *Optional Redemption.*

The Company may, at its option, on any Interest Payment Date, on or after April 29, 2009, redeem the Securities in whole at any time or in part from time to time, at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof (or of the redeemed portion thereof, as applicable), together, in the case of any such redemption, with accrued interest, including any Additional Interest, through but excluding the date fixed as the Redemption Date (the “Optional Redemption Price”); *provided*, that the Company shall have received the prior approval of any Applicable Insurance Regulatory Authorities with respect to such redemption if then required.

SECTION 11.2. *Special Event Redemption.*

Prior to April 29, 2009, upon the occurrence and during the continuation of a Special Event, the Company may, at its option, redeem the Securities, in whole but not in part, at a Redemption Price equal to one hundred seven and one half percent (107.5%) of the principal amount thereof, together, in the case of any such redemption, with accrued interest, including any Additional Interest, through but excluding the date fixed as the Redemption Date (the “Special Redemption Price”); *provided*, that the Company shall have received the prior approval of any Applicable Insurance Regulatory Authority with respect to such redemption if then required.

SECTION 11.3. *Election to Redeem; Notice to Trustee.*

The election of the Company to redeem any Securities, in whole or in part, shall be evidenced by or pursuant to a Board Resolution. In case of any redemption at the election of the Company, the Company shall, not less than forty-five (45) days and not more than seventy-five (75) days prior to the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee and the Property Trustee under the Trust Agreement in writing of such date and of the principal amount of the Securities to be redeemed and provide the additional information required to be included in the notice or notices contemplated by Section 11.5. In the case of any redemption of Securities, in whole or in part, (a) prior to the expiration of any restriction on such redemption provided in this Indenture or the Securities or (b) pursuant to an election of the Company which is subject to a condition specified in this Indenture or the

Securities, the Company shall furnish the Trustee with an Officers’ Certificate and an Opinion of Counsel evidencing compliance with such restriction or condition.

SECTION 11.4. *Selection of Securities to be Redeemed.*

(a) If less than all the Securities are to be redeemed, the particular Securities to be redeemed shall be selected and redeemed on a pro rata basis not more than sixty (60) days prior to the Redemption Date by the Trustee from the Outstanding Securities not previously called for redemption, *provided*, that the unredeemed portion of the principal amount of any Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security.

(b) The Trustee shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security that has been or is to be redeemed.

(c) The provisions of paragraphs (a) and (b) of this Section 11.4 shall not apply with respect to any redemption affecting only a single Security, whether such Security is to be redeemed in whole or in part. In the case of any such redemption in part, the unredeemed portion of the principal amount of the Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security.

SECTION 11.5. *Notice of Redemption.*

(a) Notice of redemption shall be given not later than the thirtieth (30th) day, and not earlier than the sixtieth (60th) day, prior to the Redemption Date to each Holder of Securities to be redeemed, in whole or in part, (unless a shorter notice shall be satisfactory to the Property Trustee under the related Trust Agreement).

(b) With respect to Securities to be redeemed, in whole or in part, each notice of redemption shall state:

(i) the Redemption Date;

(ii) the Redemption Price or, if the Redemption Price cannot be calculated prior to the time the notice is required to be sent, the estimate of the Redemption Price, as calculated by the Company, together with a statement that it is an estimate and that the actual Redemption Price will be calculated on the fifth Business Day prior to the Redemption Date (and if an estimate is provided, a further notice shall be sent of the actual Redemption Price on the date that such Redemption Price is calculated);

(iii) if less than all Outstanding Securities are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the particular Securities to be redeemed;

(iv) that on the Redemption Date, the Redemption Price will become due and payable upon each such Security or portion thereof, and that any interest (including any Additional Interest) on such Security or such portion, as the case may be, shall cease to accrue on and after said date; and

(v) the place or places where such Securities are to be surrendered for payment of the Redemption Price.

(c) Notice of redemption of Securities to be redeemed, in whole or in part, at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company and shall be irrevocable. The notice if mailed in the manner provided above shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, a failure to give such notice by mail or any defect in the notice to the Holder of any Security designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security.

SECTION 11.6. *Deposit of Redemption Price.*

Prior to 10:00 a.m., New York City time, on the Redemption Date specified in the notice of redemption given as provided in Section 11.5, the Company will deposit with the Trustee or with one or more Paying Agents (or if the Company is acting as its own Paying Agent, the Company will segregate and hold in trust as provided in Section 10.2) an amount of money sufficient to pay the Redemption Price of, and any accrued interest (including any Additional Interest) on, all the Securities (or portions thereof) that are to be redeemed on that date.

SECTION 11.7. *Payment of Securities Called for Redemption.*

(a) If any notice of redemption has been given as provided in Section 11.5, the Securities or portion of Securities with respect to which such notice has been given shall become due and payable on the date and at the place or places stated in such notice at the applicable Redemption Price, together with accrued interest (including any Additional Interest) to the Redemption Date. On presentation and surrender of such Securities at a Place of Payment specified in such notice, the Securities or the specified portions thereof shall be paid and redeemed by the Company at the applicable Redemption Price, together with accrued interest (including any Additional Interest) to the Redemption Date.

(b) Upon presentation of any Security redeemed in part only, the Company shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the expense of the Company, a new Security or Securities, of authorized denominations, in aggregate principal amount equal to the unredeemed portion of the Security so presented and having the same Original Issue Date, Stated Maturity and terms.

(c) If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal of and any premium on such Security shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

ARTICLE XII

SUBORDINATION OF SECURITIES

SECTION 12.1. *Securities Subordinate to Senior Debt.*

The Company covenants and agrees, and each Holder of a Security, by its acceptance thereof, likewise covenants and agrees, that, to the extent and in the manner hereinafter set forth in this Article XII, the payment of the principal of and any premium and interest (including any Additional Interest) on each and all of the Securities are hereby expressly made subordinate and subject in right of payment to the prior payment in full of all Senior Debt.

SECTION 12.2. *No Payment When Senior Debt in Default; Payment Over of Proceeds Upon Dissolution, Etc.*

(a) In the event and during the continuation of any default by the Company in the payment of any principal of or any premium or interest on any Senior Debt (following any grace period, if applicable) when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration of acceleration or otherwise, then, upon written notice of such default to the Company by the holders of such Senior Debt or any trustee therefor, unless and until such default shall have been cured or waived or shall have ceased to exist, no direct or indirect payment (in cash, property, securities, by set-off or otherwise) shall be made or agreed to be made on account of the principal of or any premium or interest (including any Additional Interest) on any of the Securities, or in respect of any redemption, repayment, retirement, purchase or other acquisition of any of the Securities.

(b) In the event of a bankruptcy, insolvency or other proceeding described in clause (d) or (e) of the definition of Event of Default (each such event, if any, herein sometimes referred to as a "*Proceeding*"), all Senior Debt (including any interest thereon accruing after the commencement of any such proceedings) shall first be paid in full before any payment or distribution, whether in cash, securities or other property, shall be made to any Holder of any of the Securities on account thereof. Any payment or distribution, whether in cash, securities or other property (other than securities of the Company or any other entity provided for by a plan of reorganization or readjustment the payment of which is subordinate, at least to the extent provided in these subordination provisions with respect to the indebtedness evidenced by the Securities, to the payment of all Senior Debt at the time outstanding and to any securities issued in respect thereof under any such plan of reorganization or readjustment), which would otherwise (but for these subordination provisions) be payable or deliverable in respect of the Securities shall be paid or delivered directly to the holders of Senior Debt in accordance with the priorities then existing among such holders until all Senior Debt (including any interest thereon accruing after the commencement of any Proceeding) shall have been paid in full.

(c) In the event of any Proceeding, after payment in full of all sums owing with respect to Senior Debt, the Holders of the Securities, together with the holders of any obligations of the Company ranking on a parity with the Securities, shall be entitled to be paid from the remaining assets of the Company the amounts at the time due and owing on account of unpaid principal of and any premium and interest (including any Additional Interest) on the Securities and such other obligations before any payment or other distribution, whether in cash, property or

otherwise, shall be made on account of any capital stock or any obligations of the Company ranking junior to the Securities and such other obligations. If, notwithstanding the foregoing, any payment or distribution of any character or any security, whether in cash, securities or other property (other than securities of the Company or any other entity provided for by a plan of reorganization or readjustment the payment of which is subordinate, at least to the extent provided in these subordination provisions with respect to the indebtedness evidenced by the Securities, to the payment of all Senior Debt at the time outstanding and to any securities issued in respect thereof under any such plan of reorganization or readjustment) shall be received by the Trustee or any Holder in contravention of any of the terms hereof and before all Senior Debt shall have been paid in full, such payment or distribution or security shall be received in trust for the benefit of, and shall be paid over or delivered and transferred to, the holders of the Senior Debt at the time outstanding in accordance with the priorities then existing among such holders for application to the payment of all Senior Debt remaining unpaid, to the extent necessary to pay all such Senior Debt (including any interest thereon accruing after the commencement of any Proceeding) in full. In the event of the failure of the Trustee or any Holder to endorse or assign any such payment, distribution or security, each holder of Senior Debt is hereby irrevocably authorized to endorse or assign the same.

(d) The Trustee and the Holders, at the expense of the Company, shall take such reasonable action (including the delivery of this Indenture to an agent for any holders of Senior Debt or consent to the filing of a financing statement with respect hereto) as may, in the opinion of counsel designated by the holders of a majority in principal amount of the Senior Debt at the time outstanding, be necessary or appropriate to assure the effectiveness of the subordination effected by these provisions.

(e) The provisions of this Section 12.2 shall not impair any rights, interests, remedies or powers of any secured creditor of the Company in respect of any security interest the creation of which is not prohibited by the provisions of this Indenture.

(f) The securing of any obligations of the Company, otherwise ranking on a parity with the Securities or ranking junior to the Securities, shall not be deemed to prevent such obligations from constituting, respectively, obligations ranking on a parity with the Securities or ranking junior to the Securities.

SECTION 12.3. *Payment Permitted If No Default.*

Nothing contained in this Article XII, or elsewhere in this Indenture or in any of the Securities shall prevent (a) the Company, at any time, except during the pendency of the conditions described in paragraph (a) of Section 12.2 or of any Proceeding referred to in Section 12.2, from making payments at any time of principal of and any premium or interest (including any Additional Interest) on the Securities or (b) the application by the Trustee of any moneys deposited with it hereunder to the payment of or on account of the principal of and any premium or interest (including any Additional Interest) on the Securities or the retention of such payment by the Holders, if, at the time of such application by the Trustee, it did not have knowledge (in accordance with Section 12.8) that such payment would have been prohibited by the provisions of this Article XII, except as provided in Section 12.8.

SECTION 12.4. *Subrogation to Rights of Holders of Senior Debt.*

Subject to the payment in full of all amounts due or to become due on all Senior Debt, or the provision for such payment in cash or cash equivalents or otherwise in a manner satisfactory to the holders of Senior Debt, the Holders of the Securities shall be subrogated to the extent of the payments or distributions made to the holders of such Senior Debt pursuant to the provisions of this Article XII (equally and ratably with the holders of all indebtedness of the Company that by its express terms is subordinated to Senior Debt of the Company to substantially the same extent as the Securities are subordinated to the Senior Debt and is entitled to like rights of subrogation by reason of any payments or distributions made to holders of such Senior Debt) to the rights of the holders of such Senior Debt to receive payments and distributions of cash, property and securities applicable to the Senior Debt until the principal of and any premium and interest (including any Additional Interest) on the Securities shall be paid in full. For purposes of such subrogation, no payments or distributions to the holders of the Senior Debt of any cash, property or securities to which the Holders of the Securities or the Trustee would be entitled except for the provisions of this Article XII, and no payments made pursuant to the provisions of this Article XII to the holders of Senior Debt by Holders of the Securities or the Trustee, shall, as among the Company, its creditors other than holders of Senior Debt, and the Holders of the Securities, be deemed to be a payment or distribution by the Company to or on account of the Senior Debt.

SECTION 12.5. *Provisions Solely to Define Relative Rights.*

The provisions of this Article XII are and are intended solely for the purpose of defining the relative rights of the Holders of the Securities on the one hand and the holders of Senior Debt on the other hand. Nothing contained in this Article XII or elsewhere in this Indenture or in the Securities is intended to or shall (a) impair, as between the Company and the Holders of the Securities, the obligations of the Company, which are absolute and unconditional, to pay to the Holders of the Securities the principal of and any premium and interest (including any Additional Interest) on the Securities as and when the same shall become due and payable in accordance with their terms, (b) affect the relative rights against the Company of the Holders of the Securities and creditors of the Company other than their rights in relation to the holders of Senior Debt or (c) prevent the Trustee or the Holder of any Security (or to the extent expressly provided herein, the holder of any Preferred Security) from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, including filing and voting claims in any Proceeding, subject to the rights, if any, under this Article XII of the holders of Senior Debt to receive cash, property and securities otherwise payable or deliverable to the Trustee or such Holder.

SECTION 12.6. *Trustee to Effectuate Subordination.*

Each Holder of a Security by his or her acceptance thereof authorizes and directs the Trustee on his or her behalf to take such action as may be necessary or appropriate to acknowledge or effectuate the subordination provided in this Article XII and appoints the Trustee his or her attorney-in-fact for any and all such purposes.

SECTION 12.7. *No Waiver of Subordination Provisions.*

(a) No right of any present or future holder of any Senior Debt to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof that any such holder may have or be otherwise charged with.

(b) Without in any way limiting the generality of paragraph (a) of this Section 12.7, the holders of Senior Debt may, at any time and from to time, without the consent of or notice to the Trustee or the Holders of the Securities, without incurring responsibility to such Holders of the Securities and without impairing or releasing the subordination provided in this Article XII or the obligations hereunder of such Holders of the Securities to the holders of Senior Debt, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, Senior Debt, or otherwise amend or supplement in any manner Senior Debt or any instrument evidencing the same or any agreement under which Senior Debt is outstanding, (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing Senior Debt, (iii) release any Person liable in any manner for the payment of Senior Debt and (iv) exercise or refrain from exercising any rights against the Company and any other Person.

SECTION 12.8. *Notice to Trustee.*

(a) The Company shall give prompt written notice to a Responsible Officer of the Trustee of any fact known to the Company that would prohibit the making of any payment to or by the Trustee in respect of the Securities. Notwithstanding the provisions of this Article XII or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment to or by the Trustee in respect of the Securities, unless and until a Responsible Officer of the Trustee shall have received written notice thereof from the Company or a holder of Senior Debt or from any trustee, agent or representative therefor; *provided*, that if the Trustee shall not have received the notice provided for in this Section 12.8 at least two Business Days prior to the date upon which by the terms hereof any monies may become payable for any purpose (including, the payment of the principal of and any premium on or interest (including any Additional Interest) on any Security), then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such monies and to apply the same to the purpose for which they were received and shall not be affected by any notice to the contrary that may be received by it within two Business Days prior to such date.

(b) The Trustee shall be entitled to rely on the delivery to it of a written notice by a Person representing himself or herself to be a holder of Senior Debt (or a trustee, agent, representative or attorney-in-fact therefor) to establish that such notice has been given by a holder of Senior Debt (or a trustee, agent, representative or attorney-in-fact therefor). In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Debt to participate in any payment or distribution pursuant to this Article XII, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Debt held by such Person, the

extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article XII, and if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

SECTION 12.9. *Reliance on Judicial Order or Certificate of Liquidating Agent.*

Upon any payment or distribution of assets of the Company referred to in this Article XII, the Trustee and the Holders of the Securities shall be entitled to conclusively rely upon any order or decree entered by any court of competent jurisdiction in which such Proceeding is pending, or a certificate of the trustee in bankruptcy, receiver, liquidating trustee, custodian, assignee for the benefit of creditors, agent or other Person making such payment or distribution, delivered to the Trustee or to the Holders of Securities, for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the holders of the Senior Debt and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article XII.

SECTION 12.10. *Trustee Not Fiduciary for Holders of Senior Debt.*

The Trustee, in its capacity as trustee under this Indenture, shall not be deemed to owe any fiduciary duty to the holders of Senior Debt and shall not be liable to any such holders if it shall in good faith mistakenly pay over or distribute to Holders of Securities or to the Company or to any other Person cash, property or securities to which any holders of Senior Debt shall be entitled by virtue of this Article XII or otherwise.

SECTION 12.11. *Rights of Trustee as Holder of Senior Debt; Preservation of Trustee's Rights.*

The Trustee in its individual capacity shall be entitled to all the rights set forth in this Article XII with respect to any Senior Debt that may at any time be held by it, to the same extent as any other holder of Senior Debt, and nothing in this Indenture shall deprive the Trustee of any of its rights as such holder.

SECTION 12.12. *Article Applicable to Paying Agents.*

If at any time any Paying Agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term "Trustee" as used in this Article XII shall in such case (unless the context otherwise requires) be construed as extending to and including such Paying Agent within its meaning as fully for all intents and purposes as if such Paying Agent were named in this Article XII in addition to or in place of the Trustee; *provided*, that Sections 12.8 and 12.11 shall not apply to the Company or any Affiliate of the Company if the Company or such Affiliate acts as Paying Agent.

* * * *

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 as of the day and year first above written.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: /s/ Debra J. Richardson
Name: Debra J. Richardson
Title: Secretary & Senior Vice President

JPMORGAN CHASE BANK, as Trustee

By: /s/ Maria D. Calzado
Name: Maria D. Calzado
Title: Vice President

Junior Subordinated Indenture

GUARANTEE AGREEMENT

between

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY,
as Guarantor,

and

JPMORGAN CHASE BANK,
as Guarantee Trustee

Dated as of April 29, 2004

AMERICAN EQUITY CAPITAL TRUST III

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GUARANTEE AGREEMENT, dated as of April 29, 2004, executed and delivered by AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “*Guarantor*”) having its principal office at 5000 Westown Parkway, Suite 440, West Des Moines, IA 50266, and JPMORGAN CHASE BANK, a New York banking corporation, as trustee (in such capacity, the “*Guarantee Trustee*”), for the benefit of the Holders (as defined herein) from time to time of the Preferred Securities (as defined herein) of AMERICAN EQUITY CAPITAL TRUST III, a Delaware statutory trust (the “*Issuer*”).

WITNESSETH:

WHEREAS, pursuant to an Amended and Restated Trust Agreement, dated as of the date hereof (the “*Trust Agreement*”), among the Guarantor, as Depositor, the Property Trustee, the Delaware Trustee and the Administrative Trustees named therein and the holders from time to time of the Preferred Securities (as hereinafter defined), the Issuer is issuing Twenty-Seven Million Dollars (\$27,000,000) aggregate Liquidation Amount (as defined in the Trust Agreement) of its Floating Rate Preferred Securities (Liquidation Amount \$1,000 per preferred security) (the “*Preferred Securities*”) representing preferred undivided beneficial interests in the assets of the Issuer and having the terms set forth in the Trust Agreement;

WHEREAS, the Preferred Securities will be issued by the Issuer and the proceeds thereof, together with the proceeds from the issuance of the Issuer’s Common Securities (as defined below), will be used to purchase the Notes (as defined in the Trust Agreement) of the Guarantor; and

WHEREAS, as incentive for the Holders to purchase Preferred Securities the Guarantor desires irrevocably and unconditionally to agree, to the extent set forth herein, to pay to the Holders of the Preferred Securities the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the purchase by each Holder of Preferred Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Guarantee Agreement to provide as follows for the benefit of the Holders from time to time of the Preferred Securities:

ARTICLE I

INTERPRETATION AND DEFINITIONS

SECTION 1.1. *Interpretation.*

In this Guarantee Agreement, unless the context otherwise requires:

- (a) capitalized terms used in this Guarantee Agreement but not defined in the preamble hereto have the respective meanings assigned to them in Section 1.2;
- (b) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”;
- (c) all references to “the Guarantee Agreement” or “this Guarantee Agreement” are to this Guarantee Agreement as modified, supplemented or amended from time to time;
- (d) all references in this Guarantee Agreement to Articles and Sections are to Articles and Sections of this Guarantee Agreement unless otherwise specified;
- (e) the words “hereby”, “herein”, “hereof” and “hereunder” and other words of similar import refer to this Guarantee Agreement as a whole and not to any particular Article, Section or other subdivision;
- (f) a reference to the singular includes the plural and vice versa; and
- (g) the masculine, feminine or neuter genders used herein shall include the masculine, feminine and neuter genders.

SECTION 1.2. *Definitions.*

As used in this Guarantee Agreement, the terms set forth below shall, unless the context otherwise requires, have the following meanings:

“*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; *provided*, that the Issuer shall not be deemed to be an Affiliate of the Guarantor. For the purposes of this definition, “*control*” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “*controlling*” and “*controlled*” have meanings correlative to the foregoing.

“*Beneficiaries*” means any Person to whom the Issuer is or hereafter becomes indebted or liable.

“*Board of Directors*” means either the board of directors of the Guarantor or any duly authorized committee of that board.

“*Common Securities*” means the securities representing common undivided beneficial interests in the assets of the Issuer.

“*Debt*” means with respect to any Person, whether recourse is to all or a portion of the assets of such Person, whether currently existing or hereafter incurred, and whether or not contingent and without duplication, (i) every obligation of such Person for money borrowed; (ii) every obligation of such Person evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses; (iii) every reimbursement obligation of such Person with respect to letters of credit, bankers’ acceptances or similar facilities issued for the account of such Person; (iv) every obligation of such Person issued or assumed as the deferred purchase price of property or services (but excluding trade accounts payable arising in the ordinary course of business); (v) every capital lease obligation of such Person; (vi) all indebtedness of such Person, whether incurred on or prior to the date of this Guarantee Agreement or thereafter incurred, for claims in respect of derivative products, including interest rate, foreign exchange rate and commodity forward contracts, options, swaps and similar arrangements; (vii) every obligation of the type referred to in clauses (i) through (vi) of another Person and all dividends of another Person the payment of which, in either case, such Person has guaranteed or is responsible or liable for, directly or indirectly, as obligor or otherwise; and (viii) any renewals, extensions, refundings, amendments or modifications of any obligation of the type referred to in clauses (i) through (vii).

“*Event of Default*” means a default by the Guarantor on any of its payment or other obligations under this Guarantee Agreement; *provided*, that except with respect to a default in payment of any Guarantee Payments, the Guarantor shall have received notice of default from the Guarantee Trustee and shall not have cured such default within thirty (30) days after receipt of such notice.

“*Guarantee Payments*” means the following payments or distributions, without duplication, with respect to the Preferred Securities, to the extent not paid or made by or on behalf of the Issuer: (i) any accumulated and unpaid Distributions (as defined in the Trust Agreement) required to be paid on the Preferred Securities, to the extent the Issuer shall have funds on hand available therefor at such time, (ii) the Redemption Price with respect to any Preferred Securities to the extent the Issuer shall have funds on hand available therefor at such time, and (iii) upon a voluntary or involuntary termination, winding up or liquidation of the Issuer, unless Notes are distributed to the Holders, the lesser of (a) the aggregate of the Liquidation Amount of \$1,000 per Preferred Security plus accumulated and unpaid Distributions on the Preferred Securities to the date of payment, to the extent that the Issuer shall have funds available therefor at such time and (b) the amount of assets of the Issuer remaining available for distribution to Holders in liquidation of the Issuer after satisfaction of liabilities to creditors of the Issuer in accordance with applicable law (in either case, the “*Liquidation Distribution*”).

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“*Guarantee Trustee*” means JPMorgan Chase Bank, until a Successor Guarantee Trustee, as defined below, has been appointed and has accepted such appointment pursuant to the terms of this Guarantee Agreement, and thereafter means each such Successor Guarantee Trustee.

“*Guarantor*” means American Equity Investment Life Insurance Company and each of its successors and assigns.

“*Issuer*” has the meaning set forth herein above.

“*Holder*” means any holder, as registered on the books and records of the Issuer, of any Preferred Securities; *provided*, that, in determining whether the holders of the requisite percentage of Preferred Securities have given any request, notice, consent or waiver hereunder, “*Holder*” shall not include the Guarantor, the Guarantee Trustee or any Affiliate of the Guarantor or the Guarantee Trustee.

“*Indenture*” means the Junior Subordinated Indenture, dated as of the date hereof, as supplemented and amended, between the Guarantor and JPMorgan Chase Bank, as trustee.

“*List of Holders*” has the meaning specified in Section 2.1.

“*Majority in Liquidation Amount of the Preferred Securities*” means a vote by the Holder(s), voting separately as a class, of more than fifty percent (50%) of the aggregate Liquidation Amount of all then outstanding Preferred Securities issued by the Issuer.

“*Obligations*” means any costs, expenses or liabilities (but not including liabilities related to taxes) of the Issuer, other than obligations of the Issuer to pay to holders of any Trust Securities the amounts due such holders pursuant to the terms of the Trust Securities.

“*Officers’ Certificate*” means, with respect to any Person, a certificate signed by the Chief Executive Officer, Chief Financial Officer, President or a Vice President of such Person, and by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of such Person, and delivered to the Guarantee Trustee. Any Officers’ Certificate delivered with respect to compliance with a condition or covenant provided for in this Guarantee Agreement (other than the certificate provided pursuant to Section 2.2) shall include:

- (a) a statement that each officer signing the Officers’ Certificate has read the covenant or condition and the definitions relating thereto;
- (b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers’ Certificate;
- (c) a statement that each officer has made such examination or investigation as, in such officer’s opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and

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- (d) a statement as to whether, in the opinion of each officer, such condition or covenant has been complied with.

“*Person*” means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, government or any agency or political subdivision thereof or any other entity of whatever nature.

“Preferred Securities” has the meaning set forth in the first recital hereof.

“Responsible Officer” means, with respect to the Guarantee Trustee, the officer in the Institutional Trust Services department of the Trustee having direct responsibility for the administration of this Guarantee Agreement.

“Senior Debt” means the principal of and any premium, if any, and interest on (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Guarantor whether or not such claim for post-petition interest is allowed in such proceeding) all Debt of the Guarantor, whether incurred on or prior to the date of the Indenture or thereafter incurred, unless it is provided in the instrument creating or evidencing the same or pursuant to which the same is outstanding, that such obligations are not superior in right of payment to the Preferred Securities; *provided*, that if the Guarantor is subject to the regulation and supervision of an insurance regulatory authority, the Guarantor shall have received the approval of such appropriate insurance regulatory authority prior to issuing any such obligation; and *provided, further*, that Senior Debt shall not include any other debt securities and guarantees in respect of such debt securities issued to any trust other than the Trust (or a trustee of any such trust), partnership or other entity affiliated with the Guarantor that is a financing vehicle of the Guarantor (a “financing entity”) in connection with the issuance by such financing entity of equity securities or other securities that are treated as equity capital for regulatory capital purposes guaranteed by the Guarantor pursuant to an instrument that ranks *pari passu* with or junior in right of payment to the Indenture, including, without limitation, securities issued by American Equity Capital Trust I, American Equity Capital Trust II, American Equity Capital Trust III and American Equity Capital Trust IV.

“Trust Indenture Act” means the Trust Indenture Act of 1939, as amended and as in effect on the date of this Guarantee Agreement.

“Successor Guarantee Trustee” means a successor Guarantee Trustee possessing the qualifications to act as Guarantee Trustee under Section 4.1.

Capitalized or otherwise defined terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Trust Agreement as in effect on the date hereof.

ARTICLE II

REPORTS

SECTION 2.1. *List of Holders.*

The Guarantor shall furnish or cause to be furnished to the Guarantee Trustee at such times as the Guarantee Trustee may request in writing, within thirty (30) days after the receipt by the Guarantor of any such request, a list, in such form as the Guarantee Trustee may reasonably require, of the names and addresses of the Holders (the “*List of Holders*”) as of a date not more than fifteen (15) days prior to the time such list is furnished, in each case to the extent such information is in the possession or control of the Guarantor and is not identical to a previously supplied list of Holders or has not otherwise been received by the Guarantee Trustee in its capacity as such. The Guarantee Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

SECTION 2.2. *Periodic Reports to the Guarantee Trustee.*

The Guarantor shall deliver to the Guarantee Trustee, within one hundred and twenty (120) days after the end of each fiscal year of the Guarantor ending after the date of this Guarantee Agreement, an Officers’ Certificate covering the preceding fiscal year, stating whether or not to the knowledge of the signers thereof the Guarantor is in default in the performance or observance of any of the terms or provisions or any of the conditions of this Guarantee Agreement (without regard to any period of grace or requirement of notice provided hereunder) and, if the Guarantor shall be in default thereof, specifying all such defaults and the nature and status thereof of which they have knowledge.

SECTION 2.3. *Event of Default; Waiver.*

The Holders of a Majority in Liquidation Amount of the Preferred Securities may, on behalf of the Holders, waive any past Event of Default and its consequences. Upon such waiver, any such Event of Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Guarantee Agreement, but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent therefrom.

SECTION 2.4. *Event of Default; Notice.*

(a) The Guarantee Trustee shall, within ninety (90) days after the occurrence of a default, transmit to the Holders notices of all defaults actually known to the Guarantee Trustee, unless such defaults have been cured or waived before the giving of such notice. For the purpose of this Section 2.4, the term “*default*” means any event that is, or after notice or lapse of time or both would become, an Event of Default.

(b) The Guarantee Trustee shall not be deemed to have knowledge of any Event of Default unless the Guarantee Trustee shall have received written notice, or a Responsible Officer charged with the administration of this Guarantee Agreement shall have obtained written notice, of such Event of Default from the Guarantor or a Holder.

ARTICLE III

POWERS, DUTIES AND RIGHTS OF THE GUARANTEE TRUSTEE

SECTION 3.1. *Powers and Duties of the Guarantee Trustee.*

(a) This Guarantee Agreement shall be held by the Guarantee Trustee for the benefit of the Holders, and the Guarantee Trustee shall not transfer this Guarantee Agreement to any Person except a Holder exercising its rights pursuant to Section 5.4(d) or to a Successor Guarantee Trustee upon acceptance by such Successor Guarantee Trustee of its appointment to act as Successor Guarantee Trustee. The right, title and interest of the Guarantee Trustee shall automatically vest in any Successor Guarantee Trustee, upon acceptance by such Successor Guarantee Trustee of its appointment hereunder, and such vesting and succession of title shall be effective whether or not conveyancing documents have been executed and delivered pursuant to the appointment of such Successor Guarantee Trustee.

(b) The rights, immunities, duties and responsibilities of the Guarantee Trustee shall be as provided by this Guarantee Agreement and there shall be no other duties or obligations, express or implied, of the Guarantee Trustee. Notwithstanding the foregoing, no provisions of this Guarantee Agreement shall require the Guarantee 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. Whether or not herein expressly so provided, every provision of this Guarantee Agreement relating to the conduct or affecting the liability of or affording protection to the Guarantee Trustee shall be subject to the provisions of this Section 3.1. To the extent that, at law or in equity, the Guarantee Trustee has duties and liabilities relating to the Guarantor or the Holders, the Guarantee Trustee shall not be liable to any Holder for the Guarantee Trustee's good faith reliance on the provisions of this Guarantee Agreement. The provisions of this Guarantee Agreement, to the extent that they restrict the duties and liabilities of the Guarantee Trustee otherwise existing at law or in equity, are agreed by the Guarantor and the Holders to replace such other duties and liabilities of the Guarantee Trustee.

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

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

(ii) the Guarantee 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 not less than a Majority in Liquidation Amount of the Preferred Securities relating to the time, method and place of conducting any proceeding for any remedy available to the

Guarantee Trustee, or exercising any trust or power conferred upon the Guarantee Trustee under this Guarantee Agreement.

SECTION 3.2. *Certain Rights of the Guarantee Trustee.*

(a) Subject to the provisions of Section 3.1:

(i) the Guarantee Trustee may conclusively rely and shall be fully protected in acting or refraining from acting in good faith and in accordance with the terms hereof upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document reasonably believed by it to be genuine and to have been signed, sent or presented by the proper party or parties;

(ii) any direction or act of the Guarantor contemplated by this Guarantee Agreement shall be sufficiently evidenced by an Officers' Certificate unless otherwise prescribed herein;

(iii) the Guarantee Trustee may consult with counsel, and the advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in reliance thereon and in accordance with such advice. Such counsel may be counsel to the Guarantee Trustee, the Guarantor or any of its Affiliates and may be one of its employees. The Guarantee Trustee shall have the right at any time to seek instructions concerning the administration of this Guarantee Agreement from any court of competent jurisdiction;

(iv) the Guarantee Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Guarantee Agreement at the request or direction of any Holder, unless such Holder shall have provided to the Guarantee Trustee reasonable security or indemnity against the costs, expenses (including reasonable attorneys' fees and expenses) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Guarantee Trustee; *provided*, that, nothing contained in this Section 3.2(a)(iv) shall be taken to relieve the Guarantee Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Guarantee Agreement; *provided, further*, that nothing contained in this Section 3.2(a)(iv) shall prevent the Guarantee Trustee from exercising its rights under Section 4.2 hereof;

(v) the Guarantee 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, debenture, note, other evidence of indebtedness or other paper or document, but the Guarantee Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and if the Guarantee Trustee shall determine to make such inquiry or investigation, it shall be entitled to examine the books, records and premises of the Guarantor, personally or by agent or attorney;

(vi) the Guarantee Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through its agents, attorneys, custodians or nominees and the Guarantee Trustee shall not be responsible for any misconduct or negligence on the part

of any such agent, attorney, custodian or nominee appointed with due care by it hereunder;

(vii) whenever in the administration of this Guarantee Agreement the Guarantee Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right hereunder, the Guarantee Trustee (A) may request instructions from the Holders of a Majority in Liquidation Amount of the Preferred Securities, (B) may refrain from enforcing such remedy or right or taking such other action until such instructions are received and (C) shall be protected in acting in accordance with such instructions;

(viii) except as otherwise expressly provided by this Guarantee Agreement, the Guarantee Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Guarantee Agreement; and

(ix) whenever, in the administration of this Guarantee Agreement, the Guarantee Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting to take any action hereunder, the Guarantee Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and rely upon an Officers' Certificate which, upon receipt of such request from the Guarantee Trustee, shall be promptly delivered by the Guarantor.

(b) No provision of this Guarantee Agreement shall be deemed to impose any duty or obligation on the Guarantee Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it in any jurisdiction in which it shall be illegal, or in which the Guarantee Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Guarantee Trustee shall be construed to be a duty to act in accordance with such power and authority.

SECTION 3.3. *Compensation.*

The Guarantor agrees to pay to the Guarantee Trustee from time to time reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provisions of law in regard to the compensation of a trustee of an express trust) and to reimburse the Guarantee Trustee upon request for all reasonable expenses, disbursements and advances (including the reasonable fees and expenses of its attorneys and agents) incurred or made by the Guarantee Trustee in accordance with any provisions of this Guarantee Agreement.

SECTION 3.4. *Indemnity.*

The Guarantor agrees to indemnify and hold harmless the Guarantee Trustee and any of its Affiliates and any of their officers, directors, shareholders, employees, representatives or agents from and against any loss, damage, liability, tax (other than income, franchise or other taxes imposed on amounts paid pursuant to Section 3.3), penalty, expense or claim of any kind or

nature whatsoever incurred without negligence, bad faith or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this Guarantee Agreement, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The Guarantee Trustee will not claim or exact any lien or charge on any Guarantee Payments as a result of any amount due to it under this Guarantee Agreement. This indemnity shall survive the termination of this Agreement or the resignation or removal of the Guarantee Trustee.

In no event shall the Guarantee Trustee be liable for any indirect, special, punitive or consequential loss or damage of any kind whatsoever, including, but not limited to, lost profits, even if the Guarantee Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

In no event shall the Guarantee Trustee be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond its control, including, but not limited to, acts of God, flood, war (declared or undeclared), terrorism, fire, riot, embargo, government action, including any laws, ordinances, regulations, governmental action or the like which delay, restrict or prohibit the providing of the services contemplated by this Guarantee Agreement.

SECTION 3.5. *Securities.*

The Guarantee Trustee or any other agent of the Guarantee Trustee, in its individual or any other capacity, may become the owner or pledgee of Common or Preferred Securities.

ARTICLE IV

GUARANTEE TRUSTEE

SECTION 4.1. *Guarantee Trustee; Eligibility.*

(a) There shall at all times be a Guarantee Trustee which shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a corporation organized and doing business under the laws of the United States or of any State thereof, authorized to exercise corporate trust powers, having a combined capital and surplus of at least fifty million dollars (\$50,000,000), subject to supervision or examination by Federal or State authority and having an office within the United States. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then, for the purposes of this Section 4.1, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Guarantee Trustee shall cease to be eligible to so act under Section 4.1(a), the Guarantee Trustee shall immediately resign in the manner and with the effect set out in Section 4.2(c).

(c) If the Guarantee Trustee has or shall acquire any “conflicting interest” within the meaning of Section 310(b) of the Trust Indenture Act, the Guarantee Trustee shall either eliminate such interest or resign in the manner and with the effect set out in Section 4.2(c).

SECTION 4.2. *Appointment, Removal and Resignation of the Guarantee Trustee.*

(a) Subject to Section 4.2(b), the Guarantee Trustee may be appointed or removed without cause at any time by the Guarantor, except during an Event of Default.

(b) The Guarantee Trustee shall not be removed until a Successor Guarantee Trustee has been appointed and has accepted such appointment by written instrument executed by such Successor Guarantee Trustee and delivered to the Guarantor.

(c) The Guarantee Trustee appointed hereunder shall hold office until a Successor Guarantee Trustee shall have been appointed or until its removal or resignation. The Guarantee Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing executed by the Guarantee Trustee and delivered to the Guarantor, which resignation shall not take effect until a Successor Guarantee Trustee has been appointed and has accepted such appointment by instrument in writing executed by such Successor Guarantee Trustee and delivered to the Guarantor and the resigning Guarantee Trustee.

(d) If no Successor Guarantee Trustee shall have been appointed and accepted appointment as provided in this Section 4.2 within thirty (30) days after delivery to the Guarantor of an instrument of resignation, the resigning Guarantee Trustee may petition, at the expense of the Guarantor, any court of competent jurisdiction for appointment of a Successor Guarantee Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Guarantee Trustee.

ARTICLE V

GUARANTEE

SECTION 5.1. *Guarantee.*

(a) The Guarantor irrevocably and unconditionally agrees to pay in full to the Holders the Guarantee Payments (without duplication of amounts theretofore paid by or on behalf of the Issuer), as and when due, regardless of any defense (except for the defense of payment by the Issuer), right of set-off or counterclaim which the Issuer may have or assert. The Guarantor’s obligation to make a Guarantee Payment may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Issuer to pay such amounts to the Holders. The Guarantor shall give prompt written notice to the Guarantee Trustee in the event it makes any direct payment to the Holders hereunder.

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(b) The Guarantor hereby also agrees to assume any and all Obligations of the Issuer, and, in the event any such Obligation is not so assumed, subject to the terms and conditions hereof, the Guarantor hereby irrevocably and unconditionally guarantees to each Beneficiary the full payment, when and as due, of any and all Obligations to such Beneficiaries. This Guarantee is intended to be for the Beneficiaries who have received notice hereof.

SECTION 5.2. *Waiver of Notice and Demand.*

The Guarantor hereby waives notice of acceptance of the Guarantee Agreement and of any liability to which it applies or may apply, presentment, demand for payment, any right to require a proceeding first against the Guarantee Trustee, Issuer or any other Person before proceeding against the Guarantor, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

SECTION 5.3. *Obligations Not Affected.*

The obligations, covenants, agreements and duties of the Guarantor under this Guarantee Agreement shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Issuer of any express or implied agreement, covenant, term or condition relating to the Preferred Securities to be performed or observed by the Issuer;

(b) the extension of time for the payment by the Issuer of all or any portion of the Distributions (other than an extension of time for payment of Distributions that results from the extension of any interest payment period on the Notes as provided in the Indenture), Redemption Price, Liquidation Distribution or any other sums payable under the terms of the Preferred Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Preferred Securities;

(c) any failure, omission, delay or lack of diligence on the part of the Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Preferred Securities, or any action on the part of the Issuer granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Issuer or any of the assets of the Issuer;

(e) any invalidity of, or defect or deficiency in, the Preferred Securities;

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred; or

(g) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 5.3 that

the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

There shall be no obligation of the Holders to give notice to, or obtain the consent of, the Guarantor with respect to the happening of any of the foregoing.

SECTION 5.4. *Rights of Holders.*

The Guarantor expressly acknowledges that: (a) this Guarantee Agreement will be deposited with the Guarantee Trustee to be held for the benefit of the Holders; (b) the Guarantee Trustee has the right to enforce this Guarantee Agreement on behalf of the Holders; (c) the Holders of a Majority in Liquidation Amount of the Preferred Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee in respect of this Guarantee Agreement or exercising any trust or power conferred upon the Guarantee Trustee under this Guarantee Agreement; and (d) any Holder may institute a legal proceeding directly against the Guarantor to enforce its rights under this Guarantee Agreement, without first instituting a legal proceeding against the Guarantee Trustee, the Issuer or any other Person.

SECTION 5.5. *Guarantee of Payment.*

This Guarantee Agreement creates a guarantee of payment and not of collection. This Guarantee Agreement will not be discharged except by payment of the Guarantee Payments in full (without duplication of amounts theretofore paid by the Issuer) or upon distribution of Notes to Holders as provided in the Trust Agreement.

SECTION 5.6. *Subrogation.*

The Guarantor shall be subrogated to all (if any) rights of the Holders against the Issuer in respect of any amounts paid to the Holders by the Guarantor under this Guarantee Agreement and shall have the right to waive payment by the Issuer pursuant to Section 5.1; *provided*, that, the Guarantor shall not (except to the extent required by mandatory provisions of law) be entitled to enforce or exercise any rights it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Guarantee Agreement, if, at the time of any such payment, any amounts are due and unpaid under this Guarantee Agreement. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Holders and to pay over such amount to the Holders.

SECTION 5.7. *Independent Obligations.*

The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Issuer with respect to the Preferred Securities and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Guarantee Agreement notwithstanding the occurrence of any event referred to in subsections (a) through (g), inclusive, of Section 5.3.

SECTION 5.8. *Enforcement.*

A Beneficiary may enforce the Obligations of the Guarantor contained in Section 5.1(b) directly against the Guarantor, and the Guarantor waives any right or remedy to require that any action be brought against the Issuer or any other person or entity before proceeding against the Guarantor.

ARTICLE VI

COVENANTS AND SUBORDINATION

SECTION 6.1. *Dividends, Distributions and Payments.*

So long as any Preferred Securities remain outstanding, if there shall have occurred and be continuing an Event of Default or the Guarantor shall have entered into an Extension Period as provided for in the Indenture and such period, or any extension thereof, shall have commenced and be continuing, then the Guarantor may not (a) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make liquidation payment with respect to, any of the Guarantor's capital stock or (b) make any payment of principal of or any interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Guarantor that rank *pari passu* in all respects with or junior in interest to the Notes (other than (i) repurchases, redemptions or other acquisitions of shares of capital stock of the Guarantor in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one of more employees, officers, directors or consultants, in connection with a dividend reinvestment or stockholder stock purchase plan or in connection with the issuance of capital stock of the Guarantor (or securities convertible into or exercisable for such capital stock) as consideration in an acquisition transaction entered into prior to the occurrence of such Event of Default or the applicable Extension Period, (ii) as a result of an exchange or conversion of any class or series of the Guarantor's capital stock (or any capital stock of a subsidiary of the Guarantor) for any class or series of the Guarantor's capital stock or any class or series of the Guarantor's indebtedness for any class or series of the Guarantor's capital stock, (iii) the purchase of fractional interests in shares of the Guarantor's capital stock pursuant to the conversions or exchange provisions of such capital stock or the security being converted or exchanged, (iv) any declaration of a dividend in connection with any rights plan, the issuance of rights, stock or other property under any rights plan or the redemption or repurchase of rights pursuant thereto, or (v) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks *pari passu* with or junior to such stock).

SECTION 6.2. *Subordination.*

The obligations of the Guarantor under this Guarantee Agreement will constitute unsecured obligations of the Guarantor and will rank subordinate and junior in right of payment to all Senior Debt of the Guarantor.

SECTION 6.3. *Pari Passu Guarantees.*

(a) The obligations of the Guarantor under this Guarantee Agreement shall rank *pari passu* with the obligations of the Guarantor under any similar guarantee agreements issued by the Guarantor with respect to preferred securities (if any) similar to the Preferred Securities, issued by trusts other than the Issuer established or to be established by the Guarantor (if any), in each case similar to the Issuer American Equity Capital Trust I, American Equity Capital Trust II, American Equity Capital Trust III and American Equity Capital Trust IV.

(b) The right of the Guarantor to participate in any distribution of assets of any of its subsidiaries upon any such subsidiary's liquidation or reorganization or otherwise is subject to the prior claims of creditors of that subsidiary, except to the extent the Guarantor may itself be recognized as a creditor of that subsidiary. Accordingly, the Guarantor's obligations under this Guarantee will be effectively subordinated to all existing and future liabilities of the Guarantor's subsidiaries, and claimants should look only to the assets of the Guarantor for payments thereunder. This Guarantee does not limit the incurrence or issuance of other secured or unsecured debt of the Guarantor, including Senior Debt of the Guarantor, under any indenture or agreement that the Guarantor may enter into in the future or otherwise.

ARTICLE VII

TERMINATION

SECTION 7.1. *Termination.*

This Guarantee Agreement shall terminate and be of no further force and effect upon (a) full payment of the Redemption Price of all Preferred Securities, (b) the distribution of Notes to the Holders in exchange for all of the Preferred Securities or (c) full payment of the amounts payable in accordance with the Trust Agreement upon liquidation of the Issuer. Notwithstanding the foregoing, this Guarantee Agreement will continue to be effective or will be reinstated, as the case may be, if at any time any Holder must restore payment of any sums paid with respect to Preferred Securities or this Guarantee Agreement. The obligations of the Guarantor under Sections 3.3 and 3.4 shall survive any such termination or the resignation and removal of the Guarantee Trustee.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.1. *Successors and Assigns.*

All guarantees and agreements contained in this Guarantee Agreement shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders of the Preferred Securities then outstanding. Except in connection with a consolidation, merger or sale involving the Guarantor that is permitted under Article VIII of the Indenture and pursuant to which the successor or assignee agrees in writing to perform the

Guarantor's obligations hereunder, the Guarantor shall not assign its rights or delegate its obligations hereunder without the prior approval of the Holders of a Majority in Liquidation Amount of the Preferred Securities.

SECTION 8.2. *Amendments.*

Except with respect to any changes that do not adversely affect the rights of the Holders in any material respect (in which case no consent of the Holders will be required), this Guarantee Agreement may only be amended with the prior approval of the Guarantor, the Guarantee Trustee and the Holders of not less than a Majority in Liquidation Amount of the Preferred Securities. The provisions of Article VI of the Trust Agreement concerning meetings or consents of the Holders shall apply to the giving of such approval.

SECTION 8.3. *Notices.*

Any notice, request or other communication required or permitted to be given hereunder shall be in writing, duly signed by the party giving such notice, and delivered, telecopied or mailed by first class mail as follows:

(a) if given to the Guarantor, to the address or facsimile number set forth below or such other address, facsimile number or to the attention of such other Person as the Guarantor may give notice to the Guarantee Trustee and the Holders:

American Equity Investment Life Insurance Company
5000 Westown Parkway, Suite 440
West Des Moines, IA 50266
Facsimile No.: (515) 221-0744
Attention: Wendy Carlson

(b) if given to the Issuer, at the Issuer's address or facsimile number set forth below or such other address, facsimile number or to the attention of such other Person as the Issuer may give notice to the Guarantee Trustee and the Holders:

American Equity Capital Trust III
5000 Westown Parkway, Suite 440
West Des Moines, IA 50266
Facsimile No.: (515) 221-0744
Attention: Wendy Carlson

(c) if given to the Guarantee Trustee, at the address or facsimile number set forth below or such other address, facsimile number or to the attention of such other Person as the Guarantee Trustee may give notice to the Guarantor and the Holders:

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JPMorgan Chase Bank
600 Travis, 50th Floor
Houston, Texas 77002
Facsimile No.: 713-216-2101
Attention: International Trust Services -
American Equity Capital Trust III

(d) if given to any Holder, at the address set forth on the books and records of the Issuer.

All notices hereunder shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid, except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

SECTION 8.4. *Benefit.*

This Guarantee Agreement is solely for the benefit of the Holders and is not separately transferable from the Preferred Securities.

SECTION 8.5. *Governing Law.*

This Guarantee Agreement and the rights and obligations of each party hereto, shall be construed and enforced in accordance with and governed by the laws of the State of New York without reference to its conflict of laws provisions (other than Section 5-1401 of the General Obligations Law).

SECTION 8.6. *Submission to Jurisdiction.*

ANY LEGAL ACTION OR PROCEEDING BY OR AGAINST ANY PARTY HERETO OR WITH RESPECT TO OR ARISING OUT OF THIS GUARANTEE AGREEMENT MAY BE BROUGHT IN OR REMOVED TO THE COURTS OF THE STATE OF NEW YORK, IN AND FOR THE COUNTY OF NEW YORK, OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK (IN EACH CASE SITTING IN THE BOROUGH OF MANHATTAN). BY EXECUTION AND DELIVERY OF THIS GUARANTEE AGREEMENT, EACH PARTY ACCEPTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS (AND COURTS OF APPEALS THEREFROM) FOR LEGAL PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS GUARANTEE AGREEMENT.

SECTION 8.7. *Counterparts.*

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.

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SECTION 8.8. *Severability.*

In the event that one or more of the provisions contained in this Guarantee Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Guarantee, but this Guarantee shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

[Signature pages follow.]

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IN WITNESS WHEREOF, the undersigned have executed this Guarantee Agreement as of the date first above written.

AMERICAN EQUITY INVESTMENT LIFE HOLDING
COMPANY

By: /s/ Debra J. Richardson

Name: Debra J. Richardson
Title: Secretary & Senior Vice President

JPMORGAN CHASE BANK, as Guarantee Trustee

By: /s/ Maria D. Calzado
Name: Maria D. Calzado
Title: Vice President

Guarantee

JUNIOR SUBORDINATED INDENTURE

between

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

and

JPMORGAN CHASE BANK,
as Trustee

Dated as of September 14, 2004

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JUNIOR SUBORDINATED INDENTURE, dated as of September 14, 2004, between AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the "*Company*"), and JPMORGAN CHASE BANK, a New York banking corporation, as Trustee (in such capacity, the "*Trustee*").

RECITALS OF THE COMPANY

WHEREAS, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of its unsecured junior subordinated deferrable interest notes (the "*Securities*") issued to evidence loans made to the Company of the proceeds from the issuance by American Equity Capital Trust VII, a Delaware statutory trust (the "*Trust*"), of undivided preferred beneficial interests in the assets of the Trust (the "*Preferred Securities*") and undivided common beneficial interests in the assets of the Trust (the "*Common Securities*") and, collectively with the Preferred Securities, the "*Trust Securities*"), and to provide the terms and conditions upon which the Securities are to be authenticated, issued and delivered; and

WHEREAS, 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 Securities by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of the Securities, as follows:

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 1.1. *Definitions.*

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

- (a) the terms defined in this Article I have the meanings assigned to them in this Article I;
- (b) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”;
- (c) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP;
- (d) unless the context otherwise requires, any reference to an “Article” or a “Section” refers to an Article or a Section, as the case may be, of this Indenture;
- (e) the words “hereby”, “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;

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(f) a reference to the singular includes the plural and vice versa; and

(g) the masculine, feminine or neuter genders used herein shall include the masculine, feminine and neuter genders.

“Act” when used with respect to any Holder, has the meaning specified in Section 1.4.

“*Administrative Trustee*” means, with respect to the Trust, each Person identified as an “Administrative Trustee” in the Trust Agreement, solely in its capacity as Administrative Trustee of the Trust under the Trust Agreement and not in its individual capacity, or its successor in interest in such capacity, or any successor Administrative Trustee appointed as therein provided.

“*Additional Interest*” means the interest, if any, that shall accrue on any amounts payable on the Securities, the payment of which has not been made on the applicable Interest Payment Date and which shall accrue at the rate per annum specified or determined as specified in such Security, in each case to the extent legally enforceable.

“*Additional Tax Sums*” has the meaning specified in Section 10.5.

“*Additional Taxes*” means taxes, duties or other governmental charges imposed on the Trust as a result of a Tax Event (which, for the sake of clarity, does not include amounts required to be deducted or withheld by the Trust from payments made by the Trust to or for the benefit of the Holder of, or any Person that acquires a beneficial interest in, the Securities).

“*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 purposes of this definition, “control,” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“*Applicable Accounting Principles*” means accounting practices prescribed or permitted by the National Association of Insurance Commissioners and, with respect to the Company’s subsidiary insurance companies, the applicable insurance department of the state of domicile of such insurance subsidiary, and in each case, applied consistently throughout the periods involved.

“*Applicable Depository Procedures*” means, with respect to any transfer or transaction involving a Global Security or beneficial interest therein, the rules and procedures of the Depository for such Security, in each case to the extent applicable to such transaction and as in effect from time to time.

“*Applicable Insurance Regulatory Authority*” means the Iowa Insurance Division or, if at any time after the execution of this Indenture any such entity is not existing and performing the duties now assigned to it, any successor body performing similar duties or functions.

“*Authenticating Agent*” means any Person authorized by the Trustee pursuant to Section 6.11 to act on behalf of the Trustee to authenticate the Securities.

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“*Bankruptcy Code*” means Title 11 of the United States Code or any successor statute(s) thereto, or any similar federal or state law for the relief of debtors, in each case as amended from time to time.

“*Board of Directors*” means the board of directors of the Company or any duly authorized committee of that board.

“*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 and to be in full force and effect on the date of such certification.

“*Business Day*” means any day other than (i) a Saturday or Sunday, (ii) a day on which banking institutions in the City of New York are authorized or required by law or executive order to remain closed or (iii) a day on which the Corporate Trust Office of the Trustee is closed for business.

“*Calculation Agent*” has the meaning specified in Section 10.4.

“*Common Securities*” has the meaning specified in the first recital of this Indenture.

“Common Stock” means the common stock, par value \$1.00 per share, of the Company.

“Company” means the Person named as the “Company” in the first paragraph of this Indenture 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, the written request or order signed in the name of the Company by its Chairman of the Board of Directors, its Vice Chairman of the Board of Directors, its Chief Executive Officer, President or a Vice President, and by its Chief Financial Officer, its Treasurer, an Assistant Treasurer, its Secretary or an Assistant Secretary, and delivered to the Trustee.

“Corporate Trust Office” means the principal office of the Trustee at which at any particular time its corporate trust business shall be administered, which office at the date of this Indenture is located at 600 Travis, 50th Floor, Houston, Texas 77002, Attn: Institutional Trust Services, American Equity Capital Trust VII.

“Debt” means, with respect to any Person, whether recourse is to all or a portion of the assets of such Person, whether currently existing or hereafter incurred and whether or not contingent and without duplication, (i) every obligation of such Person for money borrowed; (ii) every obligation of such Person evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses; (iii) every reimbursement obligation of such Person with respect to letters of credit, bankers’ acceptances or similar facilities issued for the account of such Person; (iv) every obligation of such Person issued or assumed as the deferred purchase price of property or services (but excluding trade accounts payable or other accrued liabilities arising in the ordinary course of business); (v) every capital lease obligation of such Person; (vi) all indebtedness of such Person, whether incurred on or prior to the date of this Indenture or thereafter incurred, for claims in respect of derivative products, including interest rate, foreign exchange rate and

commodity forward contracts, options and swaps and similar arrangements; (vii) every obligation of the type referred to in clauses (i) through (vi) of another Person and all dividends of another Person the payment of which, in either case, such Person has guaranteed or is responsible or liable for, directly or indirectly, as obligor or otherwise; and (viii) any renewals, extensions, refundings, amendments or modifications of any obligation of the type referred to in clauses (i) through (vii).

“Defaulted Interest” has the meaning specified in [Section 3.1](#).

“Delaware Trustee” means, with respect to the Trust, the Person identified as the “Delaware Trustee” in the Trust Agreement, solely in its capacity as Delaware Trustee of the Trust under the Trust Agreement and not in its individual capacity, or its successor in interest in such capacity, or any successor Delaware Trustee appointed as therein provided.

“Depository” means an organization registered as a clearing agency under the Exchange Act that is designated as Depository by the Company or any successor thereto.

“Depository Participant” means a broker, dealer, bank, other financial institution or other Person for whom from time to time a Depository effects book-entry transfers and pledges of securities deposited with the Depository.

“Distributions” means amounts payable in respect of the Trust Securities as provided in the Trust Agreement and referred to therein as “Distributions.”

“Dollar” or “\$” means the currency of the United States of America that, as at the time of payment, is legal tender for the payment of public and private debts.

“DTC” means The Depository Trust Company, a New York corporation, or any successor thereto.

“Event of Default” has the meaning specified in [Section 5.1](#).

“Exchange Act” means the Securities Exchange Act of 1934 or any statute successor thereto, in each case as amended from time to time.

“Expiration Date” has the meaning specified in [Section 1.4](#).

“Extension Period” has the meaning specified in [Section 3.9](#).

“GAAP” means United States generally accepted accounting principles, consistently applied, from time to time in effect.

“Global Security” means a Security that evidences all or part of the Securities, the ownership and transfers of which shall be made through book entries by a Depository.

“Government Obligation” means (a) any security that is (i) a direct obligation of the United States of America of which the full faith and credit of the United States of America is pledged or (ii) an obligation of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America or the payment of which is unconditionally

guaranteed as a full faith and credit obligation by the United States of America, which, in either case (i) or (ii), is not callable or redeemable at the option of the issuer thereof, and (b) any depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any Government Obligation that is specified in clause (a) above and held by such bank for the account of the holder of such depository receipt, or with respect to

any specific payment of principal of or interest on any Government Obligation that is so specified and held, *provided*, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the Government Obligation or the specific payment of principal or interest evidenced by such depositary receipt.

“*Guarantee Agreement*” means the Guarantee Agreement executed by the Company and JPMorgan Chase Bank, as Guarantee Trustee, contemporaneously with the execution and delivery of this Indenture, for the benefit of the holders of the Preferred Securities, as modified, amended or supplemented from time to time.

“*Holder*” means a Person in whose name a Security is registered in the Securities Register.

“*Indenture*” means this instrument as originally executed or as it may from time to time be amended or supplemented by one or more amendments or indentures supplemental hereto entered into pursuant to the applicable provisions hereof.

“*Interest Payment Date*” means March 15, June 15, September 15, and December 15 of each year, commencing on December 15, 2004, during the term of this Indenture.

“*Investment Company Act*” means the Investment Company Act of 1940 or any successor statute thereto, in each case as amended from time to time.

“*Investment Company Event*” means the receipt by the Company of an Opinion of Counsel experienced in such matters to the effect that, as a result of the occurrence of a change in law or regulation (including any announced prospective change) or a written change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority, there is more than an insubstantial risk that the Trust is or, within ninety (90) days of the date of such opinion will be, considered an “investment company” that is required to be registered under the Investment Company Act, which change or prospective change becomes effective or would become effective, as the case may be, on or after the date of the issuance of the Securities.

“*LIBOR*” has the meaning specified in Schedule A.

“*LIBOR Business Day*” has the meaning specified in Schedule A.

“*LIBOR Determination Date*” has the meaning specified in Schedule A.

“*Liquidation Amount*” has the meaning specified in the Trust Agreement.

“*Maturity*,” when used with respect to any Security, means the date on which the principal of such Security or any installment of principal becomes due and payable as therein or

herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

“*Notice of Default*” means a written notice of the kind specified in Section 5.1(c).

“*Officers’ Certificate*” means a certificate signed by the Chairman of the Board, a Vice Chairman of the Board, the Chief Executive Officer, the President or a Vice President, and by the Chief Financial Officer, the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary, of the Company and delivered to the Trustee.

“*Operative Documents*” means the Trust Agreement, the Indenture, the Purchase Agreement, the Guarantee Agreement and the Securities.

“*Opinion of Counsel*” means a written opinion of counsel, who may be counsel for or an employee of the Company or any Affiliate of the Company.

“*Optional Redemption Price*” has the meaning set forth in Section 11.1.

“*Original Issue Date*” means the date of original issuance of each Security.

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

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

(ii) 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 Securities; *provided*, that, if such 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) Securities that have been paid or in substitution for or in lieu of which other Securities have been authenticated and delivered pursuant to the provisions of this Indenture, unless proof satisfactory to the Trustee is presented that any such Securities are held by Holders in whose hands such Securities are valid, binding and legal obligations of the Company;

provided, that, in determining whether the Holders of the requisite principal amount of Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities that a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded. Securities so owned that 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 Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor. Notwithstanding anything herein to the contrary, Securities initially issued to the Trust that are owned by the Trust shall be deemed to be Outstanding notwithstanding the ownership by the Company or an Affiliate of any beneficial interest in the Trust.

“*Paying Agent*” means the Trustee or any Person authorized by the Company to pay the principal of or any premium or interest on, or other amounts in respect of, any Securities on behalf of the Company.

“*Person*” means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, government or any agency or political subdivision thereof, or any other entity of whatever nature.

“*Place of Payment*” means, with respect to the Securities, the Corporate Trust Office of the Trustee.

“*Preferred Securities*” has the meaning specified in the first recital of this Indenture.

“*Predecessor Security*” of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security. For the purposes of this definition, any security authenticated and delivered under Section 3.6 in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

“*Proceeding*” has the meaning specified in Section 12.2.

“*Property Trustee*” means the Person identified as the “Property Trustee” in the Trust Agreement, solely in its capacity as Property Trustee of the Trust under the Trust Agreement and not in its individual capacity, or its successor in interest in such capacity, or any successor Property Trustee appointed as therein provided.

“*Purchase Agreement*” means the agreement, dated as of the date hereof, between the Company and the Trust and ALESCO Preferred Funding V, Ltd.

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

“*Redemption Price*” means, when used with respect to any Security to be redeemed, in whole or in part, the Special Redemption Price or the Optional Redemption Price, as applicable, at which such Security or portion thereof is to be redeemed as fixed by or pursuant to this Indenture.

“*Reference Banks*” has the meaning specified in Schedule A.

“*Regular Record Date*” for the interest payable on any Interest Payment Date with respect to the Securities means the date that is fifteen (15) days preceding such Interest Payment Date (whether or not a Business Day).

“*Responsible Officer*” means, when used with respect to the Trustee, the officer in the Institutional Trust Services department of the Trustee having direct responsibility for the administration of this Indenture.

“*Rights Plan*” means a plan of the Company providing for the issuance by the Company to all holders of its Common Stock of rights entitling the holders thereof to subscribe for or purchase shares of any class or series of capital stock of the Company which rights (i) are deemed to be transferred with such shares of such Common Stock and (ii) are also issued in respect of future issuances of such Common Stock, in each case until the occurrence of a specified event or events.

“*Securities*” or “*Security*” means any debt securities or debt security, as the case may be, authenticated and delivered under this Indenture.

“*Securities Act*” means the Securities Act of 1933 or any successor statute thereto, in each case as amended from time to time.

“*Securities Register*” and “*Securities Registrar*” have the respective meanings specified in Section 3.5.

“*Senior Debt*” means the principal of and any premium and interest on (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company, whether or not such claim for post-petition interest is allowed in such proceeding) all Debt of the Company, whether incurred on or prior to the date of this Indenture or thereafter incurred, unless it is provided in the instrument creating or evidencing the same or pursuant to which the same is outstanding, that such obligations are not superior in right of payment to the Securities issued under this Indenture; *provided, however*, that if the Company is subject to the regulation and supervision of any Applicable Insurance Regulatory Authority, the Company shall have received the approval of each appropriate Applicable Insurance Regulatory Authority prior to issuing any such obligation if then required; *and provided, further*, that Senior Debt shall not be deemed to include any other debt securities and guarantees in respect of such debt securities issued to any trust other than the Trust (or a trustee of any such trust), partnership or other entity affiliated with the Company that is a financing vehicle of the Company (a “financing entity”) in connection with the issuance by such financing entity of equity securities or other securities that are treated as equity capital for regulatory capital purposes guaranteed by the Company pursuant to an instrument that ranks *pari passu* with or junior in right of payment to this Indenture, including, without limitation, securities issued by American Equity Capital Trust I, American Equity Capital Trust II, American Equity Capital Trust III, American Equity Capital Trust IV, American Equity Capital Trust V, and American Equity Capital Trust VI.

“*Special Event*” means the occurrence of an Investment Company Event or a Tax Event.

“*Special Record Date*” for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.1.

“Special Redemption Price” has the meaning set forth in Section 11.2.

“Stated Maturity” means December 15, 2034.

“Statutory Financial Statements” means all financial statements of the Company’s subsidiary insurance companies for each relevant period, each prepared in accordance with Applicable Accounting Principles.

“Subsidiary” means a Person more than fifty percent (50%) of the outstanding voting stock or other voting interests of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries. For purposes of this definition, “voting stock” means stock that ordinarily has voting power for the election of directors, whether at all times or only so long as no senior class of stock has such voting power by reason of any contingency.

“Tax Event” means the receipt by the Company of an Opinion of Counsel experienced in such matters to the effect that, as a result of (a) any amendment to or change (including any announced prospective change) in the laws or any regulations thereunder of the United States or any political subdivision or taxing authority thereof or therein or (b) any judicial decision or any official administrative pronouncement (including any private letter ruling, technical advice memorandum or field service advice) or regulatory procedure, including any notice or announcement of intent to adopt any such pronouncement or procedure (an “Administrative Action”), regardless of whether such judicial decision or Administrative Action is issued to or in connection with a proceeding involving the Company or the Trust and whether or not subject to review or appeal, which amendment, change, judicial decision or Administrative Action is enacted, promulgated or announced, in each case, on or after the date of issuance of the Securities, there is more than an insubstantial risk that (i) the Trust is, or will be within ninety (90) days of the date of such opinion, subject to United States federal income tax with respect to income received or accrued on the Securities, (ii) interest payable by the Company on the Securities is not, or within ninety (90) days of the date of such opinion, will not be, deductible by the Company, in whole or in part, for United States federal income tax purposes, or (iii) the Trust is, or will be within ninety (90) days of the date of such opinion, subject to more than a *de minimis* amount of other taxes, duties or other governmental charges.

“Trust” has the meaning specified in the first recital of this Indenture.

“Trust Agreement” means the Amended and Restated Trust Agreement executed and delivered by the Company, the Property Trustee, Chase Manhattan Bank USA, National Association, as Delaware Trustee and the Administrative Trustees named therein, contemporaneously with the execution and delivery of this Indenture, for the benefit of the holders of the Trust Securities, as amended or supplemented from time to time.

“Trustee” means the Person named as the “Trustee” in the first paragraph of this instrument, solely in its capacity as such and not in its individual capacity, until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and, thereafter, “Trustee” shall mean or include each Person who is then a Trustee hereunder.

“Trust Indenture Act” means the Trust Indenture Act of 1939, as amended and as in effect on the date as of this Indenture.

“Trust Securities” has the meaning specified in the first recital of this Indenture.

SECTION 1.2. *Compliance Certificate and Opinions.*

(a) Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall, if requested by the Trustee, furnish to the Trustee an Officers’ Certificate stating that all conditions precedent (including covenants compliance with which constitutes a condition 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 (including covenants compliance with which constitutes a condition precedent), if any, have been complied with.

(b) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than the certificate provided pursuant to Section 10.3) shall include:

(i) a statement by each individual signing such certificate or opinion that such individual has read such covenant or condition and the definitions herein relating thereto;

(ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions of such individual contained in such certificate or opinion are based;

(iii) a statement that, in the opinion of such individual, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether, in the opinion of such individual, such condition or covenant has been complied with.

SECTION 1.3. *Forms of Documents Delivered to Trustee.*

(a) 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.

(b) 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, or representations by, counsel, unless such officer knows, or after reasonable inquiry should know, that the certificate or opinion or representations with respect to matters upon which his or her certificate or opinion is based are erroneous. Any such certificate or Opinion 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 after reasonable inquiry should know, that the certificate or opinion or representations with respect to such matters are erroneous.

(c) 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.

(d) Whenever, subsequent to the receipt by the Trustee of any Board Resolution, Officers' Certificate, Opinion of Counsel or other document or instrument, a clerical, typographical or other inadvertent or unintentional error or omission shall be discovered therein, a new document or instrument may be substituted therefor in corrected form with the same force and effect as if originally received in the corrected form and, irrespective of the date or dates of the actual execution and/or delivery thereof, such substitute document or instrument shall be deemed to have been executed and/or delivered as of the date or dates required with respect to the document or instrument for which it is substituted. Without limiting the generality of the foregoing, any Securities issued under the authority of such defective document or instrument shall nevertheless be the valid obligations of the Company entitled to the benefits of this Indenture equally and ratably with all other Outstanding Securities.

SECTION 1.4. *Acts of Holders.*

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given to 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 thereof duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments (including any appointment of an agent) is or 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 conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 1.4.

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

(c) The ownership of Securities shall be proved by the Securities Register.

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

(e) Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

(f) Except as set forth in paragraph (g) of this Section 1.4, the Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of Securities. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to take the relevant action, whether or not such Holders remain Holders after such record date; *provided*, that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date (as defined in Section 1.4(h)) by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect). Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities in the manner set forth in Section 1.6.

(g) The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to join in the giving or making of (i) any Notice of Default, (ii) any declaration of acceleration or rescission or annulment thereof referred to in Section 5.2, (iii) any request to institute proceedings referred to in Section 5.7(b) or (iv) any direction referred to in Section 5.12. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date; *provided*, that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect). Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities in the manner set forth in Section 1.6.

(h) With respect to any record date set pursuant to paragraph (f) or (g) of this Section 1.4, the party hereto that sets such record date may designate any day as the “*Expiration Date*” and from time to time may change the Expiration Date to any earlier or later day; *provided*, that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities in the manner set forth in Section 1.6, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section 1.4, the party hereto that set such record date shall be deemed to have initially designated the ninetieth (90th) day after such record

date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the one hundred eightieth (180th) day after the applicable record date.

SECTION 1.5. Notices, Etc. to Trustee and Company.

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

(a) the Trustee by any Holder, any holder of Preferred Securities or the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with and received by the Trustee at its Corporate Trust Office, or

(b) the Company by the Trustee, any Holder or any holder of Preferred Securities shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid, to the Company addressed to it at American Equity Investment Life Holding Company, 5000 Westown Parkway, Suite 440, West Des Moines, IA 50266, Attention: Wendy Carlson, Chief Financial Officer or at any other address previously furnished in writing to the Trustee by the Company.

SECTION 1.6. Notice to Holders; Waiver.

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class, postage prepaid, to each Holder affected by such event to the address of such Holder as it appears in the Securities Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. If, by reason of the suspension of or irregularities in regular mail service or for any other reason, it shall be impossible or impracticable to mail notice of any event to Holders when said notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be a sufficient 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.

SECTION 1.7. 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 of this Indenture.

SECTION 1.8. Successors and Assigns.

This Indenture shall be binding upon and shall inure to the benefit of any successor to the Company and the Trustee, including any successor by operation of law. Except in connection

with a transaction involving the Company that is permitted under Article VIII and pursuant to which the assignee agrees in writing to perform the Company’s obligations hereunder, the Company shall not assign its obligations hereunder.

SECTION 1.9. Separability Clause.

If any provision in this Indenture or in the 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, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.

SECTION 1.10. Benefits of Indenture.

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto and their successors and assigns, the holders of Senior Debt, the Holders of the Securities and, to the extent expressly provided in Sections 5.2, 5.8, 5.9, 5.11, 5.13, 9.2 and 10.7, the holders of Preferred Securities, any benefit or any legal or equitable right, remedy or claim under this Indenture.

SECTION 1.11. Governing Law.

This Indenture and the rights and obligations of each of the Holders, the Company and the Trustee shall be construed and enforced in accordance with and governed by the laws of the State of New York without reference to its conflict of laws provisions (other than Section 5-1401 of the General Obligations Law).

SECTION 1.12. Submission to Jurisdiction.

ANY LEGAL ACTION OR PROCEEDING BY OR AGAINST ANY PARTY HERETO OR WITH RESPECT TO OR ARISING OUT OF THIS INDENTURE MAY BE BROUGHT IN OR REMOVED TO THE COURTS OF THE STATE OF NEW YORK, IN AND FOR THE COUNTY OF NEW YORK, OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK (IN EACH CASE SITTING IN THE BOROUGH OF MANHATTAN). BY EXECUTION AND DELIVERY OF THIS INDENTURE, EACH PARTY ACCEPTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS (AND COURTS OF APPEALS THEREFROM) FOR LEGAL PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS INDENTURE.

SECTION 1.13. *Non-Business Days.*

If any Interest Payment Date, Redemption Date or Stated Maturity of any Security shall not be a Business Day, then (notwithstanding any other provision of this Indenture or the Securities) payment of interest, premium, if any, or principal or other amounts in respect of such Security shall not be made on such date, but shall be made on the next succeeding Business Day (and no interest shall accrue in respect of the amounts whose payment is so delayed for the period from and after such Interest Payment Date, Redemption Date or Stated Maturity, as the case may be, until such next succeeding Business Day) except that, if such Business Day falls in the next succeeding calendar year, such payment shall be made on the immediately preceding

Business Day, in each case with the same force and effect as if made on the Interest Payment Date or Redemption Date or at the Stated Maturity.

ARTICLE II

SECURITY FORMS

SECTION 2.1. *Form of Security.*

Any Security issued hereunder shall be in substantially the following form:

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY

Floating Rate Junior Subordinated Note due 2034

No.

\$10,830,000

American Equity Investment Life Holding Company, a corporation organized and existing under the laws of Iowa (hereinafter called the “Company,” which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to _____, or registered assigns, the principal sum of Ten Million Eight Hundred Thirty Thousand Dollars (\$10,830,000) or such other principal amount represented hereby as may be set forth in the records of the Securities Registrar hereinafter referred to in accordance with the Indenture on December 15, 2034. The Company further promises to pay interest on said principal sum from September 14, 2004, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, quarterly (subject to deferral as set forth herein) in arrears on March 15, June 15, September 15, and December 15 of each year, commencing December 15, 2004, or if any such day is not a Business Day, on the next succeeding Business Day (and no interest shall accrue in respect of the amounts whose payment is so delayed for the period from and after such Interest Payment Date until such next succeeding Business Day), except that, if such Business Day falls in the next succeeding calendar year, such payment shall be made on the immediately preceding Business Day, in each case, with the same force and effect as if made on the Interest Payment Date, at a variable rate equal to LIBOR plus 3.75% per annum, together with Additional Tax Sums, if any, as provided in Section 10.5 of the Indenture, until the principal hereof is paid or duly provided for or made available for payment; *provided, further*, that any overdue principal, premium, if any, or Additional Tax Sums and any overdue installment of interest shall bear Additional Interest at a variable rate equal to LIBOR plus 3.75% per annum (to the extent that the payment of such interest shall be legally enforceable), compounded quarterly, from the dates such amounts are due until they are paid or made available for payment, and such interest shall be payable on demand.

The amount of interest payable shall be computed on the basis of a 360-day year and the actual number of days elapsed in the relevant interest period. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date shall, as provided in the Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest installment. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in

whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities not less than ten (10) days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, all as more fully provided in the Indenture.

So long as no Event of Default has occurred and is continuing, the Company shall have the right, at any time and from time to time during the term of this Security, to defer the payment of interest on this Security for a period of up to twenty (20) consecutive quarterly interest payment periods (each such period, an “*Extension Period*”), during which Extension Period(s), no interest shall be due and payable (except any Additional Tax Sums that may be due and payable). No Extension Period shall end on a date other than an Interest Payment Date, and no Extension Period shall extend beyond the Stated Maturity of the principal of this Security. No interest shall be due and payable during an Extension Period (except any Additional Tax Sums that may be due and payable), except at the end thereof, but each installment of interest that would otherwise have been due and payable during such Extension Period shall bear Additional Interest (to the extent payment of such interest would be legally enforceable) at a variable rate equal to LIBOR plus 3.75% per annum, compounded quarterly, from the dates on which amounts would have otherwise been due and payable until paid or made available for payment. At the end of any such Extension Period, the Company shall pay all interest then accrued and unpaid on this Security, together with such Additional Interest. Prior to the termination of any such Extension Period, the Company may further defer the payment of interest; *provided*, that (i) all such previous and further extensions comprising such

Extension Period do not exceed twenty (20) quarterly interest payment periods, (ii) no Extension Period shall end on a date other than an Interest Payment Date and (iii) no Extension Period shall extend beyond the Stated Maturity of the principal of this Security. Upon the termination of any such Extension Period and upon the payment of all accrued and unpaid interest and any Additional Interest then due on any Interest Payment Date, the Company may elect to begin a new Extension Period; *provided*, that (i) such Extension Period does not exceed twenty (20) quarterly interest payment periods, (ii) no Extension Period shall end on a date other than an Interest Payment Date and (iii) no Extension Period shall extend beyond the Stated Maturity of the principal of this Security. The Company shall give the Holder of this Security and the Trustee written notice of its election to begin any such Extension Period at least one Business Day prior to the next succeeding Interest Payment Date on which interest on this Security would be payable but for such deferral or, so long as this Security is held by the Trust, at least one Business Day prior to the earlier of (i) the next succeeding date on which Distributions on the Preferred Securities of American Equity Capital Trust VII would be payable but for such deferral and (ii) the date on which the Property Trustee of such Trust is required to give notice to any securities exchange or other applicable selfregulatory organization or to holders of such Preferred Securities of the record date for the payment of such Distributions.

During any such Extension Period, the Company shall not (i) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any of the Company's capital stock or (ii) make any payment of principal of or any interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Company that rank *pari passu* in all respects with or junior in interest to this Security (other than (a) repurchases, redemptions or other acquisitions of shares of capital stock of the Company in

connection with (1) any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants, (2) a dividend reinvestment or stockholder stock purchase plan and (3) the issuance of capital stock of the Company (or securities convertible into or exercisable for such capital stock) as consideration in an acquisition transaction entered into prior to the applicable Extension Period, (b) as a result of an exchange or conversion of any class or series of the Company's capital stock (or any capital stock of a Subsidiary of the Company) for any class or series of the Company's capital stock or of any class or series of the Company's indebtedness for any class or series of the Company's capital stock, (c) the purchase of fractional interests in shares of the Company's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged, (d) any declaration of a dividend in connection with any Rights Plan, the issuance of rights, stock or other property under any Rights Plan, or the redemption or repurchase of rights pursuant thereto or (e) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks *pari passu* with or junior to such stock).

Payment of principal of, premium, if any, and interest on this Security shall be made in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payments of principal, premium, if any, and interest due at the Maturity of this Security shall be made at the Place of Payment upon surrender of such Securities to the Paying Agent, and payments of interest shall be made, subject to such surrender where applicable, by wire transfer at such place and to such account at a banking institution in the United States as may be designated in writing to the Paying Agent at least ten (10) Business Days prior to the date for payment by the Person entitled thereto unless proper written transfer instructions have not been received by the relevant record date, in which case such payments shall be made by check mailed to the address of such Person as such address shall appear in the Security Register. Notwithstanding the foregoing, so long as the Holder of this Security is the Property Trustee, the payment of the principal of (and premium, if any) and interest (including any overdue installment of interest and Additional Tax Sums, if any) on this Security will be made at such place and to such account as may be designated by the Property Trustee.

The indebtedness evidenced by this Security is, to the extent provided in the Indenture, subordinate and junior in right of payment to the prior payment in full of all Senior Debt, and this Security is issued subject to the provisions of the Indenture with respect thereto. Each Holder of this Security, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee on his or her behalf to take such actions as may be necessary or appropriate to effectuate the subordination so provided and (c) appoints the Trustee his or her attorney-in-fact for any and all such purposes. Each Holder hereof, by his or her acceptance hereof, waives all notice of the acceptance of the subordination provisions contained herein and in the Indenture by each holder of Senior Debt, whether now outstanding or hereafter incurred, and waives reliance by each such holder upon said provisions.

Unless the certificate of authentication hereon has been executed by the Trustee by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

[FORM OF REVERSE OF SECURITY]

This Security is one of a duly authorized issue of securities of the Company (the "*Securities*") issued under the Junior Subordinated Indenture, dated as of September 14, 2004 (the "*Indenture*"), between the Company and JPMorgan Chase Bank, as Trustee (in such capacity, the "*Trustee*," which term includes any successor trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee, the holders of Senior Debt, the Holders of the Securities and the holders of the Preferred Securities, and of the terms upon which the Securities are, and are to be, authenticated and delivered.

All terms used in this Security that are defined in the Indenture or in the Amended and Restated Trust Agreement, dated as of September 14, 2004 (as modified, amended or supplemented from time to time, the "*Trust Agreement*"), relating to the American Equity Capital Trust VII (the "*Trust*") among the Company, as Depositor, the Trustees named therein and the Holders from time to time of the Trust Securities issued pursuant thereto, shall have the meanings assigned to them in the Indenture or the Trust Agreement, as the case may be.

The Company may, on any Interest Payment Date, at its option, upon not less than thirty (30) days' nor more than sixty (60) days' written notice to the Holders of the Securities (unless a shorter notice period shall be satisfactory to the Trustee) on or after December 15, 2009 and subject to the terms and conditions of Article XI of the Indenture, redeem this Security in whole at any time or in part from time to time at a Redemption Price equal to one hundred percent (100%) of the principal amount hereof, together, in the case of any such redemption, with accrued interest, including any Additional Interest, through but excluding the date fixed as the Redemption Date; *provided*, that the Company shall have received the prior approval of any Applicable Insurance Regulatory Authority then required.

In addition, upon the occurrence and during the continuation of a Special Event, the Company may, at its option, upon not less than thirty (30) days' nor more than sixty (60) days' written notice to the Holders of the Securities (unless a shorter notice period shall be satisfactory to the Trustee), redeem this Security, in whole but not in part, subject to the terms and conditions of Article XI of the Indenture at a Redemption Price equal to one hundred seven and one half percent (107.5%) of the principal amount hereof, together, in the case of any such redemption, with accrued interest, including any Additional Interest, through but excluding the date fixed as the Redemption Date; *provided*, that the Company shall have received the prior approval of any Applicable Insurance Regulatory Authority then required.

In the event of redemption of this Security in part only, a new Security or Securities for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof. If less than all the Securities are to be redeemed, the particular Securities to be redeemed shall be selected not more than sixty (60) days prior to the Redemption Date by the Trustee from the Outstanding Securities not previously called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of a portion of the principal amount of any Security.

The Indenture permits, with certain exceptions as therein provided, the Company and the Trustee at any time to enter into a supplemental indenture or indentures for the purpose of modifying in any manner the rights and obligations of the Company and of the Holders of the

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Securities, with the consent of the Holders of not less than a majority in principal amount of the Outstanding Securities. The Indenture also contains provisions permitting Holders of specified percentages in principal amount of the Securities, on behalf of the Holders of all Securities, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium, if any, and interest, including any Additional Interest, on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Securities Register, upon surrender of this Security for registration of transfer at the office or agency of the Company maintained for such purpose, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Securities Registrar and duly executed by, the Holder hereof or such Holder's attorney duly authorized in writing, and thereupon one or more new Securities, of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities are issuable only in registered form without coupons in minimum denominations of \$100,000 and any integral multiple of \$1,000 in excess thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities are exchangeable for a like aggregate principal amount of Securities and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

The Company and, by its acceptance of this Security or a beneficial interest therein, the Holder of, and any Person that acquires a beneficial interest in, this Security agree that, for United States federal, state and local tax purposes, it is intended that this Security constitute indebtedness.

This Security shall be construed and enforced in accordance with and governed by the laws of the State of New York, without reference to its conflict of laws provisions (other than Section 5-1401 of the General Obligations Law).

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IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed on this day of ,20 .

**AMERICAN EQUITY INVESTMENT LIFE HOLDING
COMPANY**

By: _____
Name:
Title:

SECTION 2.2. *Restricted Legend.*

(a) Any Security issued hereunder shall bear a legend in substantially the following form:

“[IF THE SECURITY IS A GLOBAL SECURITY INSERT: THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITORY TRUST COMPANY (“DTC”) OR A NOMINEE OF DTC. THIS SECURITY IS EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN DTC OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS SECURITY (OTHER THAN A TRANSFER OF THIS SECURITY AS A WHOLE BY DTC TO A NOMINEE OF DTC

OR BY A NOMINEE OF DTC TO DTC OR ANOTHER NOMINEE OF DTC) MAY BE REGISTERED EXCEPT IN LIMITED CIRCUMSTANCES.

UNLESS THIS SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]

THE SECURITIES REPRESENTED BY THIS CERTIFICATE WERE ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND SUCH SECURITIES, AND ANY INTEREST THEREIN, MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF ANY SECURITIES IS HEREBY NOTIFIED THAT THE SELLER OF THE SECURITIES MAY BE RELYING ON THE EXEMPTION FROM THE

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PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A UNDER THE SECURITIES ACT.

THE HOLDER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) SUCH SECURITIES MAY BE OFFERED, RESOLD OR OTHERWISE TRANSFERRED ONLY (I) TO THE COMPANY, (II) TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (III) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a) (1), (2),(3) OR (7) OF RULE 501 UNDER THE SECURITIES ACT THAT IS ACQUIRING THE SECURITY FOR ITS OWN ACCOUNT, OR FOR THE ACCOUNT OF AN "ACCREDITED INVESTOR," FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, (IV) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (V) PURSUANT TO AN EXEMPTION FROM THE SECURITIES ACT, IN EACH CASE IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND, IN THE CASE OF (III) OR (V), SUBJECT TO THE RIGHT OF THE COMPANY TO REQUIRE AN OPINION OF COUNSEL AND OTHER INFORMATION SATISFACTORY TO IT AND (B) THE HOLDER WILL NOTIFY ANY PURCHASER OF ANY SECURITIES FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE.

THE SECURITIES WILL BE ISSUED AND MAY BE TRANSFERRED ONLY IN BLOCKS HAVING AN AGGREGATE PRINCIPAL AMOUNT OF NOT LESS THAN \$100,000. TO THE FULLEST EXTENT PERMITTED BY LAW, ANY ATTEMPTED TRANSFER OF SECURITIES, OR ANY INTEREST THEREIN, IN A BLOCK HAVING AN AGGREGATE PRINCIPAL AMOUNT OF LESS THAN \$100,000 AND MULTIPLES OF \$1,000 IN EXCESS THEREOF SHALL BE DEEMED TO BE VOID AND OF NO LEGAL EFFECT WHATSOEVER. TO THE FULLEST EXTENT PERMITTED BY LAW, ANY SUCH PURPORTED TRANSFEREE SHALL BE DEEMED NOT TO BE THE HOLDER OF SUCH SECURITIES FOR ANY PURPOSE, INCLUDING, BUT NOT LIMITED TO, THE RECEIPT OF PRINCIPAL OF OR INTEREST ON SUCH SECURITIES, OR ANY INTEREST THEREIN, AND SUCH PURPORTED TRANSFEREE SHALL BE DEEMED TO HAVE NO INTEREST WHATSOEVER IN SUCH SECURITIES.

THE HOLDER OF THIS SECURITY, OR ANY INTEREST THEREIN, BY ITS ACCEPTANCE HEREOF OR THEREOF ALSO AGREES, REPRESENTS AND WARRANTS THAT IT IS NOT AN EMPLOYEE BENEFIT, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER PLAN OR ARRANGEMENT SUBJECT TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA"), OR SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") (EACH A "PLAN"), OR AN ENTITY WHOSE UNDERLYING ASSETS INCLUDE "PLAN ASSETS" BY

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REASON OF ANY PLAN'S INVESTMENT IN THE ENTITY, AND NO PERSON INVESTING "PLAN ASSETS" OF ANY PLAN MAY ACQUIRE OR HOLD THIS SECURITY OR ANY INTEREST THEREIN. ANY PURCHASER OR HOLDER OF THE SECURITIES OR ANY INTEREST THEREIN WILL BE DEEMED TO HAVE REPRESENTED BY ITS PURCHASE AND HOLDING THEREOF THAT IT IS NOT AN EMPLOYEE BENEFIT PLAN WITHIN THE MEANING OF SECTION 3(3) OF ERISA, OR A PLAN TO WHICH SECTION 4975 OF THE CODE IS APPLICABLE, A TRUSTEE OR OTHER PERSON ACTING ON BEHALF OF AN EMPLOYEE BENEFIT PLAN OR PLAN, OR ANY OTHER PERSON OR ENTITY USING THE ASSETS OF ANY EMPLOYEE BENEFIT PLAN OR PLAN TO FINANCE SUCH PURCHASE."

(b) The above legends shall not be removed from any Security unless there is delivered to the Company satisfactory evidence, which may include an Opinion of Counsel, as may be reasonably required to ensure that any future transfers thereof may be made without restriction under or violation of the provisions of the Securities Act and other applicable law. Upon provision of such satisfactory evidence, the Company shall execute and deliver to the Trustee, and the Trustee shall deliver, upon receipt of a Company Order directing it to do so, a Security that does not bear the legend.

SECTION 2.3. *Form of Trustee's Certificate of Authentication.*

The Trustee's certificate of authentication shall be in substantially the following form:

This is one of the Securities referred to in the within-mentioned Indenture.

Dated:

By: _____

*Authorized signatory*SECTION 2.4. *Temporary Securities.*

(a) Pending the preparation of definitive Securities, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

(b) If temporary Securities are issued, the Company will cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at the office or agency of the Company designated for that purpose without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities,

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the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor one or more definitive Securities of any authorized denominations having the same Original Issue Date and Stated Maturity and having the same terms as such temporary Securities. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

SECTION 2.5. *Definitive Securities.*

The Securities issued on the Original Issue Date shall be in definitive form. The definitive Securities shall be printed, lithographed or engraved, or produced by any combination of these methods, if required by any securities exchange on which the Securities may be listed, on a steel engraved border or steel engraved borders or may be produced in any other manner permitted by the rules of any securities exchange on which the Securities may be listed, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

ARTICLE III

THE SECURITIES

SECTION 3.1. *Payment of Principal and Interest.*

(a) The unpaid principal amount of the Securities shall bear interest at a variable rate of LIBOR plus 3.75% per annum until paid or duly provided for, such interest to accrue from the Original Issue Date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, and any overdue principal, premium, if any, or Additional Tax Sums and any overdue installment of interest shall bear Additional Interest at the rate equal to a variable rate of LIBOR plus 3.75% per annum, compounded quarterly from the dates such amounts are due until they are paid or funds for the payment thereof are made available for payment.

(b) Interest and Additional Interest on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, except that interest and any Additional Interest payable on the Stated Maturity (or any date of principal repayment upon early maturity) of the principal of a Security or on a Redemption Date shall be paid to the Person to whom principal is paid. The initial payment of interest on any Security that is issued between a Regular Record Date and the related Interest Payment Date shall be payable as provided in such Security.

(c) Any interest on any Security that is due and payable, but is not timely paid or duly provided for, on any Interest Payment Date for Securities (herein called "*Defaulted Interest*") shall forthwith cease to be payable to the registered Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in paragraph (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such

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Defaulted Interest (*a "Special Record Date"*), which shall be fixed in the following manner. At least thirty (30) days prior to the date of the proposed payment, the Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each 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. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest, which shall be not more than fifteen (15) days and not less than ten (10) days prior to the date of the proposed payment and not less than ten (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 a Security at the address of such Holder as it appears in the Securities Register not less than ten (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 so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered on such Special Record Date; or

(ii) 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 Securities may be listed and, upon such notice as may be required by such exchange (or by the Trustee if the Securities are not listed), if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such payment shall be deemed practicable by the Trustee.

(d) Payments of interest on the Securities shall include interest accrued to but excluding the respective Interest Payment Dates. Interest payments for the Securities shall be computed and paid on the basis of a 360-day year and the actual number of days elapsed in the relevant interest period.

(e) Payment of principal of, premium, if any, and interest on the Securities shall be made in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payments of principal, premium, if any, and interest due at the Maturity of such Securities shall be made at the Place of Payment upon surrender of such Securities to the Paying Agent and payments of interest shall be made subject to such surrender where applicable, by wire transfer at such place and to such account at a banking institution in the United States as may be designated in writing to the Paying Agent at least ten (10) Business Days prior to the date for payment by the Person entitled thereto unless proper written transfer instructions have not been received by the relevant record date, in which case such payments shall be made by check mailed to the address of such Person as such address shall appear in the Security Register. Notwithstanding the foregoing, so long as the holder of this Security is the Property Trustee, the payment of the principal of (and premium, if any) and interest (including any overdue installment of interest and Additional Tax Sums, if any) on this

Security will be made at such place and to such account as may be designated by the Property Trustee.

(f) Subject to the foregoing provisions of this Section 3.1, each Security delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Security.

SECTION 3.2. *Denominations.*

The Securities shall be in registered form without coupons and shall be issuable in minimum denominations of \$100,000 and any integral multiple of \$1,000 in excess thereof.

SECTION 3.3. *Execution, Authentication, Delivery and Dating.*

(a) At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities in an aggregate principal amount (including all then Outstanding Securities) not in excess of Ten Million Eight Hundred Thirty Thousand Dollars (\$10,830,000) executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities, and the Trustee in accordance with the Company Order shall authenticate and deliver such Securities. In authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and shall be fully protected in relying upon:

(i) a copy of any Board Resolution relating thereto; and

(ii) an Opinion of Counsel stating that: (1) such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute, and the Indenture constitutes, valid and legally binding obligations of the Company, each enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles; (2) the Securities have been duly authorized and executed by the Company and have been delivered to the Trustee for authentication in accordance with this Indenture; (3) the Securities are not required to be registered under the Securities Act; and (4) the Indenture is not required to be qualified under the Trust Indenture Act.

(b) The Securities shall be executed on behalf of the Company by its Chairman of the Board, its Vice Chairman of the Board, its Chief Executive Officer, its President or one of its Vice Presidents. The signature of any of these officers on the Securities may be manual or facsimile. 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 have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

(c) No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless there appears on such Security a certificate of authentication

substantially in the form provided for herein executed by the Trustee by the manual signature of one of its authorized signatories, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 3.8, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

(d) Each Security shall be dated the date of its authentication.

SECTION 3.4. *Global Securities.*

(a) Upon the election of the Holder after the Original Issue Date, which election need not be in writing, the Securities owned by such Holder shall be issued in the form of one or more Global Securities registered in the name of the Depositary or its nominee. Each Global Security issued under this Indenture shall be registered in the name of the Depositary designated by the Company for such Global Security or a nominee thereof and delivered to such Depositary or a nominee thereof or custodian therefor, and each such Global Security shall constitute a single Security for all purposes of this Indenture.

(b) Notwithstanding any other provision in this Indenture, no Global Security may be exchanged in whole or in part for Securities registered, and no transfer of a Global Security in whole or in part may be registered, in the name of any Person other than the Depositary for such Global Security or a nominee thereof unless (i) such Depositary advises the Trustee and the Company in writing that such Depositary is no longer willing or able to properly discharge its responsibilities as Depositary with respect to such Global Security, and no qualified successor is appointed by the Company within ninety (90) days of receipt by the Company of such notice, (ii) such Depositary ceases to be a clearing agency registered under the Exchange Act and no successor is appointed by the Company within ninety (90) days after obtaining knowledge of such event, (iii) the Company executes and delivers to the Trustee a Company Order stating that the Company elects to terminate the book-entry system through the Depositary or (iv) an Event of Default shall have occurred and be continuing. Upon the occurrence of any event specified in clause (i), (ii), (iii) or (iv) above, the Trustee shall notify the Depositary and instruct the Depositary to notify all owners of beneficial interests in such Global Security of the occurrence of such event and of the availability of Securities to such owners of beneficial interests requesting the same. The Trustee may conclusively rely, and be protected in relying, upon the written identification of the owners of beneficial interests furnished by the Depositary, and shall not be liable for any delay resulting from a delay by the Depositary. Upon the issuance of such Securities and the registration in the Securities Register of such Securities in the names of the Holders of the beneficial interests therein, the Trustees shall recognize such holders of beneficial interests as Holders.

(c) If any Global Security is to be exchanged for other Securities or canceled in part, or if another Security is to be exchanged in whole or in part for a beneficial interest in any Global Security, then either (i) such Global Security shall be so surrendered for exchange or cancellation as provided in this Article III or (ii) the principal amount thereof shall be reduced or increased by an amount equal to the portion thereof to be so exchanged or canceled, or equal to

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the principal amount of such other Security to be so exchanged for a beneficial interest therein, as the case may be, by means of an appropriate adjustment made on the records of the Securities Registrar, whereupon the Trustee, in accordance with the Applicable Depositary Procedures, shall instruct the Depositary or its authorized representative to make a corresponding adjustment to its records. Upon any such surrender or adjustment of a Global Security by the Depositary, accompanied by registration instructions, the Company shall execute and the Trustee shall authenticate and deliver any Securities issuable in exchange for such Global Security (or any portion thereof) in accordance with the instructions of the Depositary. The Trustee shall not be liable for any delay in delivery of such instructions and may conclusively rely on, and shall be fully protected in relying on, such instructions.

(d) Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Security or any portion thereof shall be authenticated and delivered in the form of, and shall be, a Global Security, unless such Security is registered in the name of a Person other than the Depositary for such Global Security or a nominee thereof.

(e) Securities distributed to holders of Book-Entry Preferred Securities (as defined in the applicable Trust Agreement) upon the dissolution of the Trust shall be distributed in the form of one or more Global Securities registered in the name of a Depositary or its nominee, and deposited with the Securities Registrar, as custodian for such Depositary, or with such Depositary, for credit by the Depositary to the respective accounts of the beneficial owners of the Securities represented thereby (or such other accounts as they may direct). Securities distributed to holders of Preferred Securities other than Book-Entry Preferred Securities upon the dissolution of the Trust shall not be issued in the form of a Global Security or any other form intended to facilitate book-entry trading in beneficial interests in such Securities.

(f) The Depositary or its nominee, as the registered owner of a Global Security, shall be the Holder of such Global Security for all purposes under this Indenture and the Securities, and owners of beneficial interests in a Global Security shall hold such interests pursuant to the Applicable Depositary Procedures. Accordingly, any such owner's beneficial interest in a Global Security shall be shown only on, and the transfer of such interest shall be effected only through, records maintained by the Depositary or its nominee or its Depositary Participants. The Securities Registrar and the Trustee shall be entitled to deal with the Depositary for all purposes of this Indenture relating to a Global Security (including the payment of principal and interest thereon and the giving of instructions or directions by owners of beneficial interests therein and the giving of notices) as the sole Holder of the Security and shall have no obligations to the owners of beneficial interests therein. Neither the Trustee nor the Securities Registrar shall have any liability in respect of any transfers effected by the Depositary.

(g) The rights of owners of beneficial interests in a Global Security shall be exercised only through the Depositary and shall be limited to those established by law and agreements between such owners and the Depositary and/or its Depositary Participants.

(h) No holder of any beneficial interest in any Global Security held on its behalf by a Depositary shall have any rights under this Indenture with respect to such Global Security, and such Depositary may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the owner of such Global Security for all purposes whatsoever. None of the Company, the Trustee nor any agent of the Company or the Trustee will have any responsibility

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or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Notwithstanding the foregoing, 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 Depositary or impair, as between a Depositary and such holders of beneficial interests, the operation of customary practices governing the exercise of the rights of the Depositary (or its nominee) as Holder of any Security.

SECTION 3.5. *Registration, Transfer and Exchange Generally.*

(a) The Trustee shall cause to be kept at the Corporate Trust Office a register (the "*Securities Register*") in which the registrar and transfer agent with respect to the Securities (the "*Securities Registrar*"), subject to such reasonable regulations as it may prescribe, shall provide for the registration of Securities and of transfers and exchanges of Securities. The Trustee shall at all times also be the Securities Registrar. The provisions of Article VI shall apply to the Trustee in its role as Securities Registrar.

(b) Subject to compliance with Section 2.2(b), upon surrender for registration of transfer of any Security at the offices or agencies of the Company designated for that purpose the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations of like tenor and aggregate principal amount.

(c) At the option of the Holder, Securities may be exchanged for other Securities of any authorized denominations, of like tenor and aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities that the Holder making the exchange is entitled to receive.

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

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

(f) No service charge shall be made to a Holder for any transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Securities.

(g) Neither the Company nor the Trustee shall be required pursuant to the provisions of this Section 3.5 (g): (i) to issue, register the transfer of or exchange any Security during a period beginning at the opening of business fifteen (15) days before the day of selection for redemption of Securities pursuant to Article XI and ending at the close of business on the day of mailing of the notice of redemption or (ii) to register the transfer of or exchange any Security so

selected for redemption in whole or in part, except, in the case of any such Security to be redeemed in part, any portion thereof not to be redeemed.

(h) The Company shall designate an office or offices or agency or agencies where Securities may be surrendered for registration or transfer or exchange. The Company initially designates the Corporate Trust Office as its office and agency for such purposes. The Company shall give prompt written notice to the Trustee and to the Holders of any change in the location of any such office or agency.

SECTION 3.6. *Mutilated, Destroyed, Lost and Stolen Securities.*

(a) If any mutilated Security is surrendered to the Trustee together with such security or indemnity as may be required by the Trustee to save the Company and the Trustee harmless, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of like tenor and aggregate principal amount and bearing a number not contemporaneously outstanding.

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

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

(d) Upon the issuance of any new Security under this Section 3.6, 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.

(e) Every new Security issued pursuant to this Section 3.6 in lieu of any mutilated, destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen 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 Securities duly issued hereunder.

(f) The provisions of this Section 3.6 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 3.7. *Persons Deemed Owners.*

The Company, the Trustee and any agent of the Company or the Trustee shall treat the Person in whose name any Security is registered as the owner of such Security for the purpose of

receiving payment of principal of and any interest on such Security and for all other purposes whatsoever, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

SECTION 3.8. *Cancellation.*

All Securities surrendered for payment, redemption, transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee, and any such Securities and Securities surrendered directly to the Trustee for any such purpose shall be promptly canceled by it. The Company

may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly canceled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities canceled as provided in this Section 3.8, except as expressly permitted by this Indenture. All canceled Securities shall be retained by the Trustee in accordance with its customary practices.

SECTION 3.9. *Deferrals of Interest Payment Dates.*

(a) So long as no Event of Default has occurred and is continuing, the Company shall have the right, at any time and from time to time during the term of the Security, to defer the payment of interest on the Securities for a period of up to twenty (20) consecutive quarterly interest payment periods (each such period, an “*Extension Period*”), during which Extension Period(s), the Company shall have the right to make no payments or partial payments of interest on any Interest Payment Date (except any Additional Tax Sums that otherwise may be due and payable). No Extension Period shall end on a date other than an Interest Payment Date and no Extension Period shall extend beyond the Stated Maturity of the principal of the Securities. No interest shall be due and payable during an Extension Period, except at the end thereof, but each installment of interest that would otherwise have been due and payable during such Extension Period shall bear Additional Interest (to the extent payment of such interest would be legally enforceable) at the rate equal to a variable rate equal to LIBOR plus 3.75% per annum, compounded quarterly, from the dates on which amounts would have otherwise been due and payable until paid or until funds for the payment thereof have been made available for payment. At the end of any such Extension Period, the Company shall pay all interest then accrued and unpaid on the Securities together with such Additional Interest. Prior to the termination of any such Extension Period, the Company may extend such Extension Period and further defer the payment of interest; *provided*, that (i) all such previous and further extensions comprising such Extension Period do not exceed twenty (20) quarterly interest payment periods, (ii) no Extension Period shall end on a date other than an Interest Payment Date and (iii) no Extension Period shall extend beyond the Stated Maturity of the principal of the Securities. Upon the termination of any such Extension Period and upon the payment of all accrued and unpaid interest and any Additional Interest then due on any Interest Payment Date, the Company may elect to begin a new Extension Period; *provided*, that (i) such Extension Period does not exceed twenty (20) quarterly interest payment periods, (ii) no Extension Period shall end on a date other than an Interest Payment Date and (iii) no Extension Period shall extend beyond the Stated Maturity of the principal of the Securities. The Company shall give the Holders of the Securities and the Trustee written notice of its election to begin any such Extension Period at least one Business Day prior to the next succeeding Interest Payment Date on which interest on the Securities would be payable but for such deferral or, so long as any Securities are held by the Trust, at least one

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Business Day prior to the earlier of (i) the next succeeding date on which Distributions on the Preferred Securities of such Trust would be payable but for such deferral and (ii) the date on which the Property Trustee of such Trust is required to give notice to any securities exchange or other applicable self-regulatory organization or to holders of such Preferred Securities of the record date for the payment of such Distributions.

(b) In connection with any such Extension Period, the Company shall be subject to the restrictions set forth in Section 10.6(a).

SECTION 3.10. *Right of Set-Off:*

Notwithstanding anything to the contrary herein, the Company shall have the right to set off any payment it is otherwise required to make in respect of any Security to the extent the Company has theretofore made, or is concurrently on the date of such payment making, a payment under the Guarantee Agreement relating to such Security or to a holder of Preferred Securities pursuant to an action undertaken under Section 5.8 of this Indenture.

SECTION 3.11. *Agreed Tax Treatment.*

Each Security issued hereunder shall provide that the Company and, by its acceptance or acquisition of a Security or a beneficial interest therein, the Holder of, and any Person that acquires a direct or indirect beneficial interest in, such Security, intend and agree to treat such Security as indebtedness of the Company for United States Federal, state and local tax purposes and to treat the Preferred Securities (including but not limited to all payments and proceeds with respect to the Preferred Securities) as an undivided beneficial ownership interest in the Securities (and any other Trust property) (and payments and proceeds therefrom, respectively) for United States Federal, state and local tax purposes. The provisions of this Indenture shall be interpreted to further this intention and agreement of the parties.

SECTION 3.12. *CUSIP Numbers.*

The Company in issuing the Securities may use “CUSIP” numbers (if then generally in use), and, if so, the Trustee shall use “CUSIP” numbers in notices of redemption and other similar or related materials as a convenience to Holders; *provided*, that any such notice or other materials may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of redemption or other materials and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers.

ARTICLE IV

SATISFACTION AND DISCHARGE

SECTION 4.1. *Satisfaction and Discharge of Indenture.*

This Indenture shall, upon Company Request, cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for and as otherwise provided in this Section 4.1) and the Trustee, on demand of and at

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the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when

(a) either

(i) all Securities theretofore authenticated and delivered (other than (A) Securities that have been mutilated, destroyed, lost or stolen and that have been replaced or paid as provided in Section 3.6 and (B) 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 10.2) have been delivered to the Trustee for cancellation; or

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

(A) have become due and payable, or

(B) will become due and payable at their Stated Maturity within one year of the date of deposit, or

(C) 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 subclause (ii)(A), (B) or (C) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for such purpose (x) an amount in the currency or currencies in which the Securities are payable, (y) Government Obligations 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, money in an amount or (z) a combination thereof, in each case sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal and any premium and interest (including any Additional Interest) to the date of such deposit (in the case of Securities that have become due and payable) or to the Stated Maturity (or any date of principal repayment upon early maturity) or Redemption Date, as the case may be;

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

(c) 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 Section 6.6, the obligations of the Company to any Authenticating Agent under Section 6.11 and, if money shall have been deposited with the Trustee pursuant to subclause (a)(ii) of this Section 4.1, the obligations of the Trustee under Section 4.2 and Section 10.2(e) shall survive.

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SECTION 4.2. *Application of Trust Money.*

Subject to the provisions of Section 10.2(e), all money deposited with the Trustee pursuant to Section 4.1 shall be held in trust and applied by the Trustee, in accordance with the provisions of the Securities and this Indenture, to the payment in accordance with Section 3.1, either directly or through any 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 any premium and interest (including any Additional Interest) for the payment of which such money or obligations have been deposited with or received by the Trustee. Moneys held by the Trustee under this Section 4.2 shall not be subject to the claims of holders of Senior Debt under Article XII.

ARTICLE V

REMEDIES

SECTION 5.1. *Events of Default.*

"Event of Default" means, wherever used herein with respect to the Securities, 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):

(a) default in the payment of any interest upon any Security, including any Additional Interest in respect thereof, when it becomes due and payable, and continuance of such default for a period of thirty (30) days (subject to the deferral of any due date in the case of an Extension Period); or

(b) default in the payment of the principal of or any premium on any Security at its Maturity; or

(c) default in the performance, or breach, of any covenant or warranty of the Company in this Indenture and continuance of such default or breach for a period of thirty (30) 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 twenty five percent (25%) in aggregate principal amount of the Outstanding Securities 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;

(d) the entry by a court having jurisdiction in the premises of a decree or order adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or state bankruptcy, insolvency, reorganization or other similar law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator 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 decree or order for relief or any such other decree or order unstayed and in effect for a period of sixty (60) consecutive days;

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(e) the institution by the Company of proceedings to be adjudicated a bankrupt or insolvent, or the consent by the Company to the institution of bankruptcy or insolvency proceedings against it, or the filing by the Company of a petition or answer or consent seeking reorganization or relief under any

applicable Federal or state bankruptcy, insolvency, reorganization or other similar law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due and its willingness to be adjudicated a bankrupt or insolvent, or the taking of corporate action by the Company in furtherance of any such action; or

(f) the Trust shall have voluntarily or involuntarily liquidated, dissolved, wound-up its business or otherwise terminated its existence, except in connection with (1) the distribution of the Securities to holders of the Preferred Securities in liquidation of their interests in the Trust, (2) the redemption of all of the outstanding Preferred Securities or (3) certain mergers, consolidations or amalgamations, each as and to the extent permitted by the Trust Agreement.

SECTION 5.2. *Acceleration of Maturity; Rescission and Annulment.*

(a) If an Event of Default occurs and is continuing, then and in every such case the Trustee or the Holders of not less than twenty five percent (25%) in aggregate principal amount of the Outstanding Securities may declare the principal amount of all the Securities to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), provided, that if, upon an Event of Default, the Trustee or the Holders of not less than twenty five percent (25%) in principal amount of the Outstanding Securities fail to declare the principal of all the Outstanding Securities to be immediately due and payable, the holders of at least twenty five percent (25%) in aggregate Liquidation Amount of the Preferred Securities then outstanding shall have the right to make such declaration by a notice in writing to the Property Trustee, the Company and the Trustee; and upon any such declaration the principal amount of and the accrued interest (including any Additional Interest) on all the Securities shall become immediately due and payable.

(b) At any time after such a declaration of acceleration with respect to Securities has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter provided in this Article V, the Holders of a majority in aggregate principal amount of the Outstanding Securities, by written notice to the Indenture Trustee, or the holders of a majority in aggregate Liquidation Amount of the Preferred Securities, by written notice to the Property Trustee, the Company and the Trustee, may rescind and annul such declaration and its consequences if:

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

- (A) all overdue installments of interest on all Securities,
- (B) any accrued Additional Interest on all Securities,

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(C) the principal of and any premium on any Securities that have become due otherwise than by such declaration of acceleration and interest (including any Additional Interest) thereon at the rate borne by the Securities, and

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

(ii) all Events of Default with respect to Securities, other than the non-payment of the principal of Securities that has become due solely by such acceleration, have been cured or waived as provided in Section 5.13;

provided, that if the Holders of such Securities fail to annul such declaration and waive such default, the holders of not less than a majority in aggregate Liquidation Amount of the Preferred Securities then outstanding shall also have the right to rescind and annul such declaration and its consequences by written notice to the Property Trustee, the Company and the Trustee, subject to the satisfaction of the conditions set forth in paragraph (b) of this Section 5.2. No such rescission shall affect any subsequent default or impair any right consequent thereon.

SECTION 5.3. *Collection of Indebtedness and Suits for Enforcement by Trustee.*

(a) The Company covenants that if:

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

(ii) default is made in the payment of the principal of and any premium on any Security at the Maturity thereof,

the Company will, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and any premium and interest (including any Additional Interest) and, in addition thereto, all amounts owing the Trustee under Section 6.6.

(b) 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 or any other obligor upon such Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Securities, wherever situated.

(c) If an Event of Default with respect to Securities occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities 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 5.4. *Trustee May File Proofs of Claim.*

In case of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or similar judicial proceeding relative to the Company (or any other obligor upon the Securities), its property or its creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized hereunder in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial 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 first pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts owing the Trustee, any predecessor Trustee and other Persons under Section 6.6.

SECTION 5.5. *Trustee May Enforce Claim Without Possession of Securities.*

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the 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, subject to Article XII and after provision for the payment of all the amounts owing the Trustee, any predecessor Trustee and other Persons under Section 6.6, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

SECTION 5.6. *Application of Money Collected.*

Any money or property collected or to be applied by the Trustee with respect to the Securities pursuant to this Article V 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 or property on account of principal or any premium or interest (including any Additional Interest), upon presentation of the 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, any predecessor Trustee and other Persons under Section 6.6;

SECOND: To the payment of all Senior Debt of the Company if and to the extent required by Article XII;

THIRD: Subject to Article XII, to the payment of the amounts then due and unpaid upon the Securities for principal and any premium and interest (including any Additional Interest) in respect of which or for the benefit of which such money has been collected, ratable, without preference or priority of any kind, according to the amounts due and payable on the Securities for principal and any premium and interest (including any Additional Interest), respectively; and

FOURTH: The balance, if any, to the Person or Persons entitled thereto.

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SECTION 5.7. *Limitation on Suits.*

Subject to Section 5.8, no Holder of any Securities shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture or for the appointment of a custodian, receiver, assignee, trustee, liquidator, sequestrator (or other similar official) or for any other remedy hereunder, unless:

- (a) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities;
- (b) the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;
- (c) 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;
- (d) the Trustee after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding for sixty (60) days; and
- (e) no direction inconsistent with such written request has been given to the Trustee during such sixty (60)-day period by the Holders of a majority in aggregate principal amount of the Outstanding Securities;

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

SECTION 5.8. *Unconditional Right of Holders to Receive Principal, Premium, if any, and Interest; Direct Action by Holders of Preferred Securities.*

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of and any premium on such Security at its Maturity and payment of interest (including any Additional Interest) on such Security when due and payable and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder. Any registered holder of the Preferred Securities shall have the right, upon the occurrence of an Event of Default described in Section 5.1(a) or Section 5.1(b), to institute a suit directly against the Company for enforcement of payment to such holder of principal of and any premium and interest (including any Additional Interest) on the Securities having a principal amount equal to the aggregate Liquidation Amount of the Preferred Securities held by such holder.

SECTION 5.9. *Restoration of Rights and Remedies.*

Holder or such holder of Preferred Securities, then and in every such case the Company, the Trustee, such Holders and such holder of Preferred Securities shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Trustee, such Holder and such holder of Preferred Securities shall continue as though no such proceeding had been instituted.

SECTION 5.10. *Rights and Remedies Cumulative.*

Except as otherwise provided in Section 3.6(f), no right or remedy herein conferred upon or reserved to the Trustee or 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 5.11. *Delay or Omission Not Waiver.*

No delay or omission of the Trustee, any Holder of any Securities or any holder of any Preferred 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 V or by law to the Trustee or to the Holders and the right and remedy given to the holders of Preferred Securities by Section 5.8 may be exercised from time to time, and as often as may be deemed expedient, by the Trustee, the Holders or the holders of Preferred Securities, as the case may be.

SECTION 5.12. *Control by Holders.*

The Holders of not less than a majority in aggregate principal amount of the Outstanding Securities (or, as the case may be, the holders of a majority in aggregate Liquidation Amount of Preferred Securities) 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; *provided*, that:

- (a) such direction shall not be in conflict with any rule of law or with this Indenture,
- (b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction, and
- (c) subject to the provisions of Section 6.2, the Trustee shall have the right to decline to follow such direction if a Responsible Officer or Officers of the Trustee shall, in good faith, reasonably determine that the proceeding so directed would be unjustly prejudicial to the Holders not joining in any such direction or would involve the Trustee in personal liability.

SECTION 5.13. *Waiver of Past Defaults.*

(a) The Holders of not less than a majority in aggregate principal amount of the Outstanding Securities or the holders of not less than a majority in aggregate Liquidation Amount of the Preferred Securities may waive any past Event of Default hereunder and its consequences except an Event of Default:

(i) in the payment of the principal of or any premium or interest (including any Additional Interest) on any Security (unless such Event of Default has been cured and the Company has paid to or deposited with the Trustee a sum sufficient to pay all installments of interest (including any Additional Interest) due and past due and all principal of and any premium on all Securities due otherwise than by acceleration), or

(ii) in respect of a covenant or provision hereof that under Article IX cannot be modified or amended without the consent of each Holder of any Outstanding Security.

(b) Any such waiver shall be deemed to be on behalf of the Holders of all the Securities or, in the case of a waiver by holders of Preferred Securities issued by such Trust, by all holders of Preferred Securities.

(c) Upon any such waiver, such Event of 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 Event of Default or impair any right consequent thereon.

SECTION 5.14. *Undertaking for Costs.*

All parties to this Indenture agree, and each Holder of any Security by his or her 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 or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in Such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 5.14 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than ten percent (10%) in aggregate principal amount of the Outstanding Securities, or to any suit instituted by any Holder for the enforcement of the payment of the principal of or any premium on the Security after the Stated Maturity or any interest (including any Additional Interest) on any Security after it is due and payable.

SECTION 5.15. *Waiver of Usury, 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 usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE VI

THE TRUSTEE

SECTION 6.1. *Corporate Trustee Required.*

There shall at all times be a Trustee hereunder with respect to the Securities. The Trustee shall be a corporation organized and doing business under the laws of the United States or of any state thereof, authorized 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 and having an office within the United States. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then, for the purposes of this Section 6.1, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 6.1, it shall resign immediately in the manner and with the effect hereinafter specified in this Article VI.

SECTION 6.2. *Certain Duties and Responsibilities.*

Except during the continuance of an Event of Default:

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

(ii) 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; *provided*, that in the case of any such certificates or opinions that 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 substantially conform on their face to the requirements of this Indenture.

(b) If an Event of Default known to the Trustee has occurred and is continuing, the Trustee shall, prior to the receipt of directions, if any, from the Holders of at least a majority in aggregate principal amount of the Outstanding Securities (or, if applicable, from the holders of at least a majority in aggregate Liquidation Amount of Preferred Securities), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) Notwithstanding the foregoing, 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. 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 6.2. To the

extent that, at law or in equity, the Trustee has duties and liabilities relating to the Holders, the Trustee shall not be liable to any Holder or any holder of Preferred Securities for the Trustee's good faith reliance on the provisions of this Indenture. The provisions of this Indenture, to the extent that they restrict the duties and liabilities of the Trustee otherwise existing at law or in equity, are agreed by the Company and the Holders and the holders of Preferred Securities to replace such other duties and liabilities of the Trustee.

(d) No provisions of this Indenture shall be construed to relieve the Trustee from liability with respect to matters that are within the authority of the Trustee under this Indenture for its own negligent action, negligent failure to act or willful misconduct, except that:

(i) the Trustee shall not be liable for any error or judgment made in good faith by an authorized officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(ii) 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 at least a majority in aggregate principal amount of the Outstanding Securities (or, as the case may be, the holders of a majority in aggregate Liquidation Amount of Preferred Securities) relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee under this Indenture; and

(iii) the Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company and money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law.

(e) If at any time the Trustee hereunder is not the same Person as the Property Trustee under the Trust Agreement:

(i) whenever a reference is made herein to the dissolution, termination or liquidation of the Trust, the Trustee shall be entitled to assume that no such dissolution, termination, or liquidation has occurred so long as the Securities are or continue to be registered in the name of such

Property Trustee, and the Trustee shall be charged with notice or knowledge of such dissolution, termination or liquidation only upon written notice thereof given to the Trustee by the Depositor under the Trust Agreement; and

(ii) the Trustee shall not be charged with notice or knowledge that any Person is a holder of Preferred Securities or Common Securities issued by the Trust or whether any group of holders of Preferred Securities constitutes any specified percentage of all outstanding Preferred Securities for any purpose under this Indenture, unless and until the Trustee is furnished with a list of holders by such Property Trustee and the aggregate Liquidation Amount of the Preferred Securities then outstanding. The Trustee may conclusively rely and shall be protected in relying on such list.

(f) Notwithstanding Section 1.10, the Trustee shall not, and shall not be deemed to, owe any fiduciary duty to the holders of any of the Trust Securities issued by the Trust and shall not be liable to any such holder (other than for the willful misconduct or negligence of the Trustee) if the Trustee in good faith (i) pays over or distributes to a registered Holder of the

Securities or to the Company or to any other Person, cash, property or securities to which such holders of such Trust Securities shall be entitled or (ii) takes any action or omits to take any action at the request of the Holder of such Securities. Nothing in this paragraph shall affect the obligation of any other such Person to hold such payment for the benefit of, and to pay such amount over to, such holders of Preferred Securities or Common Securities or their representatives.

SECTION 6.3. *Notice of Defaults.*

Within ninety (90) days after the occurrence of any default actually known to the Trustee, the Trustee shall give the Holders notice of such default unless such default shall have been cured or waived; *provided*, that in the case of any default of the character specified in Section 5.1(c), no such notice to Holders shall be given until at least thirty (30) days after the occurrence thereof. For the purpose of this Section 6.3, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default.

SECTION 6.4. *Certain Rights of Trustee.*

Subject to the provisions of Section 6.2:

(a) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting in good faith and in accordance with the terms hereof upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) if (i) in performing its duties under this Indenture the Trustee is required to decide between alternative courses of action, (ii) in construing any of the provisions of this Indenture the Trustee finds ambiguous or inconsistent with any other provisions contained herein or (iii) the Trustee is unsure of the application of any provision of this Indenture, then, except as to any matter as to which the Holders are entitled to decide under the terms of this Indenture, the Trustee shall deliver a notice to the Company requesting the Company’s written instruction as to the course of action to be taken and the Trustee shall take such action, or refrain from taking such action, as the Trustee shall be instructed in writing to take, or to refrain from taking, by the Company; *provided*, that if the Trustee does not receive such instructions from the Company within ten Business Days after it has delivered such notice or such reasonably shorter period of time set forth in such notice the Trustee may, but shall be under no duty to, take such action, or refrain from taking such action, as the Trustee shall deem advisable and in the best interests of the Holders, in which event the Trustee shall have no liability except for its own negligence, bad faith or willful misconduct;

(c) any request or direction of the Company 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 Resolution;

(d) the Trustee may consult with counsel (which counsel may be counsel to the Trustee, the Company or any of its Affiliates, and may include any of its employees) and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and

protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) 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 or any holder of Preferred Securities pursuant to this Indenture, unless such Holders (or such holders of Preferred Securities) shall have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses (including reasonable attorneys’ fees and expenses) and liabilities that might be incurred by it in compliance with such request or direction, including reasonable advances as may be requested by the Trustee;

(f) 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, indenture, note or other paper or document, but the Trustee in its discretion may make such inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney;

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

(h) whenever in the administration of this Indenture the Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action with respect to enforcing any remedy or right hereunder, the Trustees (i) may request instructions from the Holders (which instructions may only be given by the Holders of the same aggregate principal amount of Outstanding Securities as would be entitled to direct the

Trustee under this Indenture in respect of such remedy, right or action), (ii) may refrain from enforcing such remedy or right or taking such action until such instructions are received and (iii) shall be protected in acting in accordance with such instructions;

(i) except as otherwise expressly provided by this Indenture, the Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Indenture;

(j) without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with any bankruptcy, insolvency or other proceeding referred to in clauses (d) or (e) of the definition of Event of Default, such expenses (including legal fees and expenses of its agents and counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy laws or law relating to creditors rights generally;

(k) 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, conclusively rely upon an Officers' Certificate addressing such matter, which, upon receipt of such request, shall be promptly delivered by the Company;

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(1) the Trustee shall not be charged with knowledge of any Event of Default unless either (i) a Responsible Officer of the Trustee shall have actual knowledge or (ii) the Trustee shall have received written notice thereof from the Company or a Holder; and

(m) in the event that the Trustee is also acting as Paying Agent, Authenticating Agent or Securities Registrar hereunder, the rights and protections afforded to the Trustee pursuant to this Article VI shall also be afforded such Paying Agent, Authenticating Agent, or Securities Registrar.

SECTION 6.5. *May Hold Securities.*

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

SECTION 6.6. *Compensation; Reimbursement; Indemnity.*

(a) The Company agrees

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

(ii) 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 any such expense, disbursement or advance as may be attributable to its negligence, bad faith or willful misconduct; and

(iii) to the fullest extent permitted by applicable law, to indemnify the Trustee and its Affiliates, and their officers, directors, shareholders, agents, representatives and employees for, and to hold them harmless against, any loss, damage, liability, tax (other than income, franchise or other taxes imposed on amounts paid pursuant to (i) or (ii) hereof), penalty, expense or claim of any kind or nature whatsoever incurred without negligence, bad faith or willful misconduct on its part arising out of or in connection with the acceptance or administration of this trust or the performance of the Trustee's duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

(b) To secure the Company's payment obligations in this Section 6.6, the Company hereby grants and pledges to the Trustee and the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee, other than money or property held in trust to pay principal and interest on particular Securities. Such lien shall survive the satisfaction and discharge of this Indenture or the resignation or removal of the Trustee.

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(c) The obligations of the Company under this Section 6.6 shall survive the satisfaction and discharge of this Indenture and the earlier resignation or removal of the Trustee.

(d) In no event shall the Trustee be liable for any indirect, special, punitive or consequential loss or damage of any kind whatsoever, including, but not limited to, lost profits, even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(e) In no event shall the Trustee be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond its control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, embargo, government action, including any laws, ordinances, regulations, governmental action or the like which delay, restrict or prohibit the providing of the services contemplated by this Indenture.

SECTION 6.7. *Resignation and Removal; Appointment of Successor.*

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article VI shall become effective until the acceptance of appointment by the successor Trustee under Section 6.8.

(b) The Trustee may resign at any time by giving written notice thereof to the Company.

(c) Unless an Event of Default shall have occurred and be continuing, the Trustee may be removed at any time by the Company by a Board Resolution. If an Event of Default shall have occurred and be continuing, the Trustee may be removed by Act of the Holders of a majority in aggregate principal amount of the Outstanding Securities, delivered to the Trustee and to the Company.

(d) 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 reason, at a time when no Event of Default shall have occurred and be continuing, the Company, by a Board Resolution, shall promptly appoint a successor Trustee, and such successor Trustee and the retiring Trustee shall comply with the applicable requirements of Section 6.8. 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 reason, at a time when an Event of Default shall have occurred and be continuing, the Holders, by Act of the Holders of a majority in aggregate principal amount of the Outstanding Securities, shall promptly appoint a successor Trustee, and such successor Trustee and the retiring Trustee shall comply with the applicable requirements of Section 6.8. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment within sixty (60) days after the giving of a notice of resignation by the Trustee or the removal of the Trustee in the manner required by Section 6.8, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of such Holder and all others similarly situated, and any resigning Trustee may, at the expense of the Company, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(e) The Company shall give notice to all Holders in the manner provided in Section 1.6 of each resignation and each removal of the Trustee and each appointment of a successor

Trustee. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

SECTION 6.8. Acceptance of Appointment by Successor.

(a) In case of the appointment hereunder of a successor Trustee, each 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 the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

(b) 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 rights, powers and trusts referred to in paragraph (a) of this Section 6.8.

(c) 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 VI.

SECTION 6.9. Merger, Conversion, Consolidation or Succession to Business.

Any Person into which the Trustee may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any Person succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto, *provided*, that such Person shall be otherwise qualified and eligible under this Article VI. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation or as otherwise provided above in this Section 6.9 to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated, and in case any Securities shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor Trustee or in the name of such successor Trustee, and in all cases the certificate of authentication shall have the full force which it is provided anywhere in the Securities or in this Indenture that the certificate of the Trustee shall have.

SECTION 6.10. Not Responsible for Recitals or Issuance of Securities.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and neither the Trustee nor any Authenticating Agent assumes any responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities. Neither the Trustee nor any Authenticating Agent shall be accountable for the use or application by the Company of the Securities or the proceeds thereof.

SECTION 6.11. Appointment of Authenticating Agent.

(a) The Trustee may appoint an Authenticating Agent or Agents with respect to the Securities, which shall be authorized to act on behalf of the Trustee to authenticate Securities issued upon original issue and upon exchange, registration of transfer or partial redemption thereof or pursuant to Section 3.6, and 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 and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery 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 organized and doing business under the laws of the United States of America, or of any State or Territory thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by Federal or state authority. If such Authenticating Agent publishes reports of condition at least annually pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 6.11 the combined capital and surplus of such Authenticating Agent 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 6.11, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section 6.11.

(b) Any Person into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any Person succeeding to all or substantially all of the corporate trust business of an Authenticating Agent shall be the successor Authenticating Agent hereunder, provided such Person shall be otherwise eligible under this Section 6.11, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

(c) An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof 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 such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.11, the Trustee may appoint a successor Authenticating Agent eligible under the provisions of this Section 6.11, which shall be acceptable to the Company, and shall give notice of such appointment to all Holders. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent.

(d) The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section 6.11 in such amounts as the Company and the Authenticating Agent shall agree from time to time.

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(e) If an appointment of an Authenticating Agent is made pursuant to this Section 6.11, the Securities may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Securities referred to in the within mentioned Indenture.

Dated:

JPMORGAN CHASE BANK, not in its individual capacity,
but solely as Trustee

By: _____
Authenticating Agent

By: _____
Authorized signatory

ARTICLE VII

HOLDER'S LISTS AND REPORTS BY COMPANY

SECTION 7.1. *Company to Furnish Trustee Names and Addresses of Holders.*

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

- (a) semiannually, on or before June 30 and December 31 of each year, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of a date not more than fifteen (15) days prior to the delivery thereof, and
- (b) at such other times as the Trustee may request in writing, within thirty (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 fifteen (15) days prior to the time such list is furnished,

in each case to the extent such information is in the possession or control of the Company and has not otherwise been received by the Trustee in its capacity as Securities Registrar.

SECTION 7.2. *Preservation of Information, Communications to Holders.*

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.1 and the names and addresses of Holders received by the Trustee in its capacity as Securities Registrar. The Trustee may destroy any list furnished to it as provided in Section 7.1 upon receipt of a new list so furnished.

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(b) The rights of Holders to communicate with other Holders with respect to their rights under this Indenture or under the Securities, and the corresponding rights and privileges of the Trustee, shall be as provided in the Trust Indenture Act.

(c) Every Holder of Securities, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of the disclosure of information as to the names and addresses of the Holders made pursuant to the Trust Indenture Act.

SECTION 7.3. *Reports by Company.*

(a) The Company shall furnish to the Holders and to prospective purchasers of Securities, upon their request, the information required to be furnished pursuant to Rule 144A(d)(4) under the Securities Act. The Company shall furnish to the Trustee and, so long as the Property Trustee holds any of

the Securities, the Company shall furnish to the Property Trustee, Statutory Financial Statements promptly following their filing with the Applicable Insurance Regulatory Authority. The delivery requirement set forth in the preceding sentence may be satisfied by compliance with Section 7.3(b) hereof.

(b) The Company shall furnish to each of (i) the Trustee, (ii) the Holders and to subsequent holders of Securities, (iii) Cohen Bros. Financial Management LLC, 1818 Market Street, 28th Street, Philadelphia, Pennsylvania 13103), or such other address as designated by Cohen Bros. Financial Management LLC) and (iv) any beneficial owner of the Securities reasonably identified to the Company (which identification may be made either by such beneficial owner or by Cohen Bros. Financial Management LLC), a duly completed and executed certificate substantially and substantively in the form attached hereto as Exhibit A, including the financial statements referenced in such Exhibit, which certificate and financial statements shall be so furnished by the Company not later than forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Company and not later than ninety (90) days after the end of each fiscal year of the Company. The delivery requirements under this Section 7.3(b) may be satisfied by compliance with Section 8.16(b) of the Trust Agreement.

(c) If the Company intends to file its annual and quarterly information with the Securities and Exchange Commission (the “Commission”) in electronic form pursuant to Regulation S-T of the Commission using the Commission’s Electronic Data Gathering, Analysis and Retrieval (“EDGAR”) system, the Company shall notify the Trustee in the manner prescribed herein of each such annual and quarterly filing. The Trustee is hereby authorized and directed to access the EDGAR system for purposes of retrieving the financial information so filed. Compliance with the foregoing shall constitute delivery by the Company of its financial statements to the Trustee in compliance with the provisions of Section 314(a) of the Trust Indenture Act, if applicable. The Trustee shall have no duty to search for or obtain any electronic or other filings that the Company makes with the Commission, regardless of whether such filings are periodic, supplemental or otherwise. Delivery of reports, information and documents to the Trustee pursuant to this Section 7.3(c) shall be solely for purposes of compliance with this Section 7.3(c) and, if applicable, with Section 314(a) of the Trust Indenture Act. The Trustee’s receipt of such reports, information and documents shall not constitute notice to it of the content thereof or any matter determinable from the content thereof, including the

Company’s compliance with any of its covenants hereunder, as to which the Trustee is entitled to rely upon Officers’ Certificates.

ARTICLE VIII

CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

SECTION 8.1. *Company May Consolidate, Etc., Only on Certain Terms.*

The Company shall not consolidate with or merge into any other Person or convey, transfer or lease its properties and assets substantially as an entirety to any Person, and no Person shall consolidate with or merge into the Company or convey, transfer or lease its properties and assets substantially as an entirety to the Company, unless:

(a) if the Company shall consolidate with or merge into another Person or convey, transfer or lease its properties and assets substantially as an entirety to any Person, the entity formed by such consolidation or into which the Company is merged or the Person that acquires by conveyance or transfer, or that leases, the properties and assets of the Company substantially as an entirety shall be an entity organized and existing under the laws of the United States of America or any State or Territory thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, the due and punctual payment of the principal of and any premium and interest (including any Additional Interest) on all the Securities and the performance of every covenant of this Indenture on the part of the Company to be performed or observed;

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

(c) the Company has delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, any such supplemental indenture comply with this Article VIII and that all conditions precedent herein provided for relating to such transaction have been complied with; and the Trustee may rely upon such Officers’ Certificate and Opinion of Counsel as conclusive evidence that such transaction complies with this Section 8.1.

SECTION 8.2. *Successor Company Substituted.*

(a) Upon any consolidation or merger by the Company with or into any other Person, or any conveyance, transfer or lease by the Company of its properties and assets substantially as an entirety to any Person in accordance with Section 8.1 and the execution and delivery to the Trustee of the supplemental indenture described in Section 8.1(a), the successor entity formed by such consolidation or into which the Company is merged or to which such conveyance, transfer or lease 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 in the event of any such conveyance or transfer, following the execution and delivery of such supplemental indenture, the Company shall be discharged from all obligations and covenants under the Indenture and the Securities.

(b) Such successor Person may cause to be executed, and may issue either in its own name or in the name of the Company, any or all of the Securities issuable hereunder that 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 Securities that previously shall have been signed and delivered by the officers of the Company to the Trustee for authentication, and any Securities that such successor Person thereafter shall cause to be executed and delivered to the Trustee on its behalf. All the Securities so issued shall in all respects have the same legal rank and benefit under this Indenture as the Securities theretofore or thereafter issued in accordance with the terms of this Indenture.

(c) In case of any such consolidation, merger, sale, conveyance or lease, such changes in phraseology and form may be made in the Securities thereafter to be issued as may be appropriate to reflect such occurrence.

ARTICLE IX

SUPPLEMENTAL INDENTURES

SECTION 9.1. *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 indentures supplemental hereto, in form reasonably satisfactory to the Trustee, for any of the following purposes:

- (a) to evidence the succession of another Person to the Company, and the assumption by any such successor of the covenants of the Company herein and in the Securities; or
- (b) to cure any ambiguity, to correct or supplement any provision herein that may be defective or inconsistent with any other provision herein, or to make or amend any other provisions with respect to matters or questions arising under this Indenture, which shall not be inconsistent with the other provisions of this Indenture, *provided*, that such action pursuant to this clause (b) shall not adversely affect in any material respect the interests of any Holders or the holders of the Preferred Securities; or
- (c) to add to the covenants, restrictions or obligations of the Company or to add to the Events of Default, *provided*, that such action pursuant to this clause (c) shall not adversely affect in any material respect the interests of any Holders or the holders of the Preferred Securities; or
- (d) to modify, eliminate or add to any provisions of the Indenture or the Securities to such extent as shall be necessary to ensure that the Securities are treated as indebtedness of the Company for United States Federal income tax purposes, *provided*, that such action pursuant to this clause (d) shall not adversely affect in any material respect the interests of any Holders or the holders of the Preferred Securities.

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SECTION 9.2. *Supplemental Indentures with Consent of Holders.*

(a) With the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities, 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 an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of Securities under this Indenture; *provided*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security,

(i) change the Stated Maturity of the principal or any premium of any Security or change the date of payment of any installment of interest (including any Additional Interest) on any Security, or reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof or change the place of payment where, or the coin or currency in which, any Security or interest thereon is payable, or restrict or impair the right to institute suit for the enforcement of any such payment on or after such date, or

(ii) reduce the percentage in aggregate principal amount of the Outstanding Securities, 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 any provision of this Indenture or of defaults hereunder and their consequences provided for in this Indenture, or

(iii) modify any of the provisions of this Section 9.2, Section 5.13 or Section 10.7, except to increase any percentage in aggregate principal amount of the Outstanding Securities, the consent of whose Holders is required for any reason, or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Security;

provided, further, that, so long as any Preferred Securities remain outstanding, no amendment under this Section 9.2 shall be effective until the holders of a majority in Liquidation Amount of the Preferred Securities shall have consented to such amendment; *provided, further*, that if the consent of the Holder of each Outstanding Security is required for any amendment under this Indenture, such amendment shall not be effective until the holder of each Outstanding Preferred Security shall have consented to such amendment.

(b) It shall not be necessary for any Act of Holders under this Section 9.2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

SECTION 9.3. *Execution of Supplemental Indentures.*

In executing or accepting the additional trusts created by any supplemental indenture permitted by this Article IX or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and shall be fully protected in conclusively relying upon, an Officers' Certificate and an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture, and that all conditions precedent herein provided for relating to such action have been complied with. The Trustee may,

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but shall not be obligated to, enter into any such supplemental indenture that affects the Trustee's own rights, duties, indemnities or immunities under this Indenture or otherwise. Copies of the final form of each supplemental indenture shall be delivered by the Trustee at the expense of the Company to each Holder, and, if the Trustee is the Property Trustee, to each holder of Preferred Securities, promptly after the execution thereof.

SECTION 9.4. *Effect of Supplemental Indentures.*

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

SECTION 9.5. *Reference in Securities to Supplemental Indentures.*

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

ARTICLE X

COVENANTS

SECTION 10.1. *Payment of Principal, Premium, if any, and Interest.*

The Company covenants and agrees for the benefit of the Holders of the Securities that it will duly and punctually pay the principal of and any premium and interest (including any Additional Interest) on the Securities in accordance with the terms of the Securities and this Indenture. As of the date of this Indenture, the Company represents that it has no present intention to exercise its right under Section 2.11 to defer payments of interest on the Securities.

SECTION 10.2. *Money for Security Payments to be Held in Trust.*

(a) If the Company shall at any time act as its own Paying Agent with respect to the Securities, it will, on or before each due date of the principal of and any premium or interest (including any Additional Interest) on the Securities, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal and any premium or interest (including Additional Interest) 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 in writing of its failure so to act.

(b) Whenever the Company shall have one or more Paying Agents, it will, prior to 10:00 a.m., New York City time, on each due date of the principal of or any premium or interest (including any Additional Interest) on any Securities, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held as provided in the Trust Indenture Act and

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(unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its failure so to act.

(c) The Company will cause each Paying Agent for the 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 10.2, that such Paying Agent will (i) comply with the provisions of this Indenture and the Trust Indenture Act applicable to it as a Paying Agent and (ii) during the continuance of any default by the Company (or any other obligor upon the Securities) in the making of any payment in respect of the Securities, upon the written request of the Trustee, forthwith pay to the Trustee all sums held in trust by such Paying Agent for payment in respect of the Securities.

(d) 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.

(e) 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 any premium or interest (including any Additional Interest) on any Security and remaining unclaimed for two years after such principal and any premium or interest has become due and payable shall (unless otherwise required by mandatory provision of applicable escheat or abandoned or unclaimed property law) be paid on Company Request to the Company, or (if then held by the Company) shall (unless otherwise required by mandatory provision of applicable escheat or abandoned or unclaimed property law) be discharged from such trust; and the Holder of such 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*, 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 Borough of Manhattan, The City of New York, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than thirty (30) days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 10.3. *Statement as to Compliance.*

The Company shall deliver to the Trustee, within one hundred and twenty (120) days after the end of each fiscal year of the Company ending after the date hereof, an Officers' Certificate covering the preceding calendar year, stating whether or not to the knowledge of the signers thereof the Company is in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder), and if the Company shall be in default, specifying all such defaults and the nature and status thereof of which they may have knowledge. The delivery

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requirements of this Section 10.3 may be satisfied by compliance with Section 8.16(a) of the Trust Agreement.

SECTION 10.4. *Calculation Agent.*

(a) The Company hereby agrees that for so long as any of the Securities remain Outstanding, there will at all times be an agent appointed to calculate LIBOR in respect of each Interest Payment Date in accordance with the terms of Schedule A (the “*Calculation Agent*”). The Company has initially appointed the Property Trustee as Calculation Agent for purposes of determining LIBOR for each Interest Payment Date. The Calculation Agent may be removed by the Company at any time. So long as the Property Trustee holds any of the Securities, the Calculation Agent shall be the Property Trustee, except as described in the immediately preceding sentence. If the Calculation Agent is unable or unwilling to act as such or is removed by the Company, the Company will promptly appoint as a replacement Calculation Agent the London office of a leading bank which is engaged in transactions in Eurodollar deposits in the international Eurodollar market and which does not control or is not controlled by or under common control with the Company or its Affiliates. The Calculation Agent may not resign its duties without a successor having been duly appointed.

(b) The Calculation Agent shall be required to agree that, as soon as possible after 11:00 a.m. (London time) on each LIBOR Determination Date (as defined in Schedule A), but in no event later than 11:00 a.m. (London time) on the Business Day immediately following each LIBOR Determination Date, the Calculation Agent will calculate the interest rate (the Interest Payment shall be rounded to the nearest cent, with half a cent being rounded upwards) for the related Interest Payment Date, and will communicate such rate and amount to the Company, the Trustee, each Paying Agent and the Depositary. The Calculation Agent will also specify to the Company the quotations upon which the foregoing rates and amounts are based and, in any event, the Calculation Agent shall notify the Company before 5:00 p.m. (London time) on each LIBOR Determination Date that either: (i) it has determined or is in the process of determining the foregoing rates and amounts or (ii) it has not determined and is not in the process of determining the foregoing rates and amounts, together with its reasons therefor. The Calculation Agent’s determination of the foregoing rates and amounts for any Interest Payment Date will (in the absence of manifest error) be final and binding upon all parties. For the sole purpose of calculating the interest rate for the Securities, “Business Day” shall be defined as any day on which dealings in deposits in Dollars are transacted in the London interbank market.

SECTION 10.5. *Additional Tax Sums.*

So long as no Event of Default has occurred and is continuing, if (a) the Trust is the Holder of all of the Outstanding Securities and (b) a Tax Event described in clause (i) or (iii) in the definition of Tax Event in Section 1.1 hereof has occurred and is continuing, the Company shall pay to the Trust (and its permitted successors or assigns under the related Trust Agreement) for so long as the Trust (or its permitted successor or assignee) is the registered holder of the Outstanding Securities, such amounts as may be necessary in order that the amount of Distributions (including any Additional Interest Amount (as defined in the Trust Agreement)) then due and payable by the Trust on the Preferred Securities and Common Securities that at any time remain outstanding in accordance with the terms thereof shall not be reduced as a result of any Additional Taxes arising from such Tax Event (additional such amounts payable by the

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Company to the Trust, the “*Additional Tax Sums*”). Whenever in this indenture or the Securities there is a reference in any context to the payment of principal of or interest on the Securities, such mention shall be deemed to include mention of the payments of the Additional Tax Sums provided for in this Section 10.5 to the extent that, in such context, Additional Tax Sums are, were or would be payable in respect thereof pursuant to the provisions of this Section 10.5 and express mention of the payment of Additional Tax Sums (if applicable) in any provisions hereof shall not be construed as excluding Additional Tax Sums in those provisions hereof where such express mention is not made; *provided*, that the deferral of the payment of interest pursuant to Section 3.9 on the Securities shall not defer the payment of any Additional Tax Sums that may be due and payable.

SECTION 10.6. *Additional Covenants.*

(a) The Company covenants and agrees with each Holder of Securities that if an Event of Default shall have occurred and be continuing or the Company shall have given notice of its election to begin an Extension Period with respect to the Securities or such Extension Period, or any extension thereof, shall be continuing, it shall not (i) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any shares of the Company’s capital stock, or (ii) make any payment of principal of or any interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Company that rank *pari passu* in all respects with or junior in interest to the Securities (other than (A) repurchases, redemptions or other acquisitions of shares of capital stock of the Company in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants, in connection with a dividend reinvestment or stockholder stock purchase plan or in connection with the issuance of capital stock of the Company (or securities convertible into or exercisable for such capital stock) as consideration in an acquisition transaction entered into prior to the applicable Extension Period, (B) as a result of an exchange or conversion of any class or series of the Company’s capital stock (or any capital stock of a Subsidiary of the Company) for any class or series of the Company’s capital stock or of any class or series of the Company’s indebtedness for any class or series of the Company’s capital stock, (C) the purchase of fractional interests in shares of the Company’s capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged, (D) any declaration of a dividend in connection with any Rights Plan, the issuance of rights, stock or other property under any Rights Plan or the redemption or repurchase of rights pursuant thereto or (E) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks *pari passu* with or junior to such stock).

(b) The Company also covenants with each Holder of Securities (i) to hold, directly or indirectly, one hundred percent (100%) of the Common Securities of the Trust, *provided*, that any permitted successor of the Company hereunder may succeed to the Company’s ownership of such Common Securities, (ii) as holder of such Common Securities, not to voluntarily dissolve, wind-up or liquidate the Trust other than (A) in connection with a distribution of the Securities to the holders of the Preferred Securities in liquidation of the Trust or (B) in connection with certain mergers, consolidations or amalgamations permitted by the Trust Agreement and (iii) to use its reasonable commercial efforts, consistent with the terms and provisions of the Trust Agreement,

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to cause the Trust to continue to be taxable as a grantor trust and not as a corporation for United States Federal income tax purposes.

SECTION 10.7. *Waiver of Covenants.*

The Company may omit in any particular instance to comply with any covenant or condition contained in Section 10.6 if, before or after the time for such compliance, the Holders of at least a majority in aggregate principal amount of the Outstanding Securities shall, by Act of such Holders, and at least a majority of the aggregate Liquidation Amount of the Preferred Securities then outstanding, by consent 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 in respect of any such covenant or condition shall remain in full force and effect.

SECTION 10.8. *Treatment of Securities.*

The Company will treat the Securities as indebtedness, and the amounts, other than payments of principal, payable in respect of the principal amount of such Securities as interest, for all U.S. federal income tax purposes. All payments in respect of the Securities will be made free and clear of U.S. withholding tax to any beneficial owner thereof that has provided an Internal Revenue Service Form W-9 or W-8BEN (or any substitute or successor form) establishing its U.S. or non-U.S. status for U.S. federal income tax purposes, or any other applicable form establishing a complete exemption from U.S. withholding tax.

ARTICLE XI

REDEMPTION OF SECURITIES

SECTION 11.1. *Optional Redemption.*

The Company may, at its option, on any Interest Payment Date, on or after December 15, 2009, redeem the Securities in whole at any time or in part from time to time, at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof (or of the redeemed portion thereof, as applicable), together, in the case of any such redemption, with accrued interest, including any Additional Interest, through but excluding the date fixed as the Redemption Date (the "Optional Redemption Price"); *provided*, that the Company shall have received the prior approval of any Applicable Insurance Regulatory Authorities with respect to such redemption if then required.

SECTION 11.2. *Special Event Redemption.*

Prior to December 15, 2009, upon the occurrence and during the continuation of a Special Event, the Company may, at its option, redeem the Securities, in whole but not in part, at a Redemption Price equal to one hundred seven and one half percent (107.5%) of the principal amount thereof, together, in the case of any such redemption, with accrued interest, including any Additional Interest, through but excluding the date fixed as the Redemption Date (the "Special Redemption Price"), *provided*, that the Company shall have received the prior approval

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of any Applicable Insurance Regulatory Authority with respect to such redemption if then required.

SECTION 11.3. *Election to Redeem; Notice to Trustee.*

The election of the Company to redeem any Securities, in whole or in part, shall be evidenced by or pursuant to a Board Resolution. In case of any redemption at the election of the Company, the Company shall, not less than forty-five (45) days and not more than seventy-five (75) days prior to the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee and the Property Trustee under the Trust Agreement in writing of such date and of the principal amount of the Securities to be redeemed and provide the additional information required to be included in the notice or notices contemplated by Section 11.5. In the case of any redemption of Securities, in whole or in part, (a) prior to the expiration of any restriction on such redemption provided in this Indenture or the Securities or (b) pursuant to an election of the Company which is subject to a condition specified in this Indenture or the Securities, the Company shall furnish the Trustee with an Officers' Certificate and an Opinion of Counsel evidencing compliance with such restriction or condition.

SECTION 11.4. *Selection of Securities to be Redeemed.*

(a) If less than all the Securities are to be redeemed, the particular Securities to be redeemed shall be selected and redeemed on a pro rata basis not more than sixty (60) days prior to the Redemption Date by the Trustee from the Outstanding Securities not previously called for redemption, *provided*, that the unredeemed portion of the principal amount of any Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security.

(b) The Trustee shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security that has been or is to be redeemed.

(c) The provisions of paragraphs (a) and (b) of this Section 11.4 shall not apply with respect to any redemption affecting only a single Security, whether such Security is to be redeemed in whole or in part. In the case of any such redemption in part, the unredeemed portion of the principal amount of the Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security.

SECTION 11.5. *Notice of Redemption.*

(a) Notice of redemption shall be given not later than the thirtieth (30th) day, and not earlier than the sixtieth (60th) day, prior to the Redemption Date to each Holder of Securities to be redeemed, in whole or in part, (unless a shorter notice shall be satisfactory to the Property Trustee under the related Trust Agreement).

(b) With respect to Securities to be redeemed, in whole or in part, each notice of redemption shall state:

(i) the Redemption Date;

(ii) the Redemption Price or, if the Redemption Price cannot be calculated prior to the time the notice is required to be sent, the estimate of the Redemption Price, as calculated by the Company, together with a statement that it is an estimate and that the actual Redemption Price will be calculated on the fifth Business Day prior to the Redemption Date (and if an estimate is provided, a further notice shall be sent of the actual Redemption Price on the date that such Redemption Price is calculated);

(iii) if less than all Outstanding Securities are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the particular Securities to be redeemed;

(iv) that on the Redemption Date, the Redemption Price will become due and payable upon each such Security or portion thereof, and that any interest (including any Additional Interest) on such Security or such portion, as the case may be, shall cease to accrue on and after said date; and

(v) the place or places where such Securities are to be surrendered for payment of the Redemption Price.

(c) Notice of redemption of Securities to be redeemed, in whole or in part, at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company and shall be irrevocable. The notice if mailed in the manner provided above shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, a failure to give such notice by mail or any defect in the notice to the Holder of any Security designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security.

SECTION 11.6. *Deposit of Redemption Price.*

Prior to 10:00 a.m., New York City time, on the Redemption Date specified in the notice of redemption given as provided in Section 11.5, the Company will deposit with the Trustee or with one or more Paying Agents (or if the Company is acting as its own Paying Agent, the Company will segregate and hold in trust as provided in Section 10.2) an amount of money sufficient to pay the Redemption Price of, and any accrued interest (including any Additional Interest) on, all the Securities (or portions thereof) that are to be redeemed on that date.

SECTION 11.7. *Payment of Securities Called for Redemption.*

(a) If any notice of redemption has been given as provided in Section 11.5, the Securities or portion of Securities with respect to which such notice has been given shall become due and payable on the date and at the place or places stated in such notice at the applicable Redemption Price, together with accrued interest (including any Additional Interest) to the Redemption Date. On presentation and surrender of such Securities at a Place of Payment specified in such notice, the Securities or the specified portions thereof shall be paid and redeemed by the Company at the applicable Redemption Price, together with accrued interest (including any Additional Interest) to the Redemption Date.

(b) Upon presentation of any Security redeemed in part only, the Company shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the expense of the Company, a new Security or Securities, of authorized denominations, in aggregate principal amount equal to the unredeemed portion of the Security so presented and having the same Original Issue Date, Stated Maturity and terms.

(c) If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal of and any premium on such Security shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

ARTICLE XII

SUBORDINATION OF SECURITIES

SECTION 12.1. *Securities Subordinate to Senior Debt.*

The Company covenants and agrees, and each Holder of a Security, by its acceptance thereof, likewise covenants and agrees, that, to the extent and in the manner hereinafter set forth in this Article XII, the payment of the principal of and any premium and interest (including any Additional Interest) on each and all of the Securities are hereby expressly made subordinate and subject in right of payment to the prior payment in full of all Senior Debt.

SECTION 12.2. *No Payment When Senior Debt in Default; Payment Over of Proceeds Upon Dissolution, Etc.*

(a) In the event and during the continuation of any default by the Company in the payment of any principal of or any premium or interest on any Senior Debt (following any grace period, if applicable) when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration of acceleration or otherwise, then, upon written notice of such default to the Company by the holders of such Senior Debt or any trustee therefor, unless and until such default shall have been cured or waived or shall have ceased to exist, no direct or indirect payment (in cash, property, securities, by set-off or otherwise) shall be made or agreed to be made on account of the principal of or any premium or interest (including any Additional Interest) on any of the Securities, or in respect of any redemption, repayment, retirement, purchase or other acquisition of any of the Securities.

(b) In the event of a bankruptcy, insolvency or other proceeding described in clause (d) or (e) of the definition of Event of Default (each such event, if any, herein sometimes referred to as a "Proceeding"), all Senior Debt (including any interest thereon accruing after the commencement of any such proceedings) shall first be paid in full before any payment or distribution, whether in cash, securities or other property, shall be made to any Holder of any of the Securities on account thereof. Any payment or distribution, whether in cash, securities or other property (other than securities of the Company or any other entity provided for by a plan of reorganization or readjustment the payment of which is subordinate, at least to the extent provided in these subordination provisions with respect to the indebtedness evidenced by the Securities, to the payment of all Senior Debt at the time outstanding and to any

shall be paid or delivered directly to the holders of Senior Debt in accordance with the priorities then existing among such holders until all Senior Debt (including any interest thereon accruing after the commencement of any Proceeding) shall have been paid in full.

(c) In the event of any Proceeding, after payment in full of all sums owing with respect to Senior Debt, the Holders of the Securities, together with the holders of any obligations of the Company ranking on a parity with the Securities, shall be entitled to be paid from the remaining assets of the Company the amounts at the time due and owing on account of unpaid principal of and any premium and interest (including any Additional Interest) on the Securities and such other obligations before any payment or other distribution, whether in cash, property or otherwise, shall be made on account of any capital stock or any obligations of the Company ranking junior to the Securities and such other obligations. If, notwithstanding the foregoing, any payment or distribution of any character or any security, whether in cash, securities or other property (other than securities of the Company or any other entity provided for by a plan of reorganization or readjustment the payment of which is subordinate, at least to the extent provided in these subordination provisions with respect to the indebtedness evidenced by the Securities, to the payment of all Senior Debt at the time outstanding and to any securities issued in respect thereof under any such plan of reorganization or readjustment) shall be received by the Trustee or any Holder in contravention of any of the terms hereof and before all Senior Debt shall have been paid in full, such payment or distribution or security shall be received in trust for the benefit of, and shall be paid over or delivered and transferred to, the holders of the Senior Debt at the time outstanding in accordance with the priorities then existing among such holders for application to the payment of all Senior Debt remaining unpaid, to the extent necessary to pay all such Senior Debt (including any interest thereon accruing after the commencement of any Proceeding) in full. In the event of the failure of the Trustee or any Holder to endorse or assign any such payment, distribution or security, each holder of Senior Debt is hereby irrevocably authorized to endorse or assign the same.

(d) The Trustee and the Holders, at the expense of the Company, shall take such reasonable action (including the delivery of this Indenture to an agent for any holders of Senior Debt or consent to the filing of a financing statement with respect hereto) as may, in the opinion of counsel designated by the holders of a majority in principal amount of the Senior Debt at the time outstanding, be necessary or appropriate to assure the effectiveness of the subordination effected by these provisions.

(e) The provisions of this Section 12.2 shall not impair any rights, interests, remedies or powers of any secured creditor of the Company in respect of any security interest the creation of which is not prohibited by the provisions of this Indenture.

(f) The securing of any obligations of the Company, otherwise ranking on a parity with the Securities or ranking junior to the Securities, shall not be deemed to prevent such obligations from constituting, respectively, obligations ranking on a parity with the Securities or ranking junior to the Securities.

SECTION 12.3. Payment Permitted If No Default.

Nothing contained in this Article XII or elsewhere in this Indenture or in any of the Securities shall prevent (a) the Company, at any time, except during the pendency of the

conditions described in paragraph (a) of Section 12.2 or of any Proceeding referred to in Section 12.2, from making payments at any time of principal of and any premium or interest (including any Additional Interest) on the Securities or (b) the application by the Trustee of any moneys deposited with it hereunder to the payment of or on account of the principal of and any premium or interest (including any Additional Interest) on the Securities or the retention of such payment by the Holders, if, at the time of such application by the Trustee, it did not have knowledge (in accordance with Section 12.8) that such payment would have been prohibited by the provisions of this Article XII, except as provided in Section 12.8.

SECTION 12.4. Subrogation to Rights of Holders of Senior Debt.

Subject to the payment in full of all amounts due or to become due on all Senior Debt, or the provision for such payment in cash or cash equivalents or otherwise in a manner satisfactory to the holders of Senior Debt, the Holders of the Securities shall be subrogated to the extent of the payments or distributions made to the holders of such Senior Debt pursuant to the provisions of this Article XII (equally and ratably with the holders of all indebtedness of the Company that by its express terms is subordinated to Senior Debt of the Company to substantially the same extent as the Securities are subordinated to the Senior Debt and is entitled to like rights of subrogation by reason of any payments or distributions made to holders of such Senior Debt) to the rights of the holders of such Senior Debt to receive payments and distributions of cash, property and securities applicable to the Senior Debt until the principal of and any premium and interest (including any Additional Interest) on the Securities shall be paid in full. For purposes of such subrogation, no payments or distributions to the holders of the Senior Debt of any cash, property or securities to which the Holders of the Securities or the Trustee would be entitled except for the provisions of this Article XII, and no payments made pursuant to the provisions of this Article XII to the holders of Senior Debt by Holders of the Securities or the Trustee, shall, as among the Company, its creditors other than holders of Senior Debt, and the Holders of the Securities, be deemed to be a payment or distribution by the Company to or on account of the Senior Debt.

SECTION 12.5. Provisions Solely to Define Relative Rights.

The provisions of this Article XII are and are intended solely for the purpose of defining the relative rights of the Holders of the Securities on the one hand and the holders of Senior Debt on the other hand. Nothing contained in this Article XII or elsewhere in this Indenture or in the Securities is intended to or shall (a) impair, as between the Company and the Holders of the Securities, the obligations of the Company, which are absolute and unconditional, to pay to the Holders of the Securities the principal of and any premium and interest (including any Additional Interest) on the Securities as and when the same shall become due and payable in accordance with their terms, (b) affect the relative rights against the Company of the Holders of the Securities and creditors of the Company other than their rights in relation to the holders of Senior Debt or (c) prevent the Trustee or the Holder of any Security (or to the extent expressly provided herein, the holder of any Preferred Security) from exercising all remedies otherwise permitted by applicable law upon default under this Indenture,

SECTION 12.6. *Trustee to Effectuate Subordination.*

Each Holder of a Security by his or her acceptance thereof authorizes and directs the Trustee on his or her behalf to take such action as may be necessary or appropriate to acknowledge or effectuate the subordination provided in this Article XII and appoints the Trustee his or her attorney-in-fact for any and all such purposes.

SECTION 12.7. *No Waiver of Subordination Provisions.*

(a) No right of any present or future holder of any Senior Debt to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof that any such holder may have or be otherwise charged with.

(b) Without in any way limiting the generality of paragraph (a) of this Section 12.7, the holders of Senior Debt may, at any time and from to time, without the consent of or notice to the Trustee or the Holders of the Securities, without incurring responsibility to such Holders of the Securities and without impairing or releasing the subordination provided in this Article XII or the obligations hereunder of such Holders of the Securities to the holders of Senior Debt, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, Senior Debt, or otherwise amend or supplement in any manner Senior Debt or any instrument evidencing the same or any agreement under which Senior Debt is outstanding, (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing Senior Debt, (iii) release any Person liable in any manner for the payment of Senior Debt and (iv) exercise or refrain from exercising any rights against the Company and any other Person.

SECTION 12.8. *Notice to Trustee.*

(a) The Company shall give prompt written notice to a Responsible Officer of the Trustee of any fact known to the Company that would prohibit the making of any payment to or by the Trustee in respect of the Securities. Notwithstanding the provisions of this Article XII or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment to or by the Trustee in respect of the Securities, unless and until a Responsible Officer of the Trustee shall have received written notice thereof from the Company or a holder of Senior Debt or from any trustee, agent or representative therefor; *provided*, that if the Trustee shall not have received the notice provided for in this Section 12.8 at least two Business Days prior to the date upon which by the terms hereof any monies may become payable for any purpose (including, the payment of the principal of and any premium on or interest (including any Additional Interest) on any Security), then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such monies and to apply the same to the purpose for which they were received and shall not be affected by any notice to the contrary that may be received by it within two Business Days prior to such date.

(b) The Trustee shall be entitled to rely on the delivery to it of a written notice by a Person representing himself or herself to be a holder of Senior Debt (or a trustee, agent, representative or attorney-in-fact therefor) to establish that such notice has been given by a holder of Senior Debt (or a trustee, agent, representative or attorney-in-fact therefor). In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Debt to participate in any payment or distribution pursuant to this Article XII, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Debt held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article XII, and if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

SECTION 12.9. *Reliance on Judicial Order or Certificate of Liquidating Agent.*

Upon any payment or distribution of assets of the Company referred to in this Article XII, the Trustee and the Holders of the Securities shall be entitled to conclusively rely upon any order or decree entered by any court of competent jurisdiction in which such Proceeding is pending, or a certificate of the trustee in bankruptcy, receiver, liquidating trustee, custodian, assignee for the benefit of creditors, agent or other Person making such payment or distribution, delivered to the Trustee or to the Holders of Securities, for the purpose of ascertaining the Persons entitled to participate in such payment or distribution, the holders of the Senior Debt and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article XII.

SECTION 12.10. *Trustee Not Fiduciary for Holders of Senior Debt.*

The Trustee, in its capacity as trustee under this Indenture, shall not be deemed to owe any fiduciary duty to the holders of Senior Debt and shall not be liable to any such holders if it shall in good faith mistakenly pay over or distribute to Holders of Securities or to the Company or to any other Person cash, property or securities to which any holders of Senior Debt shall be entitled by virtue of this Article XII or otherwise.

SECTION 12.11. *Rights of Trustee as Holder of Senior Debt; Preservation of Trustee's Rights.*

The Trustee in its individual capacity shall be entitled to all the rights set forth in this Article XII with respect to any Senior Debt that may at any time be held by it, to the same extent as any other holder of Senior Debt, and nothing in this Indenture shall deprive the Trustee of any of its rights as such holder.

SECTION 12.12. *Article Applicable to Paying Agents.*

If at any time any Paying Agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term “*Trustee*” as used in this Article XII shall in such case (unless the context otherwise requires) be construed as extending to and including such Paying Agent within its meaning as fully for all intents and purposes as if such Paying Agent were named in this Article XII in addition to or in place of the Trustee; *provided*, that

Sections 12.8 and 12.11 shall not apply to the Company or any Affiliate of the Company if the Company or such Affiliate acts as Paying Agent.

* * * *

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 as of the day and year first above written.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: /s/ Debra J. Richardson
Name: Debra J. Richardson
Title: Secretary & Senior Vice President

JPMORGAN CHASE BANK, as Trustee

By: /s/ Maria D. Calzado
Name: Maria D. Calzado
Title: Vice President

Junior Subordinated Indenture

GUARANTEE AGREEMENT

between

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY,
as Guarantor,

and

JPMORGAN CHASE BANK,
as Guarantee Trustee

Dated as of September 14, 2004

AMERICAN EQUITY CAPITAL TRUST VII

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GUARANTEE AGREEMENT, dated as of September 14, 2004, executed and delivered by AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “*Guarantor*”) having its principal office at 5000 Westown Parkway, Suite 440, West Des Moines, IA 50266, and JPMORGAN CHASE BANK, a New York banking corporation, as trustee (in such capacity, the “*Guarantee Trustee*”), for the benefit of the Holders (as defined herein) from time to time of the Preferred Securities (as defined herein) of AMERICAN EQUITY CAPITAL TRUST VII, a Delaware statutory trust (the “*Issuer*”).

WITNESSETH:

WHEREAS, pursuant to an Amended and Restated Trust Agreement, dated as of the date hereof (the “*Trust Agreement*”), among the Guarantor, as Depositor, the Property Trustee, the Delaware Trustee and the Administrative Trustees named therein and the holders from time to time of the Preferred Securities (as hereinafter defined), the Issuer is issuing Ten Million Five Hundred Thousand Dollars (\$10,500,000) aggregate Liquidation Amount (as defined in the Trust Agreement) of its Floating Rate Preferred Securities (Liquidation Amount \$1,000 per preferred security) (the “*Preferred Securities*”) representing preferred undivided beneficial interests in the assets of the Issuer and having the terms set forth in the Trust Agreement;

WHEREAS, the Preferred Securities will be issued by the Issuer and the proceeds thereof, together with the proceeds from the issuance of the Issuer’s Common Securities (as defined below), will be used to purchase the Notes (as defined in the Trust Agreement) of the Guarantor; and

WHEREAS, as incentive for the Holders to purchase Preferred Securities the Guarantor desires irrevocably and unconditionally to agree, to the extent set forth herein, to pay to the Holders of the Preferred Securities the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the purchase by each Holder of Preferred Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Guarantee Agreement to provide as follows for the benefit of the Holders from time to time of the Preferred Securities:

ARTICLE I

INTERPRETATION AND DEFINITIONS

SECTION 1.1. *Interpretation.*

In this Guarantee Agreement, unless the context otherwise requires:

- (a) capitalized terms used in this Guarantee Agreement but not defined in the preamble hereto have the respective meanings assigned to them in Section 1.2;
- (b) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”;
- (c) all references to “the Guarantee Agreement” or “this Guarantee Agreement” are to this Guarantee Agreement as modified, supplemented or amended from time to time;
- (d) all references in this Guarantee Agreement to Articles and Sections are to Articles and Sections of this Guarantee Agreement unless otherwise specified;
- (e) the words “hereby”, “herein”, “hereof” and “hereunder” and other words of similar import refer to this Guarantee Agreement as a whole and not to any particular Article, Section or other subdivision;
- (f) a reference to the singular includes the plural and vice versa; and
- (g) the masculine, feminine or neuter genders used herein shall include the masculine, feminine and neuter genders.

SECTION 1.2. *Definitions.*

As used in this Guarantee Agreement, the terms set forth below shall, unless the context otherwise requires, have the following meanings:

“*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; *provided*, that the Issuer shall not be deemed to be an Affiliate of the Guarantor. For the purposes of this definition, “*control*” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “*controlling*” and “*controlled*” have meanings correlative to the foregoing.

“*Beneficiaries*” means any Person to whom the Issuer is or hereafter becomes indebted or liable.

“*Board of Directors*” means either the board of directors of the Guarantor or any duly authorized committee of that board.

“*Common Securities*” means the securities representing common undivided beneficial interests in the assets of the Issuer.

“*Debt*” means with respect to any Person, whether recourse is to all or a portion of the assets of such Person, whether currently existing or hereafter incurred, and whether or not contingent and without duplication, (i) every obligation of such Person for money borrowed; (ii) every obligation of such Person evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses; (iii) every reimbursement obligation of such Person with respect to letters of credit, bankers’ acceptances or similar facilities issued for the account of such Person; (iv) every obligation of such Person issued or assumed as the deferred purchase price of property or services (but excluding trade accounts payable arising in the ordinary course of business); (v) every capital lease obligation of such Person; (vi) all indebtedness of such Person, whether incurred on or prior to the date of this Guarantee Agreement or thereafter incurred, for claims in respect of derivative products, including interest rate, foreign exchange rate and commodity forward contracts, options, swaps and similar arrangements; (vii) every obligation of the type referred to in clauses (i) through (vi) of another Person and all dividends of another Person the payment of which, in either case, such Person has guaranteed or is responsible or liable for, directly or indirectly, as obligor or otherwise; and (viii) any renewals, extensions, refundings, amendments or modifications of any obligation of the type referred to in clauses (i) through (vii).

“*Event of Default*” means a default by the Guarantor on any of its payment or other obligations under this Guarantee Agreement; *provided*, that except with respect to a default in payment of any Guarantee Payments, the Guarantor shall have received notice of default from the Guarantee Trustee and shall not have cured such default within thirty (30) days after receipt of such notice.

“*Guarantee Payments*” means the following payments or distributions, without duplication, with respect to the Preferred Securities, to the extent not paid or made by or on behalf of the Issuer: (i) any accumulated and unpaid Distributions (as defined in the Trust Agreement) required to be paid on the Preferred Securities, to the extent the Issuer shall have funds on hand available therefor at such time, (ii) the Redemption Price with respect to any Preferred Securities to the extent the Issuer shall have funds on hand available therefor at such time, and (iii) upon a voluntary or involuntary termination, winding up or liquidation of the Issuer, unless Notes are distributed to the Holders, the lesser of (a) the aggregate of the Liquidation Amount of \$1,000 per Preferred Security plus accumulated and unpaid Distributions on the Preferred Securities to the date of payment, to the extent that the Issuer shall have funds available therefor at such time and (b) the amount of assets of the Issuer remaining available for distribution to Holders in liquidation of the Issuer after satisfaction of liabilities to creditors of the Issuer in accordance with applicable law (in either case, the “*Liquidation Distribution*”).

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“*Guarantee Trustee*” means JPMorgan Chase Bank, until a Successor Guarantee Trustee, as defined below, has been appointed and has accepted such appointment pursuant to the terms of this Guarantee Agreement, and thereafter means each such Successor Guarantee Trustee.

“*Guarantor*” means American Equity Investment Life Insurance Company and each of its successors and assigns.

“*Issuer*” has the meaning set forth herein above.

“*Holder*” means any holder, as registered on the books and records of the Issuer, of any Preferred Securities; *provided*, that, in determining whether the holders of the requisite percentage of Preferred Securities have given any request, notice, consent or waiver hereunder, “Holder” shall not include the Guarantor, the Guarantee Trustee or any Affiliate of the Guarantor or the Guarantee Trustee.

“*Indenture*” means the Junior Subordinated Indenture, dated as of the date hereof, as supplemented and amended, between the Guarantor and JPMorgan Chase Bank, as trustee.

“*List of Holders*” has the meaning specified in [Section 2.1](#).

“*Majority in Liquidation Amount of the Preferred Securities*” means a vote by the Holder(s), voting separately as a class, of more than fifty percent (50%) of the aggregate Liquidation Amount of all then outstanding Preferred Securities issued by the Issuer.

“*Obligations*” means any costs, expenses or liabilities (but not including liabilities related to taxes) of the Issuer, other than obligations of the Issuer to pay to holders of any Trust Securities the amounts due such holders pursuant to the terms of the Trust Securities.

“*Officers’ Certificate*” means, with respect to any Person, a certificate signed by the Chief Executive Officer, Chief Financial Officer, President or a Vice President of such Person, and by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of such Person, and delivered to the Guarantee Trustee. Any Officers’ Certificate delivered with respect to compliance with a condition or covenant provided for in this Guarantee Agreement (other than the certificate provided pursuant to [Section 2.2](#)) shall include:

- (a) a statement that each officer signing the Officers’ Certificate has read the covenant or condition and the definitions relating thereto;
- (b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers’ Certificate;
- (c) a statement that each officer has made such examination or investigation as, in such officer’s opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and

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- (d) a statement as to whether, in the opinion of each officer, such condition or covenant has been complied with.

“*Person*” means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, government or any agency or political subdivision thereof or any other entity of whatever nature.

“*Preferred Securities*” has the meaning set forth in the first recital hereof.

“*Responsible Officer*” means, with respect to the Guarantee Trustee, the officer in the Institutional Trust Services department of the Trustee having direct responsibility for the administration of this Guarantee Agreement.

“*Senior Debt*” means the principal of and any premium, if any, and interest on (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Guarantor whether or not such claim for post-petition interest is allowed in such proceeding) all Debt of the Guarantor, whether incurred on or prior to the date of the Indenture or thereafter incurred, unless it is provided in the instrument creating or evidencing the same or pursuant to which the same is outstanding, that such obligations are not superior in right of payment to the Preferred Securities; *provided*, that if the Guarantor is subject to the regulation and supervision of an insurance regulatory authority, the Guarantor shall have received the approval of such appropriate insurance regulatory authority prior to issuing any such obligation; and *provided, further*, that Senior Debt shall not include any other debt securities and guarantees in respect of such debt securities issued to any trust other than the Trust (or a trustee of any such trust), partnership or other entity affiliated with the Guarantor that is a financing vehicle of the Guarantor (a “financing entity”) in connection with the issuance by such financing entity of equity securities or other securities that are treated as equity capital for regulatory capital purposes guaranteed by the Guarantor pursuant to an instrument that ranks *pari passu* with or junior in right of payment to the Indenture, including, without limitation, securities issued by American Equity Capital Trust I, American Equity Capital Trust II, American Equity Capital Trust III and American Equity Capital Trust IV.

“*Trust Indenture Act*” means the Trust Indenture Act of 1939, as amended and as in effect on the date of this Guarantee Agreement.

“*Successor Guarantee Trustee*” means a successor Guarantee Trustee possessing the qualifications to act as Guarantee Trustee under Section 4.1.

Capitalized or otherwise defined terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Trust Agreement as in effect on the date hereof.

ARTICLE II

REPORTS

SECTION 2.1. *List of Holders.*

The Guarantor shall furnish or cause to be furnished to the Guarantee Trustee at such times as the Guarantee Trustee may request in writing, within thirty (30) days after the receipt by the Guarantor of any such request, a list, in such form as the Guarantee Trustee may reasonably require, of the names and addresses of the Holders (the “*List of Holders*”) as of a date not more than fifteen (15) days prior to the time such list is furnished, in each case to the extent such information is in the possession or control of the Guarantor and is not identical to a previously supplied list of Holders or has not otherwise been received by the Guarantee Trustee in its capacity as such. The Guarantee Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

SECTION 2.2. *Periodic Reports to the Guarantee Trustee.*

The Guarantor shall deliver to the Guarantee Trustee, within one hundred and twenty (120) days after the end of each fiscal year of the Guarantor ending after the date of this Guarantee Agreement, an Officers’ Certificate covering the preceding fiscal year, stating whether or not to the knowledge of the signers thereof the Guarantor is in default in the performance or observance of any of the terms or provisions or any of the conditions of this Guarantee Agreement (without regard to any period of grace or requirement of notice provided hereunder) and, if the Guarantor shall be in default thereof, specifying all such defaults and the nature and status thereof of which they have knowledge. The delivery requirements of this Section 2.2 may be satisfied by compliance with Section 8.16(a) of the Trust Agreement.

SECTION 2.3. *Event of Default; Waiver.*

The Holders of a Majority in Liquidation Amount of the Preferred Securities may, on behalf of the Holders, waive any past Event of Default and its consequences. Upon such waiver, any such Event of Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Guarantee Agreement, but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent therefrom.

SECTION 2.4. *Event of Default; Notice.*

(a) The Guarantee Trustee shall, within ninety (90) days after the occurrence of a default, transmit to the Holders notices of all defaults actually known to the Guarantee Trustee, unless such defaults have been cured or waived before the giving of such notice. For the purpose of this Section 2.4, the term “*default*” means any event that is, or after notice or lapse of time or both would become, an Event of Default.

(b) The Guarantee Trustee shall not be deemed to have knowledge of any Event of Default unless the Guarantee Trustee shall have received written notice, or a Responsible Officer charged with the administration of this Guarantee Agreement shall have obtained written notice, of such Event of Default from the Guarantor or a Holder.

ARTICLE III

POWERS, DUTIES AND RIGHTS OF THE GUARANTEE TRUSTEE

SECTION 3.1. *Powers and Duties of the Guarantee Trustee.*

(a) This Guarantee Agreement shall be held by the Guarantee Trustee for the benefit of the Holders, and the Guarantee Trustee shall not transfer this Guarantee Agreement to any Person except a Holder exercising its rights pursuant to Section 5.4(d) or to a Successor Guarantee Trustee upon acceptance

by such Successor Guarantee Trustee of its appointment to act as Successor Guarantee Trustee. The right, title and interest of the Guarantee Trustee shall automatically vest in any Successor Guarantee Trustee, upon acceptance by such Successor Guarantee Trustee of its appointment hereunder, and such vesting and succession of title shall be effective whether or not conveyancing documents have been executed and delivered pursuant to the appointment of such Successor Guarantee Trustee.

(b) The rights, immunities, duties and responsibilities of the Guarantee Trustee shall be as provided by this Guarantee Agreement and there shall be no other duties or obligations, express or implied, of the Guarantee Trustee. Notwithstanding the foregoing, no provisions of this Guarantee Agreement shall require the Guarantee 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. Whether or not herein expressly so provided, every provision of this Guarantee Agreement relating to the conduct or affecting the liability of or affording protection to the Guarantee Trustee shall be subject to the provisions of this Section 3.1. To the extent that, at law or in equity, the Guarantee Trustee has duties and liabilities relating to the Guarantor or the Holders, the Guarantee Trustee shall not be liable to any Holder for the Guarantee Trustee's good faith reliance on the provisions of this Guarantee Agreement. The provisions of this Guarantee Agreement, to the extent that they restrict the duties and liabilities of the Guarantee Trustee otherwise existing at law or in equity, are agreed by the Guarantor and the Holders to replace such other duties and liabilities of the Guarantee Trustee.

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

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

(ii) the Guarantee 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 not less than a Majority in Liquidation Amount of the Preferred Securities relating to the time, method and place of conducting any proceeding for any remedy available to the

Guarantee Trustee, or exercising any trust or power conferred upon the Guarantee Trustee under this Guarantee Agreement.

SECTION 3.2. *Certain Rights of the Guarantee Trustee.*

(a) Subject to the provisions of Section 3.1:

(i) the Guarantee Trustee may conclusively rely and shall be fully protected in acting or refraining from acting in good faith and in accordance with the terms hereof upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document reasonably believed by it to be genuine and to have been signed, sent or presented by the proper party or parties;

(ii) any direction or act of the Guarantor contemplated by this Guarantee Agreement shall be sufficiently evidenced by an Officers' Certificate unless otherwise prescribed herein;

(iii) the Guarantee Trustee may consult with counsel, and the advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in reliance thereon and in accordance with such advice. Such counsel may be counsel to the Guarantee Trustee, the Guarantor or any of its Affiliates and may be one of its employees. The Guarantee Trustee shall have the right at any time to seek instructions concerning the administration of this Guarantee Agreement from any court of competent jurisdiction;

(iv) the Guarantee Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Guarantee Agreement at the request or direction of any Holder, unless such Holder shall have provided to the Guarantee Trustee reasonable security or indemnity against the costs, expenses (including reasonable attorneys' fees and expenses) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Guarantee Trustee; *provided*, that, nothing contained in this Section 3.2(a)(iv) shall be taken to relieve the Guarantee Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Guarantee Agreement; *provided, further*, that nothing contained in this Section 3.2(a)(iv) shall prevent the Guarantee Trustee from exercising its rights under Section 4.2 hereof.;

(v) the Guarantee 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, debenture, note, other evidence of indebtedness or other paper or document, but the Guarantee Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and if the Guarantee Trustee shall determine to make such inquiry or investigation, it shall be entitled to examine the books, records and premises of the Guarantor, personally or by agent or attorney;

(vi) the Guarantee Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through its agents, attorneys, custodians or nominees and the Guarantee Trustee shall not be responsible for any misconduct or negligence on the part of any such agent, attorney, custodian or nominee appointed with due care by it hereunder;

(vii) whenever in the administration of this Guarantee Agreement the Guarantee Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right hereunder, the Guarantee Trustee (A) may request instructions from the Holders of a Majority in Liquidation Amount of the Preferred Securities, (B) may refrain from enforcing such remedy or right or taking such other action until such instructions are received and (C) shall be protected in acting in accordance with such instructions;

(viii) except as otherwise expressly provided by this Guarantee Agreement, the Guarantee Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Guarantee Agreement; and

(ix) whenever, in the administration of this Guarantee Agreement, the Guarantee Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting to take any action hereunder, the Guarantee Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and rely upon an Officers' Certificate which, upon receipt of such request from the Guarantee Trustee, shall be promptly delivered by the Guarantor.

(b) No provision of this Guarantee Agreement shall be deemed to impose any duty or obligation on the Guarantee Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it in any jurisdiction in which it shall be illegal, or in which the Guarantee Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Guarantee Trustee shall be construed to be a duty to act in accordance with such power and authority.

SECTION 3.3. *Compensation.*

The Guarantor agrees to pay to the Guarantee Trustee from time to time reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provisions of law in regard to the compensation of a trustee of an express trust) and to reimburse the Guarantee Trustee upon request for all reasonable expenses, disbursements and advances (including the reasonable fees and expenses of its attorneys and agents) incurred or made by the Guarantee Trustee in accordance with any provisions of this Guarantee Agreement.

SECTION 3.4. *Indemnity.*

The Guarantor agrees to indemnify and hold harmless the Guarantee Trustee and any of its Affiliates and any of their officers, directors, shareholders, employees, representatives or agents from and against any loss, damage, liability, tax (other than income, franchise or other taxes imposed on amounts paid pursuant to Section 3.3), penalty, expense or claim of any kind or

nature whatsoever incurred without negligence, bad faith or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this Guarantee Agreement, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The Guarantee Trustee will not claim or exact any lien or charge on any Guarantee Payments as a result of any amount due to it under this Guarantee Agreement. This indemnity shall survive the termination of this Agreement or the resignation or removal of the Guarantee Trustee.

In no event shall the Guarantee Trustee be liable for any indirect, special, punitive or consequential loss or damage of any kind whatsoever, including, but not limited to, lost profits, even if the Guarantee Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

In no event shall the Guarantee Trustee be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond its control, including, but not limited to, acts of God, flood, war (declared or undeclared), terrorism, fire, riot, embargo, government action, including any laws, ordinances, regulations, governmental action or the like which delay, restrict or prohibit the providing of the services contemplated by this Guarantee Agreement.

SECTION 3.5. *Securities.*

The Guarantee Trustee or any other agent of the Guarantee Trustee, in its individual or any other capacity, may become the owner or pledgee of Common or Preferred Securities.

ARTICLE IV

GUARANTEE TRUSTEE

SECTION 4.1. *Guarantee Trustee; Eligibility.*

(a) There shall at all times be a Guarantee Trustee which shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a corporation organized and doing business under the laws of the United States or of any State thereof, authorized to exercise corporate trust powers, having a combined capital and surplus of at least fifty million dollars (\$50,000,000), subject to supervision or examination by Federal or State authority and having an office within the United States. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then, for the purposes of this Section 4.1, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Guarantee Trustee shall cease to be eligible to so act under Section 4.1(a), the Guarantee Trustee shall immediately resign in the manner and with the effect set out in Section 4.2(c).

(c) If the Guarantee Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Guarantee Trustee shall either eliminate such interest or resign in the manner and with the effect set out in Section 4.2(c).

SECTION 4.2. *Appointment, Removal and Resignation of the Guarantee Trustee.*

(a) Subject to Section 4.2(b), the Guarantee Trustee may be appointed or removed without cause at any time by the Guarantor, except during an Event of Default.

(b) The Guarantee Trustee shall not be removed until a Successor Guarantee Trustee has been appointed and has accepted such appointment by written instrument executed by such Successor Guarantee Trustee and delivered to the Guarantor.

(c) The Guarantee Trustee appointed hereunder shall hold office until a Successor Guarantee Trustee shall have been appointed or until its removal or resignation. The Guarantee Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing executed by the Guarantee Trustee and delivered to the Guarantor, which resignation shall not take effect until a Successor Guarantee Trustee has been appointed and has accepted such appointment by instrument in writing executed by such Successor Guarantee Trustee and delivered to the Guarantor and the resigning Guarantee Trustee.

(d) If no Successor Guarantee Trustee shall have been appointed and accepted appointment as provided in this Section 4.2 within thirty (30) days after delivery to the Guarantor of an instrument of resignation, the resigning Guarantee Trustee may petition, at the expense of the Guarantor, any court of competent jurisdiction for appointment of a Successor Guarantee Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Guarantee Trustee.

ARTICLE V

GUARANTEE

SECTION 5.1. *Guarantee.*

(a) The Guarantor irrevocably and unconditionally agrees to pay in full to the Holders the Guarantee Payments (without duplication of amounts theretofore paid by or on behalf of the Issuer), as and when due, regardless of any defense (except for the defense of payment by the Issuer), right of set-off or counterclaim which the Issuer may have or assert. The Guarantor's obligation to make a Guarantee Payment may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Issuer to pay such amounts to the Holders. The Guarantor shall give prompt written notice to the Guarantee Trustee in the event it makes any direct payment to the Holders hereunder.

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(b) The Guarantor hereby also agrees to assume any and all Obligations of the Issuer, and, in the event any such Obligation is not so assumed, subject to the terms and conditions hereof, the Guarantor hereby irrevocably and unconditionally guarantees to each Beneficiary the full payment, when and as due, of any and all Obligations to such Beneficiaries. This Guarantee is intended to be for the Beneficiaries who have received notice hereof.

SECTION 5.2. *Waiver of Notice and Demand.*

The Guarantor hereby waives notice of acceptance of the Guarantee Agreement and of any liability to which it applies or may apply, presentment, demand for payment, any right to require a proceeding first against the Guarantee Trustee, Issuer or any other Person before proceeding against the Guarantor, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

SECTION 5.3. *Obligations Not Affected.*

The obligations, covenants, agreements and duties of the Guarantor under this Guarantee Agreement shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Issuer of any express or implied agreement, covenant, term or condition relating to the Preferred Securities to be performed or observed by the Issuer;

(b) the extension of time for the payment by the Issuer of all or any portion of the Distributions (other than an extension of time for payment of Distributions that results from the extension of any interest payment period on the Notes as provided in the Indenture), Redemption Price, Liquidation Distribution or any other sums payable under the terms of the Preferred Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Preferred Securities;

(c) any failure, omission, delay or lack of diligence on the part of the Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Preferred Securities, or any action on the part of the Issuer granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Issuer or any of the assets of the Issuer;

(e) any invalidity of, or defect or deficiency in, the Preferred Securities;

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred; or

(g) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 5.3 that

the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

There shall be no obligation of the Holders to give notice to, or obtain the consent of, the Guarantor with respect to the happening of any of the foregoing.

SECTION 5.4. *Rights of Holders.*

The Guarantor expressly acknowledges that: (a) this Guarantee Agreement will be deposited with the Guarantee Trustee to be held for the benefit of the Holders; (b) the Guarantee Trustee has the right to enforce this Guarantee Agreement on behalf of the Holders; (c) the Holders of a Majority in Liquidation Amount of the Preferred Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee in respect of this Guarantee Agreement or exercising any trust or power conferred upon the Guarantee Trustee under this Guarantee Agreement; and (d) any Holder may institute a legal proceeding directly against the Guarantor to enforce its rights under this Guarantee Agreement, without first instituting a legal proceeding against the Guarantee Trustee, the Issuer or any other Person.

SECTION 5.5. *Guarantee of Payment.*

This Guarantee Agreement creates a guarantee of payment and not of collection. This Guarantee Agreement will not be discharged except by payment of the Guarantee Payments in full (without duplication of amounts theretofore paid by the Issuer) or upon distribution of Notes to Holders as provided in the Trust Agreement.

SECTION 5.6. *Subrogation.*

The Guarantor shall be subrogated to all (if any) rights of the Holders against the Issuer in respect of any amounts paid to the Holders by the Guarantor under this Guarantee Agreement and shall have the right to waive payment by the Issuer pursuant to Section 5.1; *provided*, that, the Guarantor shall not (except to the extent required by mandatory provisions of law) be entitled to enforce or exercise any rights it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Guarantee Agreement, if, at the time of any such payment, any amounts are due and unpaid under this Guarantee Agreement. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Holders and to pay over such amount to the Holders.

SECTION 5.7. *Independent Obligations.*

The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Issuer with respect to the Preferred Securities and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Guarantee Agreement notwithstanding the occurrence of any event referred to in subsections (a) through (g), inclusive, of Section 5.3.

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SECTION 5.8 . *Enforcement.*

A Beneficiary may enforce the Obligations of the Guarantor contained in Section 5.1(b) directly against the Guarantor, and the Guarantor waives any right or remedy to require that any action be brought against the Issuer or any other person or entity before proceeding against the Guarantor.

ARTICLE VI

COVENANTS AND SUBORDINATION

SECTION 6.1. *Dividends, Distributions and Payments.*

So long as any Preferred Securities remain outstanding, if there shall have occurred and be continuing an Event of Default or the Guarantor shall have entered into an Extension Period as provided for in the Indenture and such period, or any extension thereof, shall have commenced and be continuing, then the Guarantor may not (a) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make liquidation payment with respect to, any of the Guarantor's capital stock or (b) make any payment of principal of or any interest or premium, if any, on or repay, repurchase or redeem any debt securities of the Guarantor that rank *pari passu* in all respects with or junior in interest to the Notes (other than (i) repurchases, redemptions or other acquisitions of shares of capital stock of the Guarantor in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one of more employees, officers, directors or consultants, in connection with a dividend reinvestment or stockholder stock purchase plan or in connection with the issuance of capital stock of the Guarantor (or securities convertible into or exercisable for such capital stock) as consideration in an acquisition transaction entered into prior to the occurrence of such Event of Default or the applicable Extension Period, (ii) as a result of an exchange or conversion of any class or series of the Guarantor's capital stock (or any capital stock of a subsidiary of the Guarantor) for any class or series of the Guarantor's capital stock or any class or series of the Guarantor's indebtedness for any class or series of the Guarantor's capital stock, (iii) the purchase of fractional interests in shares of the Guarantor's capital stock pursuant to the conversions or exchange provisions of such capital stock or the security being converted or exchanged, (iv) any declaration of a dividend in connection with any rights plan, the issuance of rights, stock or other property under any rights plan or the redemption or repurchase of rights pursuant thereto, or (v) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks *pari passu* with or junior to such stock).

SECTION 6.2. *Subordination.*

The obligations of the Guarantor under this Guarantee Agreement will constitute unsecured obligations of the Guarantor and will rank subordinate and junior in right of payment to all Senior Debt of the Guarantor.

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SECTION 6.3. *Pari Passu Guarantees.*

(a) The obligations of the Guarantor under this Guarantee Agreement shall rank pari passu with the obligations of the Guarantor under any similar guarantee agreements issued by the Guarantor with respect to preferred securities (if any) similar to the Preferred Securities, issued by trusts other than the Issuer established or to be established by the Guarantor (if any), in each case similar to the Issuer American Equity Capital Trust I, American Equity Capital Trust II, American Equity Capital Trust III and American Equity Capital Trust IV.

(b) The right of the Guarantor to participate in any distribution of assets of any of its subsidiaries upon any such subsidiary's liquidation or reorganization or otherwise is subject to the prior claims of creditors of that subsidiary, except to the extent the Guarantor may itself be recognized as a creditor of that subsidiary. Accordingly, the Guarantor's obligations under this Guarantee will be effectively subordinated to all existing and future liabilities of the Guarantor's subsidiaries, and claimants should look only to the assets of the Guarantor for payments thereunder. This Guarantee does not limit the incurrence or issuance of other secured or unsecured debt of the Guarantor, including Senior Debt of the Guarantor, under any indenture or agreement that the Guarantor may enter into in the future or otherwise.

ARTICLE VII

TERMINATION

SECTION 7.1. *Termination.*

This Guarantee Agreement shall terminate and be of no further force and effect upon (a) full payment of the Redemption Price of all Preferred Securities, (b) the distribution of Notes to the Holders in exchange for all of the Preferred Securities or (c) full payment of the amounts payable in accordance with the Trust Agreement upon liquidation of the Issuer. Notwithstanding the foregoing, this Guarantee Agreement will continue to be effective or will be reinstated, as the case may be, if at any time any Holder must restore payment of any sums paid with respect to Preferred Securities or this Guarantee Agreement. The obligations of the Guarantor under Sections 3.3 and 3.4 shall survive any such termination or the resignation and removal of the Guarantee Trustee.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.1. *Successors and Assigns.*

All guarantees and agreements contained in this Guarantee Agreement shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders of the Preferred Securities then outstanding. Except in connection with a consolidation, merger or sale involving the Guarantor that is permitted under Article VIII of the Indenture and pursuant to which the successor or assignee agrees in writing to perform the

Guarantor's obligations hereunder, the Guarantor shall not assign its rights or delegate its obligations hereunder without the prior approval of the Holders of a Majority in Liquidation Amount of the Preferred Securities.

SECTION 8.2. *Amendments.*

Except with respect to any changes that do not adversely affect the rights of the Holders in any material respect (in which case no consent of the Holders will be required), this Guarantee Agreement may only be amended with the prior approval of the Guarantor, the Guarantee Trustee and the Holders of not less than a Majority in Liquidation Amount of the Preferred Securities. The provisions of Article VI of the Trust Agreement concerning meetings or consents of the Holders shall apply to the giving of such approval.

SECTION 8.3. *Notices.*

Any notice, request or other communication required or permitted to be given hereunder shall be in writing, duly signed by the party giving such notice, and delivered, telecopied or mailed by first class mail as follows:

(a) if given to the Guarantor, to the address or facsimile number set forth below or such other address, facsimile number or to the attention of such other Person as the Guarantor may give notice to the Guarantee Trustee and the Holders:

American Equity Investment Life Insurance Company
5000 Westown Parkway, Suite 440
West Des Moines, IA 50266
Facsimile No.: (515) 221-0744
Attention: Wendy Carlson

(b) if given to the Issuer, at the Issuer's address or facsimile number set forth below or such other address, facsimile number or to the attention of such other Person as the Issuer may give notice to the Guarantee Trustee and the Holders:

American Equity Capital Trust VII
5000 Westown Parkway, Suite 440
West Des Moines, IA 50266
Facsimile No.: (515) 221-0744
Attention: Wendy Carlson

(c) if given to the Guarantee Trustee, at the address or facsimile number set forth below or such other address, facsimile number or to the attention of such other Person as the Guarantee Trustee may give notice to the Guarantor and the Holders:

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JPMorgan Chase Bank
600 Travis, 50th Floor
Houston, Texas 77002
Facsimile No.: 713-216-2101
Attention: International Trust Services -
American Equity Capital Trust VII

(d) if given to any Holder, at the address set forth on the books and records of the Issuer.

All notices hereunder shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid, except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

SECTION 8.4. *Benefit.*

This Guarantee Agreement is solely for the benefit of the Holders and is not separately transferable from the Preferred Securities.

SECTION 8.5. *Governing Law.*

This Guarantee Agreement and the rights and obligations of each party hereto, shall be construed and enforced in accordance with and governed by the laws of the State of New York without reference to its conflict of laws provisions (other than Section 5-1401 of the General Obligations Law).

SECTION 8.6. *Submission to Jurisdiction.*

ANY LEGAL ACTION OR PROCEEDING BY OR AGAINST ANY PARTY HERETO OR WITH RESPECT TO OR ARISING OUT OF THIS GUARANTEE AGREEMENT MAY BE BROUGHT IN OR REMOVED TO THE COURTS OF THE STATE OF NEW YORK, IN AND FOR THE COUNTY OF NEW YORK, OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK (IN EACH CASE SITTING IN THE BOROUGH OF MANHATTAN). BY EXECUTION AND DELIVERY OF THIS GUARANTEE AGREEMENT, EACH PARTY ACCEPTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS (AND COURTS OF APPEALS THEREFROM) FOR LEGAL PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS GUARANTEE AGREEMENT.

SECTION 8.7. *Counterparts.*

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.

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SECTION 8.8. *Severability.*

In the event that one or more of the provisions contained in this Guarantee Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Guarantee, but this Guarantee shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

[Signature pages follow.]

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IN WITNESS WHEREOF, the undersigned have executed this Guarantee Agreement as of the date first above written.

AMERICAN EQUITY INVESTMENT LIFE HOLDING
COMPANY

By: /s/ Debra Richardson
Name: Debra Richardson
Title: Secretary & Senior Vice President

JPMORGAN CHASE BANK, as Guarantee Trustee

By: /s/ Maria D. Calzado

AMENDED AND RESTATED
CREDIT AGREEMENT

Dated as of September 22, 2004

Among

AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY,

THE BANKS,
as defined herein,

and

U.S. BANK NATIONAL ASSOCIATION,
as a Bank and as Agent

execution copy

CREDIT AGREEMENT

THIS CREDIT AGREEMENT, dated as of September 22, 2004 is by and between AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “Borrower”), the banks or financial institutions listed on the signature pages hereof or which hereafter become parties hereto as hereinafter provided (individually referred to as a “Bank” or collectively as the “Banks”) and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as agent for the Banks (together with its successors in such capacity, the “Agent”).

ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

Section 1.1 Defined Terms. In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following respective meanings (and such meanings shall be equally applicable to both the singular and plural form of the terms defined, as the context may require):

“Adjusted Capital”: As to AEILIC, as of any date, the total amount shown on line 30, page 27, column 1 of the Annual Statement of AEILIC, or an amount determined in a consistent manner for any date other than one as of which an Annual Statement is prepared. Such amount is intended to equal the “total adjusted capital” as defined in *Iowa Code Section 521E.1*, or such other amount as is used to calculate risk-based capital level of AEILIC from time to time.

“Advance”: The portion of the outstanding Loans bearing interest at an identical rate for an identical Interest Period, provided that all Prime Rate Advances shall be deemed a single Advance. An Advance may be a “LIBOR Advance” or “Prime Rate Advance” (each, a “type” of Advance).

“AEILIC”: American Equity Investment Life Insurance Company, an Iowa insurance company.

“Affiliate”: Any Person (other than a Subsidiary): (a) which directly or indirectly through one or more intermediaries controls, or is controlled by, the Borrower; (b) which beneficially owns or holds 5% or more of the equity interest of the Borrower; or (c) 5% or more of the equity interest of which is beneficially owned or held by the Borrower or a Subsidiary. The term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Agent”: U.S. Bank National Association as agent for the Banks hereunder and each successor, as provided in Section 12.7, who shall act as Agent.

“Agent’s Fee Letter” means the letter agreement, dated as of September 22, 2004 (as thereafter amended, modified, renewed or replaced from time to time) between the Agent and the Borrower pertaining to certain fees.

“Agreement”: This Credit Agreement, as it may be amended, modified, supplemented, restated or replaced from time to time.

“A.M. Best”: A.M. Best & Company.

“Amounts Available for Dividends”: For any fiscal year of AEILIC, the maximum amount of dividends AEILIC is permitted to pay for such fiscal year under the Applicable Insurance Code of its state of domicile without necessitating approval of the Insurance Regulatory Authority.

“Annual Statement”: As to any Insurance Subsidiary, the annual financial statements of such Insurance Subsidiary as required to be filed with the applicable Insurance Regulatory Authority, together with all exhibits and schedules filed therewith, prepared in conformity with SAP. References to amounts on particular exhibits, schedules, lines, pages and columns of the Annual Statement are based on the format promulgated by the NAIC for 2003 Life, Accident and Health Insurance Company Annual Statements. If such format is changed in future years so that different information is contained in such items or they no longer exist, it is understood that the reference is to information consistent with that reported in the referenced item in the 2003 Annual Statement of the Insurance Subsidiary.

“Applicable Insurance Code”: As to any Insurance Subsidiary, the insurance code of any state where such Insurance Subsidiary is domiciled or doing insurance business and any successor statute of similar import, together with the regulations thereunder, as amended or otherwise modified and in effect from

time to time. References to sections of the Applicable Insurance Code shall be construed to also refer to successor sections.

“Borrower Pledge Agreement”: The Pledge Agreement dated as of September 22, 2004, in the form of Exhibit B hereto, between the Borrower and the Agent for the benefit of the Agent and the Banks, as the same may be amended, supplemented restated or otherwise modified in writing from time to time by the Borrower and the Agent.

“Business Day”: Any day (other than a Saturday, Sunday or legal holiday in the State of Minnesota) on which national banks are permitted to be open in Minneapolis, Minnesota and New York, New York and, with respect to LIBOR Advances, a day on which dealings in Dollars may be carried on by the Agent in the interbank eurodollar market.

“Capitalized Lease Liabilities”: With respect to any Person, all monetary obligations of such Person under any leasing or similar arrangement which, in accordance with GAAP, would be classified as a capitalized lease, and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP, and the stated maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be terminated by the lessee without payment of a penalty.

“Cash Coverage Ratio”: The ratio, determined on a consolidated basis for the Borrower and its Subsidiaries at the end of each fiscal quarter for the period of four consecutive fiscal quarters then ending of:

(a) the total of the following: (i) Amounts Available for Dividends as of (A) the last day of the most recently completed fiscal year, if the determination of Cash Coverage Ratio is

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being made at the end of any of the first three fiscal quarters of a fiscal year, or (B) the first day of the following fiscal year, if the determination of Cash Coverage Ratio is being made at the end of the fourth quarter of a fiscal year; plus (ii) interest paid on the Surplus Notes; plus (iii) revenues of the Borrower under the Investment Advisory Agreement (between the Borrower and AEILIC); plus (iv) investments income of the Borrower (non-consolidated), excluding investments in Subsidiaries; minus (v) cash operating expenses of the Borrower; and minus (vi) all Restricted Payments made by the Borrower during the current fiscal year;

to

(b) Fixed Charges for such period.

“Change of Control”: A Change of Control shall be deemed to have occurred at such times as: (a) the Borrower ceases to own, free and clear of all Liens other than the Lien of the Agent pursuant to the Loan Documents, 100% of the outstanding shares of voting stock of AEILIC; (b) any Person or two or more Persons acting in concert who shall, as of the date of this Agreement, have owned 10% or less of the outstanding shares of voting stock of the Borrower shall directly or indirectly have acquired beneficial ownership (within the meaning of said Rule 13d-3) of 30% or more of the outstanding shares of voting stock of the Borrower, or (c) individuals who as of the date of this Agreement constitute the Borrower’s Board of Directors (together with any new director whose election or appointment was approved by at least two-thirds of the directors then still in office who either were directors at the beginning of such period or whose election or nomination for election was previously so approved), for any reason, cease to constitute a majority of the directors at any time then in office.

“Code”: The Internal Revenue Code of 1986, as amended, or any successor statute, together with regulations thereunder.

“Collections”: Any payment received by the Agent in respect of the Obligations or any reduction in the amount of Obligations, whether by voluntary payment, by realization upon collateral (including payment of any note or security included thereunder), through the exercise of any right of set-off, banker’s lien or similar right, by counterclaim or cross action or by the enforcement of any other right under the Loan Documents, or under any other guaranties or security agreements or otherwise, or as a distribution, adequate protection payment or similar amount received in respect of any collateral for the Obligations or otherwise in any insolvency case or proceeding involving the Borrower, any guarantor, third-party pledgor or obligee under any collateral.

“Commitment Fees”: As such term is defined in Section 3.2.

“Company Action Level”: AEILIC’s “company-action-level risk-based capital” as calculated under *Iowa Code Section 521E*, and the equivalent amount for any other Insurance Subsidiary, as calculated under the laws or regulations of Insurance Regulatory Authorities applicable to such other Insurance Subsidiaries.

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“Compliance Certificate”: A certificate in the form of Exhibit C, duly completed and signed by an authorized officer of the Borrower.

“Consolidated Total Indebtedness”: As of any time of determination, the amount reported by the Borrower as total indebtedness of the Borrower and its Subsidiaries on its most recently-filed Consolidated Statements of Operations as filed with the SEC in its Form 10Q or 10K, minus the principal amount of Trust Preferred Indebtedness, to the extent that such Trust Preferred Indebtedness is included in such total indebtedness.

“Consolidated Net Worth”: As of any time of determination, the amount reported by the Borrower as the consolidated stockholders’ equity of the Borrower and its Subsidiaries on its most recently-filed Consolidated Statements of Operations as filed with the SEC in its Form 10Q or 10K, excluding unrealized net losses and gains on assets held for sale pursuant to Statement of Financial Accounting Standards No. 115, plus, if not otherwise included therein, the principal amount of Trust Preferred Indebtedness.

“Consolidated Total Capitalization”: As of any time of determination, the sum of Consolidated Total Indebtedness plus Consolidated Net Worth.

“Contingent Obligation”: Any agreement, undertaking or arrangement by which any Person guarantees, endorses or otherwise becomes or is contingently liable upon (by direct or indirect agreement, contingent or otherwise, to provide funds for payment, to supply funds to, or otherwise to invest in, a debtor, or otherwise to assure a creditor against loss) the debt, obligation or other liability of any other Person (other than by endorsements of instruments in the course of collection), or guarantees the payment of dividends or other distributions upon the shares of any other Person; provided, that the Borrower’s assumption of the trade debt of its Subsidiaries and obligations of the Borrower or the Insurance Subsidiaries under Reinsurance Agreements and Surplus Relief Reinsurance Agreements shall not be deemed Contingent Obligations of the Borrower or the Insurance Subsidiaries. The amount of any Person’s liability with respect to any Contingent Obligation shall (subject to any limitation set forth therein) be deemed to be the outstanding principal amount (or maximum outstanding principal amount, if larger) of the debt, obligation or other liability outstanding thereunder.

“Default”: Any event which, with the giving of notice to the Borrower or lapse of time, or both, would constitute an Event of Default.

“ERISA”: The Employee Retirement Income Security Act of 1974, as amended, and any successor statute, together with regulations thereunder.

“ERISA Affiliate”: Any trade or business (whether or not incorporated) that is a member of a group of which the Borrower is a member and which is treated as a single employer under Section 414 of the Code.

“Event of Default”: Any event described in Section 10.1.

“Federal Reserve Board”: The Board of Governors of the Federal Reserve System or an successor thereto.

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“Fixed Charges”: With respect to any period of calculation, the total of the following for the Borrower and its Subsidiaries: (i) interest paid or, without duplication, accrued but unpaid on the Loans and all other Indebtedness, including without limitation the Trust Preferred Indebtedness and any Subordinated Notes Payable (other than Indebtedness in respect of Repurchase Transactions), plus (ii) one fifth (1/5) of the amount of the Revolving Loans outstanding on the last day of such period, or after the Termination Date (if the Revolving Loans are converted into Tranche A Loans) the mandatory principal payments of the Tranche A Loans plus (iii) the mandatory principal payments of the Tranche B Loans.

“GAAP”: Generally accepted accounting principles as applied in the preparation of the audited financial statements of the Borrower referred to in Section 7.5, provided that changes in generally accepted accounting principles shall be given effect for purposes of this Agreement as provided in Section 1.2.

“Hedging Obligations”: With respect to any Person, all liabilities of such Person under interest rate swap agreements, total return swap agreements, interest rate cap agreements, interest rate collar agreements and other agreements designed to protect the such Person against fluctuations in interest rates or currency exchange rates.

“Indebtedness”: With respect to any Person at any date, all obligations, contingent or otherwise, which in accordance with GAAP should be classified upon such Person’s balance sheet as liabilities, but in any event including the following (whether or not they should be classified as liabilities upon such balance sheet), without duplication: (a) all obligations of such Person for borrowed money or in respect of loans or advances; (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (c) all obligations in respect of letters of credit, whether or not drawn, and bankers’ acceptances issued for the account of such Person; (d) all Capitalized Lease Liabilities of such Person; (e) all Hedging Obligations of such Person; (f) all obligations of such Person secured by a contractual Lien; (g) whether or not so included as liabilities in accordance with GAAP, all obligations of such Person to pay the deferred purchase price of property or services, and Indebtedness secured by a Lien on property owned or being purchased by such Person (including Indebtedness arising under conditional sales or other title retention agreements) whether or not such Indebtedness shall have been assumed by such Person or is limited in recourse; (h) any Indebtedness of another Person secured by a lien on any assets of such first Person, whether or not such Indebtedness is assumed by such first Person; (i) any Indebtedness of a partnership in which such Person is a general partner; and (j) all Contingent Obligations of such Person whether or not in connection with the foregoing.

“Insurance Regulatory Authority”: With respect to any Insurance Subsidiary, each governmental or regulatory agency with which such Insurance Subsidiary is required to file its Annual Statement or which exercises regulatory authority over the primary businesses being conducted by such Insurance Subsidiary.

“Insurance Subsidiaries”: AEILIC and all other Subsidiaries which at the time of reference are regulated as insurance companies under the laws of any state of the United States of America or of the District of Columbia.

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“Interest Period” For any LIBOR Advance, the period commencing on the borrowing date of such LIBOR Advance or the date a Prime Rate Advance is converted into such LIBOR Advance, or the last day of the preceding Interest Period for such LIBOR Advance, as the case may be, and ending on the numerically corresponding day one, two, three or six months thereafter, as selected by the Borrower pursuant to Section 2.3; provided, that:

(a) any Interest Period which would otherwise end on a day which is not a Business Day shall end on the next succeeding Business Day unless such next succeeding Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period which begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) Interest Periods shall not be chosen for Advances that would require payment of any amount of any Advance prior to the last day of the Interest Period in order to pay an installment of the Loans when due.

“Investment Advisory Agreement”: Each agreement between the Borrower and an Insurance Subsidiary under which the Borrower will act as investment advisor for such Insurance Subsidiary in consideration of fees paid by the Insurance Subsidiary thereunder.

“Investment”: The acquisition, purchase, making or holding of any stock or other security, any loan, advance, contribution to capital, extension of credit (except for trade and customer accounts receivable for inventory sold or services rendered in the ordinary course of business and payable in accordance with customary trade terms), any acquisitions of real or personal property (other than real and personal property acquired in the ordinary course of business) and any purchase or commitment or option to purchase stock or other debt or equity Securities of or any interest in another Person or any integral part of any business or the assets comprising such business or part thereof.

“Leverage Ratio”: As of the last day of any fiscal quarter of the Borrower, that ratio (expressed as a percentage) of:

(a) Consolidated Total Indebtedness of the Borrower and its Subsidiaries;

to

(b) Consolidated Total Capitalization of the Borrower and its Subsidiaries.

“LIBOR Advance”: An Advance designated as such in a notice of continuation or conversion under Section 2.3.

“LIBOR Interbank Rate”: The offered rate for deposits in United States Dollars for delivery of such deposits on the first day of an Interest Period of a LIBOR Advance, for the number of days comprised therein, quoted by the Agent from Page 3750 of the Telerate Service

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as of approximately 11:00 a.m., London time, on the day that is two Banking Days preceding the first day of the Interest Period of such LIBOR Advance, or the rate for such deposits determined by the Agent at such time based on such other published service of general application as shall be selected by the Agent for such purpose; provided, that in lieu of determining the rate in the foregoing manner, the Agent may determine the rate based on rates offered to the Agent for deposits in United States Dollars in the interbank Eurodollar market at such time for delivery on the first day of the Interest Period for the number of days comprised therein.

“LIBOR Rate (Reserve Adjusted)”: A rate per annum calculated for the Interest Period of a LIBOR Advance in accordance with the following formula:

$$\text{LRRR} = \frac{\text{LIBOR Interbank Rate}}{1.00 - \text{LRR}}$$

In such formula, “LRR” means “LIBOR Reserve Rate” and “LRRR” means “LIBOR Rate (Reserve Adjusted)”, in each instance determined by the Agent for the applicable Interest Period. The Agent’s determination of all such rates for any Interest Period shall be conclusive in the absence of manifest error.

“LIBOR Reserve Rate”: A percentage equal to the daily average during such Interest Period of the aggregate maximum reserve requirements (including all basic, supplemental, marginal and other reserves), as specified under Regulation D of the Federal Reserve Board, or any other applicable regulation that prescribes reserve requirements applicable to Eurocurrency liabilities (as presently defined in Regulation D) or applicable to extensions of credit by the Agent the rate of interest on which is determined with regard to rates applicable to Eurocurrency liabilities. Without limiting the generality of the foregoing, the Eurocurrency Reserve Rate shall reflect any reserves required to be maintained by the Agent against (i) any category of liabilities that includes deposits by reference to which the LIBOR Interbank Rate is to be determined, or (ii) any category of extensions of credit or other assets that includes LIBOR Advances.

“Licenses”: As such term is defined in Section 7.18.

“Lien”: Any security interest, mortgage, pledge, lien, hypothecation, judgment lien or similar legal process, charge, encumbrance, title retention agreement or analogous instrument or device (including, without limitation, the interest of the lessors under capitalized leases and the interest of a vendor under any conditional sale or other title retention agreement).

“Loan Documents”: Collectively, this Agreement, the Notes, the Borrower Pledge Agreement, the Agent’s Fee Letter and any and all other documents or instruments furnished or required to be furnished in connection with any of the foregoing, as the same may be amended or modified in accordance with this Agreement.

“Loan” and “Loans”: The Revolving Loans, the Tranche A Loans and the Tranche B Loans.

“Material Adverse Change” or “Material Adverse Effect”: Any change, event, action, condition or effect which individually or in the aggregate (a) impairs the validity or

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enforceability of this Agreement, any other Loan Document, or (b) materially and adversely affects the business, operations, financial prospects or condition of the Borrower or AEILIC on an unconsolidated basis, or (c) materially impairs the ability of the Borrower and its Subsidiaries to perform their respective Obligations under this Agreement or any of the other Loan Documents, or (d) materially and adversely affects the perfection or priority of any Lien granted under any of the Loan Documents.

“NAIC”: National Association of Insurance Commissioners, or any successor organization.

“Notes”: The Revolving Notes, Tranche A Notes and the Tranche B Notes.

“**Obligations**”: All obligations of the Borrower and/or any of its Subsidiaries to the Banks or the Agent, howsoever created, arising or evidenced, whether direct or indirect, joint or several, absolute or contingent, or now or hereafter existing, or due or to become due, which arise under, out of or in connection with this Agreement, the Notes or the other Loan Documents.

“**Payment Date**”: The final maturity date of each of the Loans, plus (a) the last day of each Interest Period for each LIBOR Advance and, if such Interest Period is in excess of three months after the first day of such Interest Period, thereafter each day three months after each succeeding Payment Date; and (b) the last day of each month for each Prime Rate Advance.

“**PBGC**”: The Pension Benefit Guaranty Corporation, established pursuant to Subtitle A of Title IV of ERISA, and any successor thereto or to the functions thereof.

“**Person**”: Any natural person, corporation, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision or any other entity, whether acting in an individual, fiduciary or other capacity.

“**Plan**”: An employee benefit plan or other plan, maintained for employees of the Borrower or of any ERISA Affiliate, and subject to Title IV of ERISA or Section 412 of the Code.

“**Prime Rate**”: The rate of interest from time to time announced by the Agent as its “prime rate.” For purposes of determining any interest rate which is based on the Prime Rate, such interest rate shall be adjusted each time that the prime rate changes.

“**Prime Rate Advance**”: An Advance designated as such in a notice of continuation or conversion under Section 2.3.

“**Reinsurance Agreements**”: Any agreement, contract, treaty, certificate or other arrangement (other than a Surplus Relief Reinsurance Agreement) by which any of the Insurance Subsidiaries agrees to transfer or cede to another insurer all or part of the liability assumed or assets held by any one of the Insurance Subsidiaries under a policy or policies of insurance or under a reinsurance agreement assumed by any one of the Insurance Subsidiaries. Reinsurance Agreements shall include, but not be limited to, any agreement, contract, treaty, certificate or other arrangement (other than a Surplus Relief Reinsurance Agreement) which is treated as such by the applicable Insurance Regulatory Authority.

“**Reportable Event**”: A reportable event as defined in Section 4043 of ERISA and the - regulations issued under such Section, with respect to a Plan, excluding, however, such events as to which the PBGC by regulation has waived the requirement of Section 4043(a) of ERISA that it be notified within 30 days of the occurrence of such event, provided that a failure to meet the minimum funding standard of Section 412 of the Code and Section 302 of ERISA shall be a reportable event regardless of the issuance of any such waivers in accordance with Section 412(d) of the Code.

“**Repurchase Transactions**”: Repurchase agreements entered into by the Borrower, as “Seller,” providing for the sale of certain securities to an investment banking firm, as “Buyer,” subject to repurchase obligations of the Borrower, the total amount of which Repurchase Transactions outstanding at any time shall be related to the total amount of new annuities that the Borrower anticipates will be sold by AEILIC during the time such Repurchase Transactions are outstanding.

“**Required Banks**”: Those Banks whose Total Percentages equal or exceed 75%, provided, that if there are two or three Banks, the Required Banks shall include not less than two of such Banks.

“**Restricted Payments**”: Payment by the Borrower or setting aside of funds to make payments (a) in respect of its stock as dividends, purchases, redemptions or retirements thereof or other payments described in Section 9.5(a) or (b), and (b) of interest and principal of the Trust Preferred Indebtedness and any Subordinated Notes Payable (payment of which is governed by Section 9.5 hereof) or any defeasance, retirement, redemption, call or other payment or acquisition thereof.

“**Risk-Based Capital**”: The ratio of Adjusted Capital of AEILIC to the Company Action Level of AEILIC, expressed as a percentage, as such formula is determined by the Iowa Insurance Division.

“**Revolving Commitments**”: The maximum unpaid principal amount of the Revolving Loans of all Banks which may from time to time be outstanding hereunder, being initially as set forth on Schedule 1.1 hereto, as the same may be reduced from time to time pursuant to Section 4.3, or, if so indicated, the maximum unpaid principal amount of Loans of any Bank (which amounts are set forth on the signature pages hereof or in the relevant Assignment and Assumption Agreement for such Bank) and, as the context may require, the agreement of each Bank to make Revolving Loans to the Borrower subject to the terms and conditions of this Agreement up to its Revolving Commitment.

“**Revolving Loans**”: The Loans described in Section 2.1(a).

“**Revolving Notes**”: The promissory notes of the Borrower described in Section 2.4(a), substantially in the form of Exhibit A-1, as such promissory notes may be amended, modified or supplemented from time to time, and such term shall include any substitutions for, or renewals of, such promissory notes.

“**Revolving Percentage**”: As to any Bank the proportion, expressed as a percentage, that such Bank’s Revolving Commitment bears to the aggregate Revolving Commitments of all Banks, as set forth on Schedule 1.1 hereto.

“**Revolving Termination Date**” means the earliest of (a) September 22, 2007, (b) the date designated by the Borrower as the Revolving Termination Date by written notice to the Agent given not later than five (5) Business Days prior to such designated Revolving Termination Date, (c) the date on which the Revolving Commitments are terminated pursuant to Section 10.2 hereof, or (d) the date on which the Revolving Commitments are reduced to zero pursuant to Section 4.3 hereof.

“SAP”: As to any insurance company, the statutory accounting practices prescribed or permitted by the Insurance Regulatory Authority.

“Standard & Poor’s”: Standard & Poor’s Rating Group and any successor thereto.

“Subordinated Notes Payable”: All notes or debentures payable by the Borrower that are subordinated to the Obligations in accordance with the terms of the documents governing such notes or debentures, excluding, however, notes or debentures issued in respect of the Trust Preferred Indebtedness.

“Subsidiary”: Any Person of which or in which the Borrower and its other Subsidiaries own directly or indirectly 50% or more of: (a) the combined voting power of all classes of stock having general voting power under ordinary circumstances to elect a majority of the board of directors of such Person, if it is a corporation, (b) the capital interest or profit interest of such Person, if it is a partnership, limited liability company, joint venture or similar entity, or (c) the beneficial interest of such Person, if it is a trust, association or other unincorporated organization.

“Surplus Note”: Any surplus note or debenture issued at any time by AEILIC to the Borrower, as such surplus note or debenture may be amended or modified in accordance with this Agreement and approved by the Insurance Regulatory Authority.

“Surplus Relief Reinsurance Agreements”: Any agreement whereby any of the Insurance Subsidiaries assumes or cedes business under a reinsurance agreement that would be considered a “financing-type” reinsurance agreement as determined in accordance with the Statement of Financial Accounting Standards 113 or any successor thereto.

“Total Percentage”: As to any Bank the proportion, expressed as a percentage, that (a) the sum of such Bank’s Revolving Commitments until the Revolving Termination Date (whether used or unused) plus such Bank’s outstanding Tranche A Loans and Tranche B Loans, bears to (b) the sum of the aggregate Revolving Commitments of all Banks plus the outstanding Tranche A Loans and Tranche B Loans of all Banks.

“Tranche A Loans”: The loans described in Section 2.1(b).

“Tranche A Notes”: The promissory notes defined and described in Section 2.4(b) Substantially in the form of Exhibit A-2, as such promissory notes may be amended, modified or

supplemented from time to time, and such term shall include any substitutions for, or renewals of, such promissory notes.

“Tranche A Percentage”: As to any Tranche A Bank the proportion, expressed as a percentage, that such Tranche A Bank’s outstanding Tranche A Loans bears to the outstanding Tranche A Loans of all Tranche A Banks, as initially shown on Schedule 1.1 hereto.

“Tranche B Banks”: The Banks funding the Tranche B Loans, as designated on Schedule 1.1 attached hereto.

“Tranche B Loans”: The loans described in Section 2.1(c).

“Tranche B LIBOR Margins”: Is defined in Section 3.1(a).

“Tranche B Notes”: The promissory notes defined and described in Section 2.4(c) substantially in the form of Exhibits A-3, A-4 and A-5, as such promissory notes may be amended, modified or supplemented from time to time, and such term shall include any substitutions for, or renewals of, such promissory notes.

“Tranche B Percentage”: As to any Tranche B Bank the proportion, expressed as a percentage, that such Tranche B Bank’s outstanding Tranche B Loans bears to the outstanding Tranche B Loans of all Tranche B Banks, as initially shown on Schedule 1.1 hereto.

“Trust Preferred Indebtedness”: Indebtedness of the Borrower under the following subordinated notes or debentures:

(a) The 8% Convertible Junior Subordinated Debentures issued by the Borrower in the aggregate amount of \$26,773,237 in exchange for the proceeds received by American Equity Capital Trust I, a statutory trust created under the laws of the State of Delaware (“Trust I”) upon issuance of preferred securities and common securities by Trust I;

(b) The 5% Convertible Junior Subordinated Debentures issued by the Borrower in the nominal amount of \$100,000,000 in exchange for the proceeds received by American Equity Capital Trust II, a statutory trust created under the laws of the State of Delaware (“Trust II”) upon issuance of preferred securities and common securities by Trust II;

(c) Subordinated Debentures issued by the Borrower in the nominal amount of \$12,400,000 in exchange for the proceeds received by American Equity Capital Trust IV, a statutory trust created under the laws of the State of Delaware (“Trust IV”) upon issuance of preferred securities and common securities by Trust IV;

(d) Such other subordinated notes or debentures that may hereafter be issued by the Borrower payable to a trust in connection with issuance by such trust of preferred or common securities, provided that the terms of such notes or debentures (including tenors and subordination provisions) are accepted by written approval of the Required Banks.

Section 1.2 Accounting Terms and Calculations. Except as may be expressly provided to the contrary herein, all accounting terms used herein shall be interpreted and all accounting determinations hereunder (including, without limitation, determination of compliance with financial ratios and restrictions in Articles VIII and IX hereof) shall be made in accordance with GAAP, or if so provided, SAP, consistently applied. Any reference to “consolidated” financial terms shall be deemed to refer to those financial terms as applied to the Borrower and its Subsidiaries in accordance with GAAP. Notwithstanding the

foregoing, further changes in accounting principles and policies (whether GAAP or SAP or both) may be given effect for purposes of this Agreement provided that:

- (a) if any such changes shall affect computations determining compliance with the financial ratios and restrictions Articles VIII and IX hereof, the Borrower shall give reasonable notice thereof to the Agent and each of the Banks, and shall not give effect to such change unless and until this Agreement shall be amended to give effect to such change, and
- (b) if at any time the computations determining compliance with financial ratios and restrictions in Articles VIII and IX hereof utilize accounting principles different from those utilized in the financial statements then being furnished to the Banks pursuant to Section 8.1, such financial statements shall be accompanied by reconciliation work-sheets.

Section 1.3 Computation of Time Periods. In this Agreement, in the computation of a period of time from a specified date to a later specified date, unless otherwise stated the word “from” means “from and including” and the word “to” or “until” each means “to but excluding.”

Section 1.4 Other Definitional Terms. The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. References to Sections, Exhibits, schedules and like references are to this Agreement unless otherwise expressly provided.

ARTICLE II TERMS OF LENDING

Section 2.1 The Loans.

(a) Revolving Loans. Subject to the terms and conditions hereof and in reliance upon the warranties of the Borrower herein, each Bank agrees, severally and not jointly to make loans (the “Revolving Loans”) to the Borrower from time to time from the date hereof until the Revolving Termination Date, during which period the Borrower may repay and reborrow in accordance with the provisions hereof, provided, that the aggregate unpaid principal amount of the Revolving Loans of any Bank at any one time outstanding shall not exceed its Revolving Commitment. The Revolving Loans shall be made by the Banks on a pro rata basis, calculated for each Bank based on its Revolving Percentage.

(b) Tranche A Loans. Subject to the terms and conditions hereof and in reliance upon the warranties of the Borrower herein (including satisfaction of the conditions set forth in Section 6.2 hereof, as if the making of the Tranche A Loans is a new Loan hereunder), each

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Bank agrees, severally and not jointly to make loans (the “Tranche A Loans”) to the Borrower on the Revolving Termination Date in such amount as the Borrower shall request, but not exceeding the Revolving Commitment of such Bank immediately prior to the Revolving Termination Date; the proceeds of the Tranche A Loans being applied to the extent necessary to the concurrent payment in full of the aggregate principal amount of the Revolving Loans outstanding on the Revolving Termination Date.

(c) Tranche B Loans. Subject to the terms and conditions hereof and in reliance upon the warranties of the Borrower herein, each Tranche B Bank agrees, severally and not jointly to make loans (the “Tranche B Loans”) to the Borrower (which shall constitute a refinancing of certain loans outstanding under prior credit agreements between the Tranche B Bank and the Borrower or Affiliates) in the amounts set forth on Schedule 1.1 hereto. The Tranche B Loan evidenced by the Tranche B Note in the form of Exhibit A-3 hereof shall refinance an existing loan made under a prior Credit Agreement and shall be deemed funded on the date of this Agreement. The Tranche B Loans evidenced by the Tranche B Notes in the form of Exhibits A-4 and A-5 will be funded upon assumption by the Borrower of certain assets and indebtedness formerly held by and owed by American Equity Investment Service Company, and will be funded on or before December 31, 2004 (after which date the Tranche B Banks shall have no obligation to fund such Tranche B Loans).

Section 2.2 Advance Options. The Loans shall be constituted of LIBOR Advances and Prime Rate Advances, as shall be selected by the Borrower, except as otherwise provided herein. Any combination of types of Advances may be outstanding at the same time. Each LIBOR Advance shall be in a minimum amount of \$500,000. Each Prime Rate Advance shall be in a minimum amount of \$100,000.

Section 2.3 Borrowing Procedures and Continuation or Conversion of Loans.

(a) The Borrower may elect to (i) borrow a Revolving Loan, (ii) continue any outstanding LIBOR Advance from one Interest Period into a subsequent Interest Period to begin on the last day of the earlier Interest Period, or (iii) convert any outstanding Advance into another type of Advance (on the last day of an Interest Period only, in the instance of a LIBOR Advance), by giving the Agent notice in writing, or by telephone promptly confirmed in writing, given so as to be received by the Agent not later than:

(i) 12:00 noon, Minneapolis time, on the Business Day of the requested borrowing, continuation or conversion, if the continuing or converted Advance shall be a Prime Rate Advance; or

(ii) 12:00 noon, Minneapolis time, three Business days prior to the date of the requested borrowing, continuation or conversion, if the continuing or converted Advance shall be a LIBOR Advance.

Each notice of continuation or conversion of an Advance shall specify (i) the effective date of the borrowing, continuation or conversion date (which shall be a Business Day), (ii) the amount and the type or types of Advances following such continuation or conversion (subject to the limitation on amount set forth in Section 2.2), and (iii) for

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borrowing or continuation as, or conversion into, LIBOR Advances, the Interest Periods for such Advances. Absent timely notice of continuation or conversion, following expiration of an Interest Period unless the LIBOR Advance is paid in full the Agent may at any time thereafter convert the

LIBOR Advance into a Prime Rate Advance. Until such time as such Advance is converted into a Prime Rate Advance by the Agent or the Borrower or is continued as a LIBOR Advance with a new Interest Period by notice by the Borrower as provided above, such Advance shall continue to accrue interest at a rate equal to the interest rate applicable during the expired Interest Period. No Advance shall be continued as, or converted into, a LIBOR Advance if a Default or Event of Default shall exist.

(b) Funding of Agent. For new borrowings, the Agent shall promptly notify each other Bank of the receipt of such request, the matters specified therein, and of such Bank's Revolving Percentage, Tranche A Percentage or Tranche B Percentage (as applicable) of the requested Loans. On the date of the requested Loans, each Bank shall provide its share of the requested Loans to the Agent in immediately available funds not later than 2:00 p.m., Minneapolis time. Unless the Agent determines that any applicable condition specified in Article VI has not been satisfied, the Agent will make the requested Loans available to the Borrower at the Agent's principal office in Minneapolis, Minnesota in immediately available funds not later than 5:00 p.m. (Minneapolis time) on the lending date so requested. If the Agent has made a Loan to the Borrower on behalf of a Bank but has not received the amount of such Loan from such Bank by the time herein required, such Bank shall pay interest to the Agent on the amount so advanced at the overnight Federal Funds rate from the date of such Loan to the date funds are received by the Agent from such Bank, such interest to be payable with such remittance from such Bank of the principal amount of such Loan (provided, however, that the Agent shall not make any Loan on behalf of a Bank if the Agent has received prior notice from such Bank that it will not make such Loan). If the Agent does not receive payment from such Bank by the next Business Day after the date of any Loan, the Agent shall be entitled to recover such Loan, with interest thereon at the rate then applicable to the such Loan, on demand, from the Borrower, without prejudice to the Agent's and the Borrower's rights against such Bank. If such Bank pays the Agent the amount herein required with interest at the overnight rate before the Agent has recovered from the Borrower, such Bank shall be entitled to the interest payable by the Borrower with respect to the Loan in question accruing from the date the Agent made such Loan.

(c) Notification of Advances, Interest Rates, Prepayments and Revolving Commitment Reductions. In addition to new borrowings, the Agent will promptly notify each Bank of the contents of each Revolving Commitment reduction notice, conversion or continuation notice and repayment or prepayment notice received by it hereunder. The Agent will notify each Bank of the interest rate applicable to each LIBOR Advance promptly upon determination of such interest rate and will (if there are Prime Rate Advances outstanding) give each Bank prompt notice of each change in the Prime Rate.

Section 2.4 The Notes. The Loans shall be evidenced by the following Notes:

(a) Revolving Note. The Revolving Loans of each Bank shall be evidenced by a promissory note of the Borrower (the "Revolving Notes"), substantially in the form of Exhibit A-1 hereto duly completed, in the amount of such Bank's Revolving Commitment originally in effect and dated as of the date of this Agreement. The Banks shall enter in their respective records the amount of each Revolving Loan and each Advance, the rate of interest borne by each Advance and the payments made on the Revolving Loans, and such records shall be deemed conclusive evidence of the subject matter thereof, absent manifest error.

(b) Tranche A Loans. The Tranche A Loans of each Bank shall be evidenced by a promissory note of the Borrower (the "Tranche A Notes"), substantially in the form of Exhibit A-2 hereto duly completed, in the amount of such Bank's Tranche A Loan, when made. The Banks shall enter in their respective records each Advance, the rate of interest borne by each Advance and the payments made on the Tranche A Loans, and such records shall be deemed conclusive evidence of the subject matter thereof, absent manifest error.

(c) Tranche B Loans. The Tranche B Loans of each Tranche B Bank shall be evidenced by promissory notes of the Borrower (the "Tranche B Notes"), substantially in the form of Exhibits A-3, A-4 and A-5 hereto duly completed, in the amount of such Tranche B Bank's Tranche B Loans, when made. The Tranche B Banks shall enter in their respective records each Advance, the rate of interest borne by each Advance and the payments made on the Tranche B Loans, and such records shall be deemed conclusive evidence of the subject matter thereof, absent manifest error.

Section 2.5 Funding Losses. In the event of (a) any failure of the Borrower to borrow, continue or convert a LIBOR Advance on a date specified in a notice thereof, or (b) any payment (including, without limitation, any payment pursuant to Section 4.2, 4.3 or 10.2), prepayment or conversion of any LIBOR Advance on a date other than the last day of the Interest Period for such Advance, the Borrower agrees to pay each Bank's costs, expenses and Interest Differential (as determined by such Bank) incurred as a result of such event. The term "Interest Differential" shall mean that amount (not less than \$0) of the financial loss incurred by each Bank resulting from such event, calculated as the difference between the amount of interest such Bank would have earned (from like investments in the Money Markets as of the first day of the Interest Period of the relevant Advance) had such event not occurred and the interest the Bank will actually earn (from like investments in the Money Markets as of the date of such event) as a result of the redeployment of funds from such event. Because of the short-term nature of this facility, the Borrower agrees that the Interest Differential shall not be discounted to its present value. The term "Money Markets" refers to one or more wholesale funding markets available to the Banks, including negotiable certificates of deposit, commercial paper, LIBOR deposits, bank notes, federal funds and others. Such determinations by each Bank of shall be conclusive in the absence of manifest error.

ARTICLE III INTEREST AND FEES

Section 3.1 Interest.

(a) LIBOR Advances. The unpaid principal amount of each LIBOR Advance shall bear interest prior to maturity at a rate per annum equal to the LIBOR Rate (Reserve Adjusted) in effect for each Interest Period for such LIBOR Advance plus (i) 1.75% per annum, in the instance of the Revolving Loans and the Tranche A Loans, or (ii) the interest rate margins (the "Tranche B LIBOR Margins") as set forth on each of the Tranche B Notes for the principal outstanding under such Tranche B Notes.

(b) Prime Rate Advances. The unpaid principal amount of each Prime Rate Advance shall bear interest prior to maturity at a rate per annum equal to the Prime Rate per annum.

(c) Interest After Maturity. Any amount of the Loans not paid when due, whether at the date scheduled therefor or earlier upon acceleration, shall bear interest until paid in full at a rate per annum equal to the greater of (i) 2.00% in excess of the rate applicable to the unpaid principal amount immediately before it became due, or (ii) 2.00% in excess of the Prime Rate in effect from time to time.

Section 3.2 Commitment Fee. The Borrower shall pay fees (the "Commitment Fees") to the Agent for the account of the Banks in an amount determined by applying a rate of 0.25% per annum to the average daily unused amount of the Revolving Commitments of the respective Banks for the period from the date hereof to the Revolving Termination Date.

Section 3.3 Computation. Interest and Commitment Fees shall be computed on the basis of actual days elapsed and a year of 360 days.

Section 3.4 Agent's Fee Letter. The Borrower agrees to pay the Agent the amounts described in the Agent's Fee Letter.

Section 3.5 Payment Dates. Accrued interest under Sections 3.1(a) and (b) shall be payable on the Payment Dates for the applicable types of Advances. Accrued interest under Section 3.1(c) shall be payable on demand. Accrued unpaid Commitment Fees shall be payable on the last day of March, June, September and December of each year. Fees under Section 3.2 shall be payable as provided in the Agent's Fee Letter.

ARTICLE IV PAYMENTS, PREPAYMENTS, REDUCTION OR TERMINATION OF THE CREDIT AND SETOFF

Section 4.1 Repayment. The principal amount of the Loans shall be paid as follows:

(a) Revolving Loans. Principal of the Revolving Loans of each Bank shall be payable in full on the Revolving Termination Date (whether or not the Tranche A Loans shall be made on the Revolving Termination Date, but applying the proceeds of any Tranche A Loans to payment of the Revolving Loans.

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(b) Tranche A Loans. Principal of the Tranche A Loans of each Bank shall be payable in eight (8) quarterly installments, each in the amount of one eighth (1/8th) of the amount of the Tranche A Loan of such Bank when made, commencing on the date three (3) months after the Revolving Termination Date, and continuing at intervals of three (3) months thereafter, with the final such payment to equal all outstanding principal of the Tranche A Loans of each Bank.

(c) Tranche B Loans. Principal of the Tranche B Loans of each Tranche B Bank shall be payable in installments, as described on Schedule I attached to each of the Tranche B Notes.

Section 4.2 Prepayments.

Section 4.2 Optional Prepayments. The Borrower may prepay the Loans, in whole or in part, at any time subject to the provisions of Section 2.5 without any other premium or penalty. Each partial prepayment shall be in an amount of \$100,000 or an integral multiple thereof. Any prepayment of a Eurodollar Advance shall be in an amount equal to the remaining entire principal balance of such Advance. Each prepayment of the Tranche A Loans or the Tranche B Loans shall be applied to the unpaid installments of the Tranche A Loans or the Tranche B Loans in the inverse order of their maturities.

Section 4.3 Optional Reduction or Termination of Revolving Commitment. The Borrower may, at any time, upon no less than three (3) Business Days prior written or telephonic notice received by the Agent, reduce the Revolving Commitments of all Banks, such reduction to be in a minimum amount of \$1,000,000 or an integral multiple thereof and to be applied ratably to the Revolving Commitments of the respective Banks. Upon any reduction in the Revolving Commitments pursuant to this Section, the Borrower shall pay to the Agent for the account of the Banks the amount, if any, by which the aggregate unpaid principal amount of outstanding Revolving Loans exceeds the total Revolving Commitments of all Banks as so reduced. Amounts so paid cannot be reborrowed. The Borrower may, at any time, upon not less than three (3) Business Days prior written notice to the Agent, terminate the Revolving Commitments in their entirety. Upon termination of the Revolving Commitments pursuant to this Section, the Borrower shall pay to the Agent for the account of the Banks the full amount of all outstanding Revolving Loans, all accrued and unpaid interest thereon, all unpaid Commitment Fees accrued to the date of such termination and all other unpaid obligations of the Borrower to the Banks hereunder. All payment described in this Section is subject to the provisions of Section 2.5. The initial amount of the Tranche A Loan shall not exceed the amount of the Revolving Commitment as reduced (or terminated) hereunder.

Section 4.4 Payments. Payments and prepayments of principal of, and interest on, the Notes and all fees, expenses and other Obligations under the Loan Documents shall be made without set-off or counterclaim in immediately available funds not later than 2:00 p.m., Minneapolis time, on the dates due at the main office of the Agent in Minneapolis, Minnesota. Funds received on any day after such time shall be deemed to have been received on the next Business Day. The Agent shall promptly distribute in like funds to each Bank its respective Revolving Percentage, Tranche A Percentage or Tranche B Percentage share of each such payment of principal and interest and its Revolving Percentage of Commitment Fees. Following

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an Event of Default and acceleration of the Obligations, allocation of any payments to the Revolving Loans, Tranche A Loans and Tranche B Loans shall be made as provided in Section 10.4, and the Agent shall distribute to each Bank its respective Revolving Percentage, Tranche A Percentage or Tranche B Percentage (as applicable) share of each payment applied to the Revolving Loans, Tranche A Loan or Tranche B Loans as provided therein Subject to the definition of the term "Interest Period", whenever any payment to be made hereunder or on the Notes shall be stated to be due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of any interest or fees.

Section 4.5 Proration of Payments. If any Bank or other holder of a Loan shall obtain any payment or other recovery (whether voluntary, involuntary, by application of offset, pursuant to the guaranty hereunder, or otherwise) on account of principal of, interest on, or fees with respect to any Loan, in any case in excess of the share of payments and other recoveries of other Banks or holders, such Bank or other holder shall purchase from the other Banks

or holders, in a manner to be specified by the Agent. such participations in the Loans held by such other Banks or holders as shall be necessary to cause such purchasing Bank or other holder to share the excess payment or other recovery ratably with each of such other Banks or holders; provided, however, that if all or any portion of the excess payment or other recovery is thereafter recovered from such purchasing Bank or holder, the purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest. Notwithstanding the foregoing, prior to occurrence of an Event of Default, payments of the Revolving Loans, Tranche A Loans and Tranche B Loans, as designated by the Borrower or otherwise determined by the Agent, shall be applied to the respective Loans and remitted by the Agent to the Banks holding the respective Loans. Following an Event of Default and acceleration of the Obligations, the recoveries applied to the Revolving Loans, Tranche A Loans and Tranche B Loans shall be determined under Section 10.4.

Section 4.6 Debit of Account for Interest and Fees. The Agent is authorized to charge a demand deposit account maintained by the Borrower at the Agent (the account number to be agreed from time to time between the Agent and the Borrower) with the amount of any interest payment, Commitment Fees and other fees hereunder when due. The Borrower shall remain liable to the Banks for such payment in the event such account does not contain a sufficient amount to cover such required payment. The Borrower agrees to execute any additional authorizations which may be required at any time by the Agent in order to effectuate the making of such payment.

ARTICLE V ADDITIONAL PROVISIONS RELATING TO LOANS

Section 5.1 Increased Costs. If, as a result of any law, rule, regulation, treaty or directive, or any change therein or in the interpretation or administration thereof, or compliance by the Banks with any request or directive (whether or not having the force of law) from any court, central bank, governmental authority, agency or instrumentality, or comparable agency:

(a) any tax, duty or other charge with respect to any Loan, the Notes or the Commitments is imposed, modified or deemed applicable, or the basis of taxation of

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payments to any Bank of interest or principal of the Loans or of the Commitment Fees (other than taxes imposed on the overall net income of such Bank by the jurisdiction in which such Bank has its principal office) is changed;

(b) any reserve, special deposit, special assessment or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Bank is imposed, modified or deemed applicable;

(c) any increase in the amount of capital required or expected to be maintained by any Bank or any Person controlling such Bank is imposed, modified or deemed applicable; or

(d) any other condition affecting this Agreement or the Commitments is imposed on any Bank or the relevant funding markets;

and such Bank determines that, by reason thereof, the cost to such Bank of making or maintaining the Loans or extending the Commitments is increased, or the amount of any sum receivable by such Bank hereunder or under the Notes in respect of any Loan is reduced;

then, the Borrower shall pay to such Bank upon demand such additional amount or amounts as will compensate such Bank (or the controlling Person in the instance of (c) above) for such additional costs or reduction (provided that the Banks have not been compensated for such additional cost or reduction in the calculation of the LIBOR Reserve Rate). Determinations by each Bank for purposes of this Section 5.1 of the additional amounts required to compensate such Bank shall be conclusive in the absence of manifest error. In determining such amounts, the Banks may use any reasonable averaging, attribution and allocation methods.

Section 5.2 Deposits Unavailable or Interest Rate Unascertainable or Inadequate: Impracticability. If the Agent determines (which determination shall be conclusive and binding on the parties hereto) that:

(a) deposits of the necessary amount for the relevant Interest Period for any LIBOR Advance are not available in the relevant markets or that, by reason of circumstances affecting such market, adequate and reasonable means do not exist for ascertaining the LIBOR Interbank Rate for such Interest Period;

(b) the LIBOR Rate (Reserve Adjusted) will not adequately and fairly reflect the cost to the Banks of making or funding the LIBOR Advance for a relevant Interest Period; or

(c) the making or funding of LIBOR Advances has become impracticable as a result of any event occurring after the date of this Agreement which, in the opinion of the Agent, materially and adversely affects such Advances or the Banks' Commitments to make such Advances or the relevant market;

the Agent shall promptly give notice of such determination to the Borrower, and (i) any notice of a new LIBOR Advance previously given by the Borrower and not yet borrowed or converted shall be deemed to be a notice to make a Prime Rate Advance, and (ii) the Borrower shall be obligated to either prepay in full any outstanding LIBOR Advances, without premium or penalty

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on the last day of the current Interest Period with respect thereto or convert any such LIBOR Advance to a Prime Rate Advance on such last day.

Section 5.3 Changes in Law Rendering LIBOR Advances Unlawful. If at any time due to the adoption of any law, rule, regulation, treaty or directive, or any change therein or in the interpretation or administration thereof by any court, central bank, governmental authority, agency or instrumentality, or comparable agency charged with the interpretation or administration thereof, or for any other reason arising subsequent to the date of this Agreement, it shall become unlawful or impossible for any Bank to make or fund any LIBOR Advance, the obligation of such Bank to provide such Advance shall, upon the happening of such event, forthwith be suspended for the duration of such illegality or impossibility. If any such event shall make it unlawful or

impossible for any Bank to continue any LIBOR Advance previously made by it hereunder, such Bank shall, upon the happening of such event, notify the Agent and the Borrower thereof in writing, and the Borrower shall, at the time notified by such Bank, either convert each such unlawful Advance to a Prime Rate Advance or repay such Advance in full, together with accrued interest thereon, subject to the provisions of Section 2.5.

Section 5.4 Discretion of the Banks as to Manner of Funding. Notwithstanding any provision of this Agreement to the contrary, each Bank shall be entitled to fund and maintain its funding of all or any part of the Loans in any manner it elects; it being understood, however, that for purposes of this Agreement, all determinations hereunder shall be made as if the Banks had actually funded and maintained each LIBOR Advance during the Interest Period for such Advance through the purchase of deposits having a term corresponding to such Interest Period and bearing an interest rate equal to the LIBOR Interbank Rate for such Interest Period (whether or not any Bank shall have granted any participations in such Advances).

ARTICLE VI CONDITIONS PRECEDENT

Section 6.1 Conditions of Initial Loan. The obligation of the Banks to make the initial Loan hereunder shall be subject to the satisfaction of the conditions precedent, in addition to the applicable conditions precedent set forth in Section 6.2 below, that the Agent shall have received all of the following, in form and substance satisfactory to the Agent, each duly executed and certified or dated as of the date of this Agreement or such other date as is satisfactory to the Agent:

- (a) This Agreement and the Notes .
- (b) The Borrower Pledge Agreement, together with delivery of certificates evidencing all stock pledged thereunder, together with stock powers in blank, and all Surplus Notes pledged thereunder, together with bond powers in blank.
- (c) Copies of the corporate resolutions of the Borrower authorizing the execution, delivery and performance of the Loan Documents to which it is a party, certified duly authorized officers thereof.

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- (d) Incumbency certificates showing the names and titles, and bearing the signatures of, the officers of the Borrower authorized to execute the Loan Documents to which it is a party, certified by duly authorized officers thereof.
- (e) Copies of the Articles or Certificates of Incorporation and By-Laws of the Borrower with all amendments thereto, certified by duly authorized officers thereof.
- (f) Certificates of Good Standing for the Borrower in the jurisdictions of its incorporation, certified by the appropriate governmental officials.
- (g) A Certificate of Good Standing for AEILIC from the appropriate Insurance Regulatory Authority.
- (h) An opinion of the Borrower's general counsel, addressed to the Agent and the Banks, in substantially the form of Exhibit D.
- (i) The Agent's Fee Letter, and payment of the fees provided therein and in Section 12.4.
- (j) UCC, tax and judgment lien searches with respect to the Borrower and its Subsidiaries.

Section 6.2 Conditions Precedent to all Loans. The obligation of the Banks to make any Loan hereunder (including the initial Loan, and treating any conversion of the Revolving Loans into Tranche A Loans) shall be subject to the satisfaction of the following conditions precedent (and any request for a Loan shall be deemed a representation by the Borrower that the following are satisfied):

- (a) Before and after giving effect to such Loan, the representation and warranties contained in Article VII shall be true and correct, as though made on the date of such Loan.
- (b) Before and after giving effect to such Loan, no Default or Event of Default shall have occurred and be continuing.

ARTICLE VII REPRESENTATIONS AND WARRANTIES

To induce the Agent and the Banks to enter into this Agreement and to make or continue the Loans hereunder, the Borrower represents and warrants to the Agent and the Banks:

Section 7.1 Organization, Standing, Etc. The Borrower and each of its corporate Subsidiaries are corporations duly incorporated and validly existing and in good standing under the laws of the jurisdiction of their respective incorporation and have all requisite corporate power and authority to carry on their respective businesses as now conducted, to (in the instance of the Borrower) enter into the Loan Documents to which it is a party and to pay and perform its Obligations under such Loan Documents. The Borrower and each of its Subsidiaries are duly qualified and in good standing as a foreign corporation in each jurisdiction in which the character

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of the properties owned, leased or operated by it or the business conducted by it makes such qualification necessary.

Section 7.2 Authorization and Validity. The execution, delivery and performance by the Borrower of the Loan Documents to which it is a party have been duly authorized by all necessary corporate action by the Borrower, and such Loan Documents constitute the legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, subject to limitations as to enforceability which might result from bankruptcy, insolvency, moratorium and other similar laws affecting creditors' rights generally and subject to limitations on the availability of equitable remedies.

Section 7.3 No Conflict: No Default. The execution, delivery and performance by the Borrower of the Loan Documents to which it is a party will not (a) violate any provision of any law, statute, rule or regulation or any order, writ, judgment, injunction, decree, determination or award of any court, governmental agency or arbitrator presently in effect having applicability to the Borrower, (b) violate or contravene any provisions of the Articles (or Certificate) of Incorporation or by-laws of the Borrower, or (c) result in a breach of or constitute a default under any indenture, loan or credit agreement or any other agreement, lease or instrument to which the Borrower is a party or by which it or any of its properties may be bound or result in the creation of any Lien on any asset of the Borrower or any Subsidiary. Neither the Borrower nor any Subsidiary is in default under or in violation of any such law, statute, rule or regulation, order, writ, judgment, injunction, decree, determination or award or any such indenture, loan or credit agreement or other agreement, lease or instrument in any case in which the consequences of such default or violation could constitute a Material Adverse Change. No Default or Event of Default has occurred and is continuing.

Section 7.4 Government Consent. No order, consent, approval, license, authorization or validation of, or filing, recording or registration with, or exemption by, any governmental or public body or authority is required on the part of the Borrower to authorize, or is required in connection with the execution, delivery and performance of, or the legality, validity, binding effect or enforceability of, the Loan Documents.

Section 7.5 Financial Statements and Condition.

(a) The Borrower's audited consolidated and consolidating financial statements as at December 31, 2003 and its unaudited consolidated and consolidating financial statements as at June 30, 2004, as heretofore furnished to the Banks, have been prepared in accordance with GAAP on a consistent basis and fairly present the financial condition of the Borrower and its Subsidiaries as at such dates and the results of their operations and changes in financial position for the respective periods then ended. As of the dates of such financial statements, neither the Borrower nor any Subsidiary had any material obligation, contingent liability, liability for taxes or long-term lease obligation which is not reflected in such financial statements or in the notes thereto. Since June 30, 2004, no Material Adverse Change has occurred.

(a) AEILIC's statutory annual statement as at December 31, 2003 and its quarterly statement as at June 30, 2004, as heretofore furnished to the Banks, have been prepared in accordance

with SAP on a consistent basis and fairly present the financial condition of AEILIC as at such dates and the results of its operations and changes in financial position for the respective periods then ended. Since June 30, 2004, no Material Adverse Change in respect of AEILIC has occurred.

Section 7.6 Litigation and Contingent Liabilities. There are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any Subsidiary or any of their properties before any court or arbitrator, or any governmental department, board, agency or other instrumentality which singly or in the aggregate, if determined adversely to the Borrower or such Subsidiary, could constitute a Material Adverse Change. Neither the Borrower nor any Subsidiary has any contingent liabilities which are material to the Borrower and the Subsidiaries as a consolidated enterprise.

Section 7.7 Compliance with Laws. Neither the Borrower nor any Subsidiary is in violation of any law, ordinance, rule, regulation, order, policy, guideline or other requirement of any governmental agency or authority, if the effect of such violation could reasonably be expected to have a Material Adverse Effect and, to the best of the Borrower's knowledge, no such violation has been alleged and the Borrower and each Subsidiary (a) has filed in a timely manner all reports, documents and other materials required to be filed by it with any governmental agency or authority, if such failure to so file could reasonably be expected to have a Material Adverse Effect; and the information contained in each of such filings is true, correct and complete in all material respects and (b) has retained all records and documents required to be retained by it pursuant to any law, ordinance, rule, regulation, order, policy, guideline or other requirement of any governmental agency or authority, if the failure to so retain such records and documents could reasonably be expected to have a Material Adverse Effect.

Section 7.8 Environmental, Health and Safety Laws. There does not exist any violation by the Borrower or any Subsidiary of any applicable federal, state or local law, rule or regulation or order of any government, governmental department, board, agency or other instrumentality relating to -environmental, pollution, health or safety matters which will or threatens to impose a material liability on the Borrower or a Subsidiary or which would require a material expenditure by the Borrower or such Subsidiary to cure. Neither the Borrower nor any Subsidiary has received any notice to the effect that any part of its operations or properties is not in material compliance with any such law, rule, regulation or order or notice that it or its property is the subject of any governmental investigation evaluating whether any remedial action is needed to respond to any release of any toxic or hazardous waste or substance into the environment, the consequences of which noncompliance or remedial action could constitute a Material Adverse Change.

Section 7.9 ERISA. Each Plan complies with all material applicable requirements of ERISA and the Code and with all material applicable rulings and regulations issued under the provisions of ERISA and the Code setting forth those requirements. No Reportable Event, other than a Reportable Event for which the reporting requirements have been waived by regulations of the PBGC, has occurred and is continuing with respect to any Plan. All of the minimum funding standards applicable to such Plans have been satisfied and there exists no event or condition which would permit the institution of proceedings to terminate any Plan under Section

4042 of ERISA. The current value of the Plans' benefits guaranteed under Title IV or ERISA does not exceed the current value of the Plans' assets allocable to such benefits.

Section 7.10 Regulation U. The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System) and no part of the proceeds of any Loan will be used to purchase or carry margin stock or for any other purpose which would violate any of the margin requirements of the Board of Governors of the Federal Reserve System.

Section 7.11 Ownership of Property: Liens. Each of the Borrower and the Subsidiaries has good and marketable title to its real properties and good and sufficient title to its other properties, including all properties and assets referred to as owned by the Borrower and its Subsidiaries in the audited financial

statements of the Borrower referred to in Section 7.5 (other than property disposed of since the date of such financial statements in the ordinary course of business). None of the properties, revenues or assets of the Borrower or any of its Subsidiaries is subject to a Lien, except for (a) Liens disclosed in the financial statements referred to in Section 7.5 or (b) Liens allowed under Section 9.2.

Section 7.12 Taxes. Each of the Borrower and the Subsidiaries has filed all federal, state and local tax returns required to be filed and has paid or made provision for the payment of all taxes due and payable pursuant to such returns and pursuant to any assessments made against it or any of its property and all other taxes, fees and other charges imposed on it or any of its property by any governmental authority (other than taxes, fees or charges the amount or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in accordance with GAAP have been provided on the books of the Borrower). No tax Liens have been filed and no material claims are being asserted with respect to any such taxes, fees or charges. The charges, accruals and reserves on the books of the Borrower in respect of taxes and other governmental charges are adequate.

Section 7.13 Trademarks, Patents. Each of the Borrower and the Subsidiaries possesses or has the right to use all of the patents, trademarks, trade names, service marks and copyrights, and applications therefor, and all technology, know-how, processes, methods and designs used in or necessary for the conduct of its business, without known conflict with the rights of others.

Section 7.14 Investment Company Act. Neither the Borrower nor any Subsidiary is an “investment company” or a company “controlled” by an investment company within the meaning of the Investment Company Act of 1940, as amended.

Section 7.15 Public Utility Holding Company Act. Neither the Borrower nor any Subsidiary is a “holding company” or a “subsidiary company” of a holding company or an “affiliate” of a holding company or of a subsidiary company of a holding company within the meaning of the Public Utility Holding Company Act of 1935, as amended.

Section 7.16 Subsidiaries. Schedule 7.16 sets forth as of the date of this Agreement a list of all Subsidiaries and the number and percentage of the shares of each class of capital stock owned beneficially or of record by the Borrower or any Subsidiary therein, and the jurisdiction of incorporation of each Subsidiary.

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Section 7.17 Partnerships and Joint Ventures. As of the date of this Agreement, there are no partnerships or joint ventures in which the Borrower or any Subsidiary is a partner (limited or general) or joint venturer.

Section 7.18 Insurance Licenses. Schedule 7.18 lists all of the jurisdictions in which each of the Insurance Subsidiaries hold licenses (including, without limitation, licenses or certificates of authority from applicable insurance departments), permits or authorizations to transact insurance and reinsurance business (collectively, the “Licenses”). Except as set forth on Schedule 7.18, no such License is the subject of a proceeding for suspension or revocation or any similar proceedings, there is no sustainable basis for such a suspension or revocation, and, to the best of the Borrower’s knowledge, no such suspension or revocation is threatened by any Insurance Regulatory Authority which, in either case, could reasonably be expected to have a Material Adverse Effect. Schedule 7.18 indicates that line or lines of insurance which the Insurance Subsidiaries are permitted to be engaged in with respect to each License therein listed. The Insurance Subsidiaries do not transact any insurance business, directly or indirectly, in any state or jurisdiction other than those enumerated on Schedule 7.18, where such business requires any license, permit, governmental approval, consent or other authorization.

Section 7.19 Reinsurance. All persons with whom any Insurance Subsidiaries have ceded any obligations with respect to any Reinsurance Agreement or Surplus Relief Reinsurance Agreements have a financial strength rating of “A” or better by A.M. Best.

Section 7.20 Pledged Shares. All of the shares of capital stock of AEILIC are duly authorized and validly issued, fully paid and non-assessable, and pledged to the Agent pursuant to the terms of the Borrower Pledge Agreement.

Section 7.21 Pledged Surplus Notes. All of the Surplus Notes of AEILIC are duly authorized and validly issued, and pledged to the Agent pursuant to the terms of the Borrower Pledge Agreement. There is no order of preference or priority among the Surplus Notes (i.e., no Surplus Note is paid on a higher priority than any other Surplus Note) under any instrument or agreement related thereto or under applicable law respecting insolvency or liquidation of AEILIC.

Section 7.22. Insurance Subsidiaries. No Insurance Subsidiary is subject to any regulatory prohibition regarding the declaration or payment of dividends that is not generally applicable to all insurance companies which are domiciled in the same jurisdiction and are engaged in the same line of business as such Insurance Subsidiary.

ARTICLE VIII AFFIRMATIVE COVENANTS

From the date of this Agreement and thereafter until the Loans and all other Obligations of the Borrower to the Banks hereunder and under the Notes and the other Loan Documents have been paid in full, the Borrower will do, and will cause each Subsidiary to do, all of the following:

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Section 8.1 Reports, Certificates and Other Information. Unless otherwise provided herein, furnish or cause to be furnished to the Agent (who will forward copies to each Bank):

8.1.1 Audit Report.

(a) As soon as available and in any event within 120 days after the end of each fiscal year of the Borrower, the annual audit report of the Borrower and its Subsidiaries prepared on a consolidated basis and in conformity with GAAP, consisting of at least statements of income, cash flows, changes in stockholders’ equity, and a consolidated balance sheet as at the end of such year, setting forth in each case in consolidated form corresponding figures from the previous annual audit, certified without qualification by independent certified public accountants of recognized standing selected by the Borrower and acceptable to the Required Banks, together with any -management letters,

management reports or other supplementary comments or reports to the Borrower or its board of directors furnished by such accountants and together with unaudited consolidating statements prepared for Borrower's management.

(b) Together with the audited financial statements required under Section 8.1(a), a statement by the accounting firm performing each such audit stating that it has reviewed this Agreement and that in performing its examination nothing came to its attention that caused it to believe that any Default or Event of Default exists, or, if such Default or Event of Default exists, describing its nature.

8.1.2 Quarterly Reports. As soon as available and in any event within 60 days after the end of each fiscal quarter of each fiscal year, a copy of the unaudited financial statement of the Borrower and its Subsidiaries prepared in the same manner as the audit report referred to in Section 8.1.1(a), signed by the Borrower's responsible officer, consisting of at least consolidated statements of income, cash flow, changes in stockholders' equity for the Borrower and its Subsidiaries for such quarter and for the period from the beginning of such fiscal year to the end of such quarter, and the consolidated balance sheet of the Borrower as at the end of such quarter.

8.1.3 Tax Returns and Reports. If requested by the Agent or the Required Banks, copies of all federal, state, local and foreign Tax Returns and Reports filed by the Borrower or any of its Subsidiaries.

8.1.4 SAP Financial Statements.

(a) As soon as possible, but in any event within sixty (60) days after the end of each fiscal year of each of the Insurance Subsidiaries, a copy of the Annual Statement of such Insurance Subsidiaries for such fiscal year prepared in accordance with SAP and accompanied by the certification of the responsible officer of such Insurance Subsidiaries that such financial statements present fairly, in accordance with SAP, the financial position of such Insurance Subsidiaries for the period then ended;

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(b) As soon as possible, but in any event within sixty (60) days after the end of each of the first three fiscal quarters of each fiscal year of each of the Insurance Subsidiaries, a copy of the quarterly statement of such Insurance Subsidiaries for such fiscal quarter, all prepared in accordance with SAP and accompanied by the certification of the responsible officer of such Insurance Subsidiaries that all such financial statements present fairly in accordance with SAP the financial position of such Insurance Subsidiaries for the periods then ended (subject to normal year-end and audit adjustments);

(c) Within fifteen (15) days after being delivered to any of the Insurance Subsidiaries, any final examination report issued from time to time by the applicable Insurance Regulatory Authority or the NAIC;

(d) Within ninety (90) days after the close of each Fiscal Year of each of the Insurance Subsidiaries, a copy of the "Statement of Actuarial Opinion" for each of the Insurance Subsidiaries which is provided to the applicable Insurance Regulatory Authority (or equivalent information should the Insurance Regulatory Authority no longer require such a statement). Such statement shall be in the format prescribed by the Applicable Insurance Code of the state of domicile of such Insurance Subsidiary.

8.1.5 Compliance Certificate and Risk-Based Capital Calculations.

(a) Together with the financial statements furnished by the Borrower under Sections 8.1.1 and 8.1.2, a Compliance Certificate signed by the chief financial officer of the Borrower, duly completed.

(b) Together with the financial statements furnished by the Borrower under Sections 8.1.1 and 8.1.2, calculations of the Risk Based Capital for all or any of Insurance Subsidiaries based on the quarterly or annual financial statements being delivered.

8.1.6 Reports to SEC and to Stockholders. Promptly upon the mailing or filing thereof, copies of all financial statements, reports and proxy statements mailed to the Borrower's shareholders, and copies of all registration statements, periodic reports and other documents filed with the Securities and Exchange Commission (or any successor thereto) or any national securities exchange.

8.1.7 Notice of Default and Litigation. Promptly upon learning of the occurrence of any of the following, written notice thereof, describing the same and the steps being taken by the Borrower with respect thereto:

(a) the occurrence of a Default or Event of Default;

(b) the institution of any material litigation or the occurrence of any material litigation development;

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(c) the commencement of any dispute which might reasonably be expected to lead to the material modification, transfer, revocation, suspension or termination or any Loan Document; or

(d) any Material Adverse Change.

8.1.8 ERISA Liability. Immediately upon becoming aware of the occurrence, with respect to any Plan, of any Reportable Event (other than a Reportable Event for which the reporting requirements have been waived by PBGC regulations) or any "prohibited transaction" (as defined in Section 4975 of the Code), a notice specifying the nature thereof and what action the Borrower proposes to take with respect thereto, and, when received, copies of any notice from PBGC of intention to terminate or have a trustee appointed for any Plan.

8.1.9 Environmental Liabilities. Immediately upon becoming aware of the occurrence thereof, notice of any violation as to any environmental matter by the Borrower or any Subsidiary and of the commencement of any judicial or administrative proceeding relating to health, safety or

environmental matters (i) in which an adverse determination or result could result in the revocation of or have a material adverse effect on any operating permits, air emission permits, water discharge permits, hazardous waste permits or other permits held by the Borrower or any Subsidiary which are material to the operations of the Borrower or such Subsidiary, or (ii) which will or threatens to impose a material liability on the Borrower or such Subsidiary to any Person or which will require a material expenditure by the Borrower or such Subsidiary to cure any alleged problem or violation.

8.1.10 Insurance Holding Company Filings. Copies of all material Insurance Holding Company System Act filings with Governmental Authorities by the Borrower or any Insurance Subsidiary not later than ten (10) Business Days after such filings are made, including, without limitation, filings which seek approval of Governmental Authorities with respect to transactions between the Borrower and its Affiliates.

8.1.11 Insurance Licenses. Within five (5) Business Days of such notice, notice of actual suspension, termination or revocation of any License or restriction thereon (material to the Insurance Subsidiaries) of any of the Insurance Subsidiaries by any Insurance Regulatory Authority or of receipt of notice from any Insurance Regulatory Authority notifying any of the Insurance Subsidiaries of a hearing (which is not withdrawn within ten (10) days) relating to such a suspension, termination, revocation or restriction, including any request by an Insurance Regulatory Authority which commits any of the Insurance Subsidiaries to take, or refrain from taking, any action or which otherwise materially and adversely affects the authority of any of the Insurance Subsidiaries to conduct its business.

8.1.12 Insurance Proceedings. Within three (3) Business Days of such notice, notice of any pending or threatened investigation or regulatory proceeding (other than routine periodic investigations or reviews) by any Insurance Regulatory Authority concerning the

business, practices or operations of any of the Insurance Subsidiaries, including any agent or managing general agent thereof.

8.1.13 Changes in Applicable Insurance Code. Promptly, upon knowledge of the Borrower or any Insurance Subsidiary, to the Agent (who shall promptly deliver such reports to the Banks), notice of any actual or proposed changes in any Applicable Insurance Code, if such changes could reasonably be expected to have a Material Adverse Effect.

8.1.14 Reinsurance Agreements.

- (a) Promptly, notice of any material change or modification to any Reinsurance Agreements or Surplus Relief Reinsurance Agreements whether entered into before or after the date of this Agreement including Reinsurance Agreements, if any, which are in a runoff mode on the date of this Agreement, which change or modification could reasonably be expected to have a Material Adverse Effect;
- (b) promptly, notice of any written notice received by any of the Insurance Subsidiaries of any material denial of coverage, litigation or arbitration arising out of any Surplus Relief Reinsurance Agreement or any material Reinsurance Agreement to which any of the Insurance Subsidiaries is a party; and
- (c) promptly, such other financial, actuarial and other information with respect to Surplus Relief Reinsurance Agreements and Reinsurance Agreements as the Agent may reasonably request.

8.1.15 Ratings. Promptly and in any event within ten Business Days after (i) learning thereof, notification of any changes after the date hereof in the rating given by A.M. Best in respect of the Borrower or any Insurance Subsidiary and (ii) receipt thereof, copies of any ratings analysis by A.M. Best, S&P or Moody's relating to the Borrower or any Insurance Subsidiary.

8.1.16 Other Information. From time to time, such other information regarding the business, operation and financial condition of the Borrower and the Subsidiaries as the Agent or the Required Banks may reasonably request.

Section 8.2 Corporate Existence. Subject to Section 9.3 in the instance of a Subsidiary, maintain its corporate existence in good standing under the laws of its jurisdiction of incorporation and its qualification to transact business in each jurisdiction in which the character of the properties owned, leased or operated by it or the business conducted by it makes such qualification necessary.

Section 8.3 Insurance. Maintain with financially sound and reputable insurance companies such insurance as may be required by law and such other insurance in such amounts and against such hazards as is customary in the case of reputable corporations engaged in the same or similar business and similarly situated.

Section 8.4 Payment of Taxes and Claims. File all tax returns and reports which are required by law to be filed by it and pay before they become delinquent all taxes, assessments and governmental charges and levies imposed upon it or its property and all claims or demands of any kind (including, without limitation, those of suppliers, mechanics, carriers, warehouses, landlords and other like Persons) which, if unpaid, might result in the creation of a Lien upon its property; provided that the foregoing items need not be paid if they are being contested in good faith by appropriate proceedings, and as long as the Borrower's or such Subsidiary's title to its property is not materially adversely affected, its use of such property in the ordinary course of its business is not materially interfered with and adequate reserves with respect thereto have been set aside on the Borrower's or such Subsidiary's books in accordance with GAAP.

Section 8.5 Inspection. Permit any Person designated by any Bank to visit and inspect any of its properties, corporate books and financial records, to examine and to make copies of its books of accounts and other financial records, and to discuss the affairs, finances and accounts of the Borrower and the Subsidiaries with, and to be advised as to the same by, its officers at such reasonable times and intervals as such Bank may designate. So long as no Event of Default exists, the expenses of the Banks for such visits, inspections and examinations shall be at the expense of the Banks, but any such visits, inspections, and examinations made while any Event of Default is continuing shall be at the expense of the Borrower.

Section 8.6 Maintenance of Properties. Maintain its properties used or useful in the conduct of its business in good condition, repair and working order, and supplied with all necessary equipment, and make all necessary repairs, renewals, replacements, betterments and improvements thereto, all as may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times.

Section 8.7 Books and Records. Keep adequate and proper records and books of account in which full and correct entries will be made of its dealings, business and affairs.

Section 8.8 Compliance. Comply in all material respects with all laws, rules, regulations, orders, writs, judgments, injunctions, decrees or awards to which it may be subject.

Section 8.9 ERISA. Maintain each Plan in compliance with all material applicable requirements of ERISA and of the Code and with all material applicable rulings and regulations issued under the provisions of ERISA and of the Code.

Section 8.10 Environmental Matters. Observe and comply with all laws, rules, regulations and orders of any government or government agency relating to health, safety, pollution, hazardous materials or other environmental matters to the extent non-compliance could result in a material liability or otherwise constitute or result in a Material Adverse Change.

ARTICLE IX NEGATIVE COVENANTS

From the date of this Agreement and thereafter until the Loans and all other Obligations of the Borrower to the Banks hereunder and under the Notes and the other Loan Documents have been paid in full, the Borrower will not, and will not permit any Subsidiary to, do any of the following:

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Section 9.1 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

- (a) Indebtedness under this Agreement;
- (b) Current liabilities, other than for borrowed money, incurred in the ordinary course of business;
- (c) Indebtedness secured by Liens permitted under Section 9.2 hereof;
- (d) Indebtedness consisting of endorsements for collection, deposit or negotiation and warranties of products or services, in each case incurred in the ordinary course of business;
- (e) Indebtedness arising under Hedging Obligations related to the Loans;
- (f) Indebtedness owing by the Borrower to any Subsidiary or by any Subsidiary to the Borrower or any other Subsidiary;
- (g) The Trust Preferred Indebtedness; and
- (h) Unsecured Indebtedness not otherwise permitted by this Section 9.1 so long as (i) at the time of incurrence or assumption thereof, the Borrower would be in compliance with Section 9.12 hereof applied on a pro forma basis as of such time, (ii) such Indebtedness shall mature in accordance with its terms after the Revolving Termination Date, and (iii) the documents pertaining to such Indebtedness shall not include financial covenants, ratios or financial performance tests (other than by inclusion of a cross-default or cross-acceleration to this Agreement).

Section 9.2 Liens. Create, incur, assume or suffer to exist any Lien with respect to any property, revenues or assets now owned or hereafter arising or acquired, except the following Liens:

- (a) Deposits or pledges to secure payment of workers' compensation, unemployment insurance, old age pensions or other social security obligations, in the ordinary course of business of the Borrower or a Subsidiary;
- (b) Liens for taxes, fees, assessments and governmental charges not delinquent or to the extent that payments therefor shall not at the time be required to be made in accordance with the provisions of Section 8.4;
- (c) Liens of carriers, warehousemen, mechanics and materialmen, and other like Liens arising in the ordinary course of business, for sums not due or to the extent that payment therefor shall not at the time be required to be made in accordance with the provisions of Section 8.4;

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- (d) Deposits to secure the performance of bids, trade contracts, leases, statutory obligations and other obligations of a like nature incurred in the ordinary course of business;
- (f) Liens described on Schedule 9.2 hereof, and Liens securing refinancing of the Indebtedness described therein which shall not exceed the amount of Indebtedness currently secured by such Liens;
- (g) Liens in favor of the Agent for the benefit of the Banks pursuant to this Agreement and the other Loan Documents; and
- (h) the interests of sellers in Repurchase Transactions.

Section 9.3 Merger. Merge or consolidate or enter into any analogous reorganization or transaction with any Person; provided, however, any wholly-owned Subsidiary may be merged with or liquidated into the Borrower (if the Borrower is the surviving corporation) or any other wholly-owned Subsidiary.

Section 9.4 Sale of Assets. Sell, assign, lease, transfer, contribute, reinsure, cede, convey or otherwise dispose of, or grant options, warrants or other rights with respect to, any of its assets (including, without limitation, any books of business) to any Person, unless:

- (a) such sale, assignment, transfer, lease, contribution, reinsurance, cession, conveyance or other disposition is in the ordinary course of its business including, without limitation, sales of assets in connection with the management of the investment portfolio of the Borrower and its Subsidiaries;
- (b) the aggregate net book value of all assets sold, transferred, leased, contributed, reinsured, ceded or conveyed (other than in the ordinary course of business) by the Borrower or any of its Subsidiaries pursuant to this clause (b) does not exceed \$500,000; or
- (c) such sale, assignment, transfer, lease, contribution, reinsurance, cession, conveyance or other disposition is with respect to the sale of its capital assets and the net proceeds of such sale are used to replace such capital assets within ninety (90) days after receipt of such net proceeds.

Section 9.5 Restricted Payments. Except as hereinafter provided, do any of the following:

- (a) Declare or pay any dividends, either in cash or property, on any shares of its capital stock of any class (except dividends or other distributions payable solely in shares of common stock of the Borrower and except for dividends or other distributions payable solely to the Borrower) or make any other payment or distribution, either directly or indirectly or through any Subsidiary, in respect of its capital stock (except for payments or distributions made solely to the Borrower) if before or after giving effect to such payment any Default or Event of Default shall have occurred and be continuing or if the sum of the aggregate amount of such payments made during any fiscal year of the

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Borrower shall exceed 33% of the consolidated net income of the Borrower (determined in accordance with GAAP) for the prior fiscal year;

- (b) Directly or indirectly, or through any Subsidiary, purchase, redeem or retire any shares of its capital stock of any class or any warrants, rights or options to purchase or acquire any shares of its capital stock (other than in exchange for or out of the net cash proceeds to the Borrower from the substantially concurrent issue or sale of other shares of common stock of the Borrower or warrants, rights or options to purchase or acquire any shares of its common stock); or

- (c) Make payments of the principal or interest of any Trust Preferred Indebtedness or Subordinated Note Payable at any time that the terms of the documents pertaining thereto shall prevent or defer such payment or shall provide that the recipient of such payments may not retain such payment (it being expressly acknowledged that the Borrower may pay accrued interest at the stated rates of the Trust Preferred Indebtedness and Subordinated Notes Payable at any time that the foregoing clause shall not apply).

Notwithstanding the foregoing, so long as no Default or Event of Default shall have occurred and be continuing (i) the Borrower or any Subsidiary may acquire shares of the Borrower's common stock to be held in trust to fund the obligations of AEILIC under its NMO Deferred Stock Compensation Plans; and (ii) the Borrower may redeem shares of its capital stock of any class, provided that (A) the number of shares of voting capital stock redeemed in any one fiscal year shall not exceed 1% of the total number of such shares outstanding at January 1 of such year, and (B) the aggregate redemption price paid for all such shares redeemed in any fiscal year of the Borrower shall not exceed \$750,000.

Section 9.6 Plans. Permit any condition to exist in connection with any Plan which might constitute grounds for the PBGC to institute proceedings to have such Plan terminated or a trustee appointed to administer such Plan, permit any Plan to terminate under any circumstances which would cause the lien provided for in Section 4068 of ERISA to attach to any property, revenue or asset of the Borrower or any Subsidiary or permit the underfunded amount of Plan benefits guaranteed under Title IV of ERISA to exceed \$200,000.

Section 9.7 Change in Nature of Business. Make any material change in the nature of the business of the Borrower or such Subsidiary, as carried on at the date hereof.

Section 9.8 Other Agreements. Enter into any agreement, bond, note or other instrument with or for the benefit of any Person other than the Banks which would: (a) prohibit the Borrower or such Subsidiary from granting, or otherwise limit the ability of the Borrower or such Subsidiary to grant, to the Banks any Lien on any assets or properties of the Borrower or such Subsidiary; or (b) be violated or breached by the Borrower's payment and performance of its Obligations under the Loan Documents.

Section 9.9 Transactions with Affiliates. Enter into or be a party to any transaction or arrangement, including, without limitation, the purchase, sale, lease or exchange of property or the rendering of any service, with any Affiliate, except in the ordinary course of and pursuant to the reasonable requirements of the Borrower's or the applicable Subsidiary's business and upon

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fair and reasonable terms no less favorable to the Borrower or such Subsidiary than would obtain in a comparable arm's-length transaction with a Person not a Affiliate.

Section 9.10 Use of Proceeds. Permit any proceeds of the Loans to be used, either directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of "purchasing or carrying any margin stock" within the meaning of Regulation U of the Federal Reserve Board, as amended from time to time, and furnish to any Bank, upon its request, a statement in conformity with the requirements of Federal Reserve Form U-1 referred to in Regulation U.

Section 9.11 Reinsurance.

- (a) Enter into or amend any Surplus Relief Reinsurance Agreements except (i) those treaties existing on the date of this Agreement and described on Schedule 9.11 hereto, and (ii) additional or replacement Surplus Relief Reinsurance Agreements so long as such Agreements and those listed in clause (i) above, individually or in the aggregate, do not provide statutory pre-tax gain of more than an aggregate benefit of the amount then

outstanding of more than \$250,000. Any additional Surplus Relief Reinsurance Agreements entered into under this Section 9.11(a) shall be with reinsurers having a financial strength rating of "A" or better by A.M. Best.

(b) Enter into any Reinsurance Agreement pursuant to which the Borrower or any of the Insurance Subsidiaries cede any liabilities with any reinsurers having a financial strength rating of "A" or less by A.M. Best.

Section 9.12 Leverage Ratio. Permit the Leverage Ratio to be greater than 40% at any time.

Section 9.13 Cash Coverage Ratio. Permit the Cash Coverage Ratio for any period of four consecutive fiscal quarters to be less than 1.30 to 1.00.

Section 9.14 Risk-Based Capital. As of the end of any fiscal quarter or fiscal year, permit the Risk-Based Capital of AEILIC to fall below 200%.

Section 9.15 Payment of Other Indebtedness. Directly or indirectly voluntarily prepay, defease or in substance defease, purchase, redeem, retire or otherwise acquire, any Indebtedness prior to the date due (other than the Loans) while a Default or Event of Default has occurred and is continuing or would occur after giving effect thereto.

Section 9.16 Investments. Acquire for value, make, have or hold any Investments, except:

- (a) Investments by the Borrower in its wholly-owned Subsidiaries;
- (b) Investments consisting of loans or advances made by the Borrower to any Subsidiary and made by any Subsidiary to the Borrower or any other Subsidiary;
- (c) Investments that would be permitted under the investment provisions of the laws and regulations administered and enforced by each Insurance Regulatory Authority of any Insurance Subsidiary (whether made by the Borrower or any Subsidiary);

(d) Acquisitions of insurance related businesses or entities so long as the acquired business or entity is in a substantially related line of business as the Borrower or any of its Subsidiaries; and

(e) Investments by the Borrower or any Subsidiary that is not an Insurance Subsidiary that are not otherwise permitted hereunder in an aggregate amount not exceeding \$10,000,000.

ARTICLE X EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default:

- (a) The Borrower shall fail to make when due, whether by acceleration or otherwise, any payment of principal of or interest on the Notes or any fee or other amount required to be made to the Banks pursuant to the Loan Documents;
- (b) Any representation or warranty made or deemed to have been made by or on behalf of the Borrower or any Subsidiary by any of the Loan Documents or by or on behalf of the Borrower or any Subsidiary in any certificate, statement, report or other writing furnished by or on behalf of the Borrower to the Banks pursuant to the Loan Documents shall prove to have been false or misleading in any material respect on the date as of which the facts set forth are stated or certified or deemed to have been stated or certified;
- (c) The Borrower shall fail to comply with and of Sections 8.2, 9.1, 9.2, 9.4, 9.5, 9.12, 9.13, 9.14, 9.15 or 9.16 hereof;
- (d) The Borrower shall fail to comply with any agreement, covenant, condition, provision or term contained in the Loan Documents (and such failure shall not constitute an Event of Default under any of the other provisions of this Section 10.1) and such failure to comply shall continue for 30 days after whichever of the following dates is the earliest: (i) the date the Borrower gives notice of such failure to the Agent; (ii) the date the Borrower should have given notice of such failure to the Agent pursuant to Section 8.1.7; or (iii) the date the Agent gives notice of such failure to the Borrower.
- (e) The Borrower or any Subsidiary shall become insolvent or shall generally not pay its debts as they mature or shall apply for, shall consent to, or shall acquiesce in the appointment of a custodian, trustee or receiver of the Borrower or such Subsidiary or for a substantial part of the property thereof or, in the absence of such application, consent or acquiescence, a custodian, trustee or receiver shall be appointed for the Borrower or a Subsidiary or for a substantial part of the property thereof and shall not be discharged within 30 days;
- (f) Any bankruptcy, reorganization, debt arrangement or other proceedings under any bankruptcy or insolvency law shall be instituted by or against the Borrower or a Subsidiary, and, if instituted against the Borrower or a Subsidiary, shall have been consented to or acquiesced in by the Borrower or such Subsidiary, or shall remain

undismissed for 30 days, or an order for relief shall have been entered against the Borrower or such Subsidiary, or the Borrower or any Subsidiary shall take any corporate action to approve institution of, or acquiescence in, such a proceeding;

(g) Any dissolution or liquidation proceeding shall be instituted by or against the Borrower or a Subsidiary and, if instituted against the Borrower or such Subsidiary, shall be consented to or acquiesced in by the Borrower or such Subsidiary or shall remain for 30 days undismissed, or the Borrower or any Subsidiary shall take any corporate action to approve institution of, or acquiescence in, such a proceeding;

(h) A judgment or judgments for the payment of money in excess of the sum of \$500,000 in the aggregate shall be rendered against the Borrower or a Subsidiary and the Borrower or such Subsidiary shall not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereof, prior to any execution on such judgments by such judgment creditor, within 30 days from the date of entry thereof, and within said period of 30 days, or such longer period during which execution of such judgment shall be stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal;

(i) The institution by the Borrower or any ERISA Affiliate of steps to terminate any Plan if in order to effectuate such termination, the Borrower or any ERISA Affiliate would be required to make a contribution to such Plan, or would incur a liability or obligation to such Plan, in excess of \$500,000, or the institution by the PBGC of steps to terminate any Plan;

(j) The maturity of any Indebtedness of the Borrower (other than Indebtedness under this Agreement) or a Subsidiary shall be accelerated, or the Borrower or a Subsidiary shall fail to pay any such Indebtedness when due or, in the case of such Indebtedness payable on demand, when demanded, or any event shall occur or condition shall exist and shall continue for more than the period of grace, if any, applicable thereto and shall have the effect of causing, or permitting (any required notice having been given and grace period having expired) the holder of any such Indebtedness or any trustee or other Person acting on behalf of such holder to cause, such Indebtedness to become due prior to its stated maturity or to realize upon any collateral given as security therefor;

(k) Any Change of Control shall occur;

(l) Any License of any material Insurance Subsidiary issued in its state of domicile or in a state in which its earned premiums in the prior fiscal year constituted 15% or more of net earned premiums, on a consolidated basis, in such period (a) shall be revoked by the Insurance Regulatory Authority which issued such License, or any formal action (administrative or judicial) to revoke such License shall have been commenced against such Insurance Subsidiary and shall not have been dismissed within 30 days after the commencement thereof, (b) shall be suspended by such Insurance Regulatory Authority for a period in excess of 30 days or (c) shall not be reissued or renewed by such Insurance Regulatory Authority upon the expiration thereof following application for such reissuance or renewal of such Insurance Subsidiary;

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(m) Any Insurance Subsidiary shall become subject to (a) any conservation or liquidation order, directive or mandate issued by any Insurance Regulatory Authority or (b) any other directive or mandate issued by any Insurance Regulatory Authority which could reasonably be expected to have a Material Adverse Effect, which in either case is not stayed within twenty (20) days.

(n) Any Insurance Subsidiary shall be the subject of a final non-appealable order imposing a fine in an amount in excess of \$5,000,000 in any single instance or other such orders imposing fines in excess of \$10,000,000 in the aggregate after the date of this Agreement in any fiscal year by or at the request of any Insurance Regulatory Authority as a result of the violation by such Insurance Subsidiary of such state's applicable insurance laws or the regulations promulgated in connection therewith; or

(o) The Borrower Pledge Agreement ceases to be in full force and effect, or shall cease to give the Agent the Liens, rights, powers and privileges purported to be created thereby (including, without limitation, a first priority perfected security interest in, and Lien on, all of the collateral subject thereto, in favor of the Agent for the benefit of the Banks, superior to and prior to the rights of all third Persons and subject to no other Liens).

Section 10.2 Remedies. If (a) any Event of Default described in Sections 10.1(e), (f) or (g) shall occur with respect to the Borrower, the Commitments shall automatically terminate and the outstanding unpaid principal balance of the Notes, the accrued interest thereon and all other Obligations of the Borrower to the Banks and the Agent under the Loan Documents shall automatically become immediately due and payable; or (b) any other Event of Default shall occur and be continuing, then the Agent may take any or all of the following actions (and shall take any or all of the following actions on direction of the Required Banks): (i) declare the Commitments terminated, whereupon the Commitments shall terminate, (ii) declare that the outstanding unpaid principal balance of the Notes, the accrued and unpaid interest thereon and all other Obligations of the Borrower to the Banks and the Agent under the Loan Documents to be forthwith due and payable, whereupon the Notes, all accrued and unpaid interest thereon and all such Obligations shall immediately become due and payable, in each case without demand or notice of any kind, all of which are hereby expressly waived, anything in this Agreement or in the Notes to the contrary notwithstanding, (iii) exercise all rights and remedies under any other instrument, document or agreement between the Borrower and the Agent or the Banks, and (iv) enforce all rights and remedies under any applicable law.

Section 10.3 Offset. In addition to the remedies set forth in Section 10.2, upon the occurrence of any Event of Default or at any time thereafter while such Event of Default continues, each Bank or any other holder of any Note may offset any and all balances, credits, deposits (general or special, time or demand, provisional or final), accounts or monies of the Borrower then or thereafter with such Bank or such other holder, or any obligations of such Bank or such other holder of the Note, against the Indebtedness then owed by the Borrower to such Bank subject, however, to the provisions of Section 4.5.

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Section 10.4 Application of Proceeds. After the occurrence of an Event of Default and acceleration of the Obligations, all Collections shall be applied by the Agent as follows:

First, to the payment of all costs and expenses incurred by or on behalf of the Agent, including the costs and expenses of any sale or enforcement, including reasonable compensation to the Agent's agents and counsels, and all expenses, liabilities and advances made or incurred by or on behalf of the Agent in connection therewith;

Second, to the payment of the costs and expenses of such sale or enforcement, including reasonable compensation to the Banks' agents and counsel, and all expenses, liabilities and advances made or incurred by or on behalf of any Bank in connection therewith;

Third, to the payment of all amounts due (other than principal and interest) under the Notes or this Agreement, payable ratably to the Agent and each Bank in accordance with the amount of such obligations owed to each of them, until such obligations are paid in full;

Fourth, to the payment of interest accrued and unpaid on the Loans and the Notes, payable ratably to each Bank in accordance with the amount of accrued interest owed to each of them until such interest is paid in full;

Fifth, to the payment of the outstanding principal amounts of all Loans, payable ratably to each Bank in accordance with the principal amount owed to each of them until such principal is paid in full;

Sixth, to the payment of all other Obligations, payable ratably to the Agent and the Banks in the proportion that the Agent's and each Bank's share of those amounts bears to the total of those amounts for the Agent and all Banks; and

Finally, to the payment to the Borrower, or to its successors or assigns, or as a court of competent jurisdiction may direct, of any surplus then remaining from such proceeds.

If the proceeds of any Collections are insufficient to cover the costs and expenses of such sale, as aforesaid, and the payment in full of all Obligations of the Borrower, the Borrower shall remain liable for any deficiency.

ARTICLE XI THE AGENT

Section 11.1 Appointment and Grant of Authority. Each Bank hereby appoints the Agent, and the Agent hereby agrees to act, as agent under this Agreement and the other Loan Documents. The Agent shall have and may exercise such powers under the Loan Documents as are specifically delegated to the Agent by the terms hereof and thereof, together with such other powers as are reasonably incidental thereto. Each Bank hereby authorizes, consents to, and directs the Borrower to deal with the Agent as the true and lawful agent of such Bank to the extent set forth herein.

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Section 11.2 Non-Reliance on Agent. Each Bank agrees that it has, independently and without reliance on the Agent or any other Bank, and based on such documents and information as it has deemed appropriate, made its own credit analysis of the Borrower and decision to enter into this Agreement and that it will, independently and without reliance upon the Agent, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under the Loan Documents. The Agent shall not be required to keep informed as to the performance or observance by the Borrower of this Agreement and the Loan Documents or to inspect the properties or books of the Borrower. Except for notices, reports and other documents and information expressly required to be furnished to the Banks by the Agent hereunder, the Agent shall not have any duty or responsibility to provide any Bank with any credit or other information concerning the affairs, financial condition or business of the Borrower (or any of its related companies) which may come into the Agent's possession.

Section 11.3 Responsibility of the Agent and Other Matters.

(a) The Agent shall have no duties or responsibilities except those expressly set forth in this Agreement (including, without limitation, the duty to forward copies of reports, certificates and other information to the Banks pursuant to Section 8.1) and those duties and liabilities shall be subject to the limitations and qualifications set forth in this Section. The duties of the Agent shall be mechanical and administrative in nature.

(b) Neither the Agent nor any of its directors, officers or employees shall be liable for any action taken or omitted (whether or not such action taken or omitted is within or without the Agent's responsibilities and duties expressly set forth in this Agreement) under or in connection with this Agreement, or any other instrument or document in connection herewith, except for gross negligence or willful misconduct. Without limiting the foregoing, neither the Agent nor any of its directors, officers or employees shall be responsible for, or have any duty to examine:

(i) the genuineness, execution, validity, effectiveness, enforceability, value or sufficiency of (A) the Loan Documents, or the Notes, or (B) any document or instrument furnished pursuant to or in connection with the Loan Documents or the Notes,

(ii) the collectibility of any amounts owed by the Borrower,

(iii) any recitals or statements or representations or warranties in connection with the Loan Documents or the Notes,

(iv) any failure of any party to this Agreement to receive any communication sent, or

(v) the assets, liabilities, financial condition, results of operations, business or creditworthiness of the Borrower.

(c) The Agent shall be entitled to act, and shall be fully protected in acting upon, any communication in whatever form believed by the Agent in good faith to be genuine and

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correct and to have been signed or sent or made by a proper person or persons or entity. The Agent may consult counsel and shall be entitled to act, and shall be fully protected in any action taken in good faith, in accordance with advice given by counsel. The Agent may employ agents and attorneys-in-fact and shall not be liable for the default or misconduct of any such agents or attorneys-in-fact selected by the Agent with reasonable care. The Agent shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, provisions or conditions of the Loan Documents or the Notes on the Borrower's part.

Section 11.4 Action on Instructions. The Agent shall be entitled to act or refrain from acting, and in all cases shall be fully protected in acting or refraining from acting under the Loan Documents or the Notes or any other instrument or document in connection herewith or therewith in accordance with instructions in writing from (i) the Required Banks except for instructions which under the express provisions hereof must be received by the Agent from all the Banks, and (ii) in the case of such instructions, from all the Banks.

Section 11.5 Indemnification. To the extent the Borrower does not reimburse and save the Agent harmless according to the terms hereof for and from all costs, expenses and disbursements in connection herewith or with the other Loan Documents, such costs, expenses and disbursements to the extent reasonable shall be borne by the Banks ratably in accordance with their Percentages and the Banks hereby agree on such basis (a) to reimburse the Agent for all such reasonable costs, expenses and disbursements on request and (b) to indemnify and save harmless the Agent against and from any and all losses, obligations, penalties, actions, judgments and suits and other reasonable costs, expenses and disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Agent, other than as a consequence of actual gross negligence or willful misconduct on the part of the Agent, arising out of or in connection with the Loan Documents or the Notes or any instrument or document in connection herewith or therewith, or any request of the Banks, including without limitation the reasonable costs, expenses and disbursements in connection with defending itself against any claim or liability, or answering any subpoena, related to the exercise or performance of any of its powers or duties under this Agreement or the other Loan Documents or the taking of any action under or in connection with the Loan Documents or the Notes.

Section 11.6 U.S. Bank National Association and Affiliates. With respect to U.S. Bank National Association's Commitment and any Loans by U.S. Bank National Association under this Agreement and any Note and any interest of U.S. Bank National Association in any Note, U.S. Bank National Association shall have the same rights, powers and duties under this Agreement and such Note as any other Bank and may exercise the same as though it were not the Agent. U.S. Bank National Association and its affiliates may accept deposits from, lend money to, and generally engage, and continue to engage, in any kind of business with the Borrower as if U.S. Bank National Association were not the Agent.

Section 11.7 Notice to Holder of Notes. The Agent may deem and treat the payees of the Notes as the owners thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof has been filed with the Agent. Any request, authority or consent of any holder of any Note shall be conclusive and binding on any subsequent holder, transferee or assignee of such Note.

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Section 11.8 Successor Agent. The Agent may resign at any time by giving at least 30 days written notice thereof to the Banks and the Borrower. Upon any such resignation, the Required Banks shall have the right to appoint a successor Agent. If no successor Agent shall have been appointed by the Required Banks and shall have accepted such appointment within 30 days after the retiring Agent's giving notice of resignation, then the retiring Agent may, but shall not be required to, on behalf of the Banks, appoint a successor Agent.

ARTICLE XII MISCELLANEOUS

Section 12.1 No Waiver and Amendment. No failure on the part of the Banks or the holders of the Notes to exercise and no delay in exercising any power or right hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The remedies herein and in any other instrument, document or agreement delivered or to be delivered to the Banks hereunder or in connection herewith are cumulative and not exclusive of any remedies provided by law. No notice to or demand on the Borrower not required hereunder or under the Notes shall in any event entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Banks or the holders of the Notes to any other or further action in any circumstances without notice or demand.

Section 12.2 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any of the other Loan Documents, nor consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Borrower and the Agent upon direction of the Required Banks and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall, unless agreed to by the Agent and all of the Banks:

- (a) increase the amounts of or extend the terms of the Commitments or subject the Banks to any additional obligations;
- (b) reduce the principal of, or interest on, the Notes or any fees or other amounts payable hereunder;
- (c) postpone any date fixed for any payment of principal of, or interest on, the Notes or any fees or other amounts payable hereunder;
- (d) change the definition of Required Banks or amend this Section 12.2; or
- (e) release any collateral or security interest securing the Loans.

provided, further that amendments, waivers or consents affecting the rights of the Agent shall also require the consent of the Agent.

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Section 12.3 Assignments and Participations.

(a) Assignments. Each Bank shall have the right, subject to the further provisions of this Sections 12.3, to sell or assign all or any part of its Commitment, Loans, Note, and other rights and obligations under this Agreement and related documents (such transfer, an "Assignment") to any of its affiliates and to any commercial lender, other financial institution or other entity (an "Assignee"). Upon such Assignment becoming effective as provided in Section 12.3(b), the assigning Bank shall be relieved from the portion of the Commitments, obligations to indemnify the Agent and other obligations hereunder to the extent assumed and undertaken by the Assignee, and to such extent the Assignee shall have the rights and obligations of a "Bank" hereunder. Notwithstanding the foregoing, unless otherwise consented to by the Borrower and the Agent (which consent, in the case of the Borrower, shall not be required if such assignment is to an affiliate of the assigning Bank or if an Event of Default has occurred and is continuing and, in any other case, shall not be unreasonably withheld or delayed by the Borrower or the Agent, as the case may be), each Assignment shall be in the initial principal amount of not less than \$2,000,000 in the aggregate for all Loans and Commitments assigned, or an integral multiple of \$1,000,000 if above such amount (or the remaining portion of such assigning Bank's commitment, if less than \$2,000,000). Each Assignment shall be documented by an agreement between the assigning Bank and the Assignee (an "Assignment and Assumption Agreement") in form and substance satisfactory to the Agent.

(b) Effectiveness of Assignments. An Assignment shall become effective hereunder when all of the following shall have occurred: (i) the Assignee shall have submitted an Assignment Agreement in the form attached hereto as Exhibit E, duly completed and executed, in which the Assignee shall have agreed in writing to have irrevocably assumed and undertaken the transferred portion of the assigning Bank's obligations hereunder (including without limitation the obligations to indemnify the Agent hereunder), to the Agent with a copy for the Borrower, and shall have provided to the Agent information the Agent shall have reasonably requested to make payments to the Assignee, (ii) either the assigning Bank or the Assignee shall have paid a processing fee of \$3,500 to the Agent for its own account, (iii) the assigning Bank and the Agent shall have agreed upon a date upon which the Assignment shall become effective, and (iv) the Agent and the Borrower shall have given their consent to such Assignment by executing such Assignment Agreement. Upon the Assignment becoming effective, (x) if requested by the assigning Bank, the Agent and the Borrower shall make appropriate arrangements so that new Notes are issued to the assigning Bank and the Assignee; and (y) the Agent shall forward all payments of interest, principal, fees and other amounts that would have been made to the assigning Bank, in proportion to the percentage of the assigning Bank's rights transferred, to the Assignee.

(c) Participations. Each Bank shall have the right, subject to the further provisions of this Section 12.3, to grant or sell a participation in all or any part of its Loans, Note and Commitment (a "Participation") to any commercial lender, other financial institution or other entity (a "Participant") without the consent of the Borrower, the Agent or any other party hereto. The Borrower agrees that if amounts outstanding under this Agreement and the Notes are due and unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of setoff in respect of its Participation in amounts owing under this

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Agreement and any Note to the same extent as if the amount of its Participation were owing directly to it as a Bank under this agreement or any note; provided, that such right of setoff shall be subject to the obligation of such Participant to share with the Banks, and the Banks agree to share with such Participant, as provided in Section 4.4 hereof. The Borrower also agrees that each Participant shall be entitled to the benefits of Article V with respect to its Participation, provided, that no Participant shall be entitled to receive any greater amount pursuant to such Sections than the transferor Bank would have been entitled to receive in respect of the amount of the Participation transferred by such transferor Bank to such Participant had no such transfer occurred.

(d) Limitation of Rights of any Assignee or Participant. Notwithstanding anything in the foregoing to the contrary, except in the instance of an Assignment that has become effective as provided in Section 12.3(b), (i) no Assignee or Participant shall have any direct rights hereunder, (ii) the Borrower, the Agent and the Banks other than the assigning or selling Bank shall deal solely with the assigning or selling Bank and shall not be obligated to extend any rights or make any payment to, or seek any consent of, the Assignee or Participant, (iii) no Assignment or Participation shall relieve the assigning or selling Bank from its Commitment to make Loans hereunder or any of its other obligations hereunder and such Bank shall remain solely responsible for the performance hereof, the (iv) no Assignee or Participant, other than an affiliate of the assigning or selling Bank, shall be entitled to require such Bank to take or omit to take any action hereunder, except that such Bank may agree with such Assignee or Participant that such Bank will not, without such Assignee's or Participant's consent, take any action which would, in the case of any principal, interest or fee in which the Assignee or Participant has an ownership or beneficial interest: (A) extend the final maturity of any Loans or extend the Termination Date, (B) reduce the interest rate on the Loans or the rate of Commitment Fees, (C) forgive any principal of, or interest on, the Loans or any fees, or (D) release all or substantially all of the collateral for the Loans.

(d) Tax Matters. No Bank shall be permitted to enter into any Assignment or Participation with any Assignee or Participant who is not a United States Person, and no New Bank who is not a United States Person shall be permitted to become a Bank, unless such Assignee, Participant or New Bank represents and warrants to such the assigning or participating Bank, as applicable, and to the Agent that, as at the date of such Assignment or Participation, or as of the date such New Bank is to become a Bank, as the case may be, it is entitled to receive interest payments without withholding or deduction of any taxes and such Assignee, Participant or New Bank, as the case may be, executes and delivers to the Agent and to the assigning or participating Bank, as applicable, on or before the date of execution and delivery of documentation of such Participation or Assignment or on the date such New Bank is to become a Bank, as the case may be, a United States Internal Revenue Service Form W-8ECI or W-8BEN, or any successor to either of such forms, as appropriate, properly completed and claiming complete exemption from withholding and deduction of all Federal Income Taxes. A "United States Person" means any citizen, national or resident of the United States, any corporation or other entity created or organized in or under the laws of the United States or any political subdivision hereof or any estate or trust, in each case that is not subject to withholding of

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United States Federal income taxes or other taxes on payment of interest, principal of fees hereunder.

(e) Information. Each Bank may furnish any information concerning the Borrower in the possession of such Bank from time to time to Assignees and Participants and potential Assignees and Participants.

(f) Federal Reserve Bank. Nothing herein stated shall limit the right of any Bank to assign any interest herein and in any Note to a Federal Reserve Bank.

Section 12.4 Costs, Expenses and Taxes. The Borrower agrees, whether or not any Loan is made hereunder, to pay on demand all costs and expenses of the following persons (including the reasonable fees and expenses of counsel and paralegals for such persons who may be employees of such persons), incurred in connection with the following matters: (i) the Agent in connection with the preparation, execution and delivery of the Loan Documents and the preparation, negotiation and execution of any and all amendments to each thereof and (ii) the Agent and the Banks in connection with the enforcement of the Loan Documents. The Borrower agrees to pay, and save the Agent and the Banks harmless from all liability for, any stamp or other taxes which may be payable with respect to the execution or delivery of the Loan Documents. The Borrower agrees to indemnify and hold the Agent and the Banks harmless from any loss or expense which may arise or be created by the acceptance of telephonic or other instructions for making Loans or disbursing the proceeds thereof. The obligations of the Borrower under this Section 12.4 shall survive any termination of this Agreement.

Section 12.5 Notices. Except when telephonic notice is expressly authorized by this Agreement, any notice or other communication to any party in connection with this Agreement shall be in writing and shall be sent by manual delivery, telegram, telex, facsimile transmission, overnight courier or United

States mail (postage prepaid) addressed to such party at the address specified on the signature page hereof, or at such other address as such party shall have specified to the other party hereto in writing. All periods of notice shall be measured from the date of delivery thereof if manually delivered, from the date of sending thereof if sent by telegram, telex or facsimile transmission, from the first Business Day after the date of sending if sent by overnight courier, or from four days after the date of mailing if mailed; provided, however, that any notice to the Agent under Article II hereof shall be deemed to have been given only when received by the Agent.

Section 12.6 Confidentiality. The Agent and the Banks may have received, and may hereafter receive, confidential financial and business information concerning the Borrower and its Subsidiaries and Affiliates. The Agent and each Bank agrees to hold non-public information received from the Borrower in confidence, and not disclose such information to persons other than the Agent's or Bank's officers, employees, agents and other representatives (who, if they are not employees of the Agent or the Bank, shall be informed of this confidentiality provision) except: (a) as required to disclose such information to a bank regulatory agency or in connection with an examination of its records by bank examiners or at the express direction of any other authorized government agency; (b) pursuant to a subpoena or other court order; (c) in connection with legal process in the Agent's or Bank's lending capacity; or (d) to participants, assignees, potential participants and potential assignees with respect to the financing who agree to be bound

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by confidentiality provisions substantially similar to this paragraph. Confidential information shall not include (i) information already in the Agent's or Bank's possession prior to receipt from the Borrower, or (ii) information which becomes generally available to the public, other than as a result of disclosure by the Agent or a Bank, or its directors, officers, employees, advisors or agents or becomes available to the Agent or a Bank on a non-confidential basis from a source other than the Borrower or its advisors, provided that such source is not known by the Agent or Bank to be bound by a confidentiality agreement with, or other obligation of confidentiality to, the Borrower or another party.

Section 12.7 Indemnity. The Borrower hereby further agrees to indemnify the Agent and each Bank and the directors, officers and employees of each against all losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, all expenses of litigation or preparation therefor whether or not the Agent or any Bank is a party thereto) which any of them may pay or incur arising out of or relating to this Agreement, the other Loan Documents, the transactions contemplated hereby or the direct or indirect application or proposed application of the proceeds of any Loan hereunder except to the extent that (i) they are determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the party seeking indemnification or (ii) that they arise solely from any dispute of or any litigation or other proceeding instituted by any Bank against the Agent (if the Agent was determined to have breached its obligations to such Bank hereunder) or (for Persons other than the Agent and its directors, officers and employees) any other Bank. The obligations of the Borrower under this Section 12.7 shall survive the termination of this Agreement.

Section 12.8 Successors. This Agreement shall be binding upon the Borrower, the Banks and the Agent and their respective successors and assigns, and shall inure to the benefit of the Borrower, the Banks and the Agent and the successors and assigns of the Banks. The Borrower shall not assign its rights or duties hereunder without the written consent of the Banks.

Section 12.9 Severability. Any provision of the Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 12.10 Subsidiary References. The provisions of this Agreement relating to Subsidiaries shall apply only during such times as the Borrower has one or more Subsidiaries.

Section 12.11 Captions. The captions or headings herein and any table of contents hereto are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Agreement.

Section 12.12 Entire Agreement. The Loan Documents embody the entire agreement and understanding between the Borrower, the Banks and the Agent with respect to the subject matter hereof and thereof. This Agreement supersedes all prior agreements and understandings relating to the subject matter hereof.

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Section 12.13 Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and either of the parties hereto may execute this Agreement by signing any such counterpart.

Section 12.14 Governing Law. THE VALIDITY, CONSTRUCTION AND ENFORCEABILITY OF THIS AGREEMENT AND THE NOTES SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE OF MINNESOTA, WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES THEREOF, BUT GIVING EFFECT TO FEDERAL LAWS OF THE UNITED STATES APPLICABLE TO NATIONAL BANKS.

Section 12.15 Consent to Jurisdiction. AT THE OPTION OF THE BANKS, THIS AGREEMENT AND THE NOTES MAY BE ENFORCED IN ANY FEDERAL COURT OR MINNESOTA STATE COURT SITTING IN MINNEAPOLIS OR ST. PAUL, MINNESOTA; AND THE BORROWER CONSENTS TO THE JURISDICTION AND VENUE OF ANY SUCH COURT AND WAIVES ANY ARGUMENT THAT VENUE IN SUCH FORUMS IS NOT CONVENIENT. IN THE EVENT THE BORROWER COMMENCES ANY ACTION IN ANOTHER JURISDICTION OR VENUE UNDER ANY TORT OR CONTRACT THEORY ARISING DIRECTLY OR INDIRECTLY FROM THE RELATIONSHIP CREATED BY THIS AGREEMENT, THE BANKS AT ITS OPTION SHALL BE ENTITLED TO HAVE THE CASE TRANSFERRED TO ONE OF THE JURISDICTIONS AND VENUES ABOVE-DESCRIBED, OR IF SUCH TRANSFER CANNOT BE ACCOMPLISHED UNDER APPLICABLE LAW, TO HAVE SUCH CASE DISMISSED WITHOUT PREJUDICE.

Section 12.16 Waiver of Jury Trial. EACH OF THE BORROWER, THE AGENT, THE CO-AGENT, THE DOCUMENTATION AGENT AND THE BANKS (a) WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (i) UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR (ii) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN

CONNECTION WITH THIS AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY AND (b) WAIVES ANY RIGHT TO SEEK OR RECEIVE CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN ANY SUCH ACTION OR PROCEEDING.

(signature pages follow)

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: /s/ Wendy L. Carlson

Title: CFO & General Counsel

5000 Westown Parkway, Suite 200
West Des Moines, Iowa 50266
Attention: Mr. David J. Noble, President
Telephone: (515) 221-0002
Fax: (515) 221-9947

1

U.S. BANK NATIONAL ASSOCIATION, as
Agent and as a Bank

By: /s/ Ziad W. Amra

Title: Corporate Banking Officer

800 Nicollet Mall
Mail Code BC-MN-H03N
Minneapolis, MN 55402
Attention: Mr. Ziad W. Amra
Telephone: (612) 303-3757
Fax: (612) 303-2265

2

WEST BANK, as a Bank

By: /s/ Brad L. Winterbottom

Title: President

1601 22nd St.
West Des Moines, Iowa 50266
Attention: Mr. Brad L. Winterbottom
Telephone: (515) 222-2320
Fax: (515) 222-2346

3

LaSALLE NATIONAL BANK, as a Bank

By: /s/ Brandon S. Allison

Title: Assistant Vice President

135 South LaSalle Street
Chicago, IL 60603
Attention: Mr. Brandon S. Allison
Telephone: (312) 904-6324
Fax: (312) 904-6189

EXHIBIT

Exhibit	Contents
A-1, A-2, A-3, A-4 and A-5	Form of Notes
B	Borrower Pledge Agreement
C	Compliance Certificate
D	Form of Legal Opinion
E	Assignment and Assumption
Schedules	
1.1	Amounts and Percentages
7.16	Subsidiaries
7.18	Insurance Licenses
9.2	Existing Liens
9.11	Surplus Relief Reinsurance Agreements

EXHIBIT A-1

REVOLVING NOTE

[\$Revolving Amount]

Minneapolis, Minnesota: September 22, 2004

FOR VALUE RECEIVED, the undersigned AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “Borrower”), promises to pay to the order of [BANK] (the “Bank”), on the Revolving Termination Date, or other due date or dates determined under the Credit Agreement hereinafter referred to, the principal sum of _____ DOLLARS (\$[Commitment]), or if less, the then aggregate unpaid principal amount of the Revolving Loans (as such terms are defined in the Credit Agreement) as may be made by the Bank under the Credit Agreement. All Revolving Loans and all payments of principal shall be recorded by the holder in its records which records shall be conclusive evidence of the subject matter thereof, absent manifest error.

The Borrower further promises to pay to the order of the Bank interest on the aggregate unpaid principal amount hereof from time to time outstanding from the date hereof until paid in full at the rates per annum which shall be determined in accordance with the provisions of the Credit Agreement. Accrued interest shall be payable on the dates specified in the Credit Agreement.

All payments of principal and interest under this Note shall be made in lawful money of the United States of America in immediately available funds at the office of U.S. Bank National Association, at 800 Nicollet Mall, Minneapolis, Minnesota 55402, or at such other place as may be designated by the Agent to the Borrower in writing.

This Note is one of the Revolving Notes and Notes referred to in, and evidences indebtedness incurred under, a Credit Agreement dated as of September 22, 2004 (herein, as it may be amended, modified or supplemented from time to time, called the “Credit Agreement”) among the Borrower, the Banks, as defined therein (including the Bank) and U.S. Bank National Association, as Agent, to which Credit Agreement reference is made for a statement of the terms and provisions thereof, including those under which the Borrower is permitted and required to make prepayments and repayments of principal of such indebtedness and under which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment, demand, protest and notice of dishonor in connection with this Note.

This Note is made under and governed by the internal laws of the State of Minnesota.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: _____

Title: _____

EXHIBIT A-2
TRANCHE A NOTE

[\$Tranche A Amount]

Minneapolis, Minnesota: September 22, 2004

FOR VALUE RECEIVED, the undersigned AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “Borrower”), promises to pay to the order of [BANK] (the “Bank”), payable in installments in amounts set forth in, and on the due dates determined under, the Credit Agreement hereinafter referred to, the principal sum of DOLLARS (\$Tranche A Amount).

The Borrower further promises to pay to the order of the Bank interest on the aggregate unpaid principal amount hereof from time to time outstanding from the date hereof until paid in full at the rates per annum which shall be determined in accordance with the provisions of the Credit Agreement. Accrued interest shall be payable on the dates specified in the Credit Agreement.

All payments of principal and interest under this Note shall be made in lawful money of the United States of America in immediately available funds at the office of U.S. Bank National Association, at 800 Nicollet Mall., Minneapolis, Minnesota 55402, or at such other place as may be designated by the Agent to the Borrower in writing.

This Note is one of the Tranche A Notes and the Notes referred to in, and evidences indebtedness incurred under, a Credit Agreement dated as of September 22, 2004 (herein, as it may be amended, modified or supplemented from time to time, called the “Credit Agreement”) among the Borrower, the Banks, as defined therein (including the Bank) and U.S. Bank National Association, as Agent, to which Credit Agreement reference is made for a statement of the terms and provisions thereof, including those under which the Borrower is permitted and required to make prepayments and repayments of principal of such indebtedness and under which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment, demand, protest and notice of dishonor in connection with this Note.

This Note is made under and governed by the internal laws of the State of Minnesota.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: _____

Title: _____

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EXHIBIT A-3
TRANCHE B NOTE

\$8,500,000

Minneapolis, Minnesota: September 22, 2004

FOR VALUE RECEIVED, the undersigned AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “Borrower”), promises to pay to the order of U.S. BANK NATIONAL ASSOCIATION (the “Bank”), payable in installments in the amounts and on due dates set forth on Schedule I attached hereto, the principal sum of EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS (\$8,500,000).

The Borrower further promises to pay to the order of the Bank interest on the aggregate unpaid principal amount hereof from time to time outstanding from the date hereof until paid in full at the rates per annum which shall be determined in accordance with the provisions of the Credit Agreement. Accrued interest shall be payable on the dates specified in the Credit Agreement.

The Tranche B LIBOR Margin for this Note and the indebtedness evidenced hereby is 3.00% per annum.

All payments of principal and interest under this Note shall be made in lawful money of the United States of America in immediately available funds at the office of U.S. Bank National Association, at 800 Nicollet Mall., Minneapolis, Minnesota 55402, or at such other place as may be designated by the Agent to the Borrower in writing.

This Note is one of the Tranche B Notes and the Notes referred to in, and evidences indebtedness incurred under, a Credit Agreement dated as of September 22, 2004 (herein, as it may be amended, modified or supplemented from time to time, called the “Credit Agreement”) among the Borrower, the Banks, as defined therein (including the Bank) and U.S. Bank National Association, as Agent, to which Credit Agreement reference is made for a statement of the terms and provisions thereof, including those under which the Borrower is permitted and required to make prepayments and repayments of principal of such indebtedness and under which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment, demand, protest and notice of dishonor in connection with this Note.

This Note is made under and governed by the internal laws of the State of Minnesota.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: _____

Schedule I to
Tranche B Note in the original
principal amount of \$8,500,000

Principal of this Note shall be payable in installments of \$425,000 each, due on the last day of March, June, September and December of each year, commencing on December 31, 2004, with a final principal payment due on September 30, 2009 equal in principal amount to the outstanding principal balance hereunder on such date, if different from such other installments.

EXHIBIT A-4
TRANCHE B NOTE

\$2,379,053

Minneapolis, Minnesota: September 22, 2004

FOR VALUE RECEIVED, the undersigned AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the "Borrower"), promises to pay to the order of U.S. BANK NATIONAL ASSOCIATION (the "Bank"), payable in installments in the amounts and on due dates set forth on Schedule I attached hereto, the principal sum of TWO MILLION THREE HUNDRED SEVENTY NINE THOUSAND FIFTY THREE DOLLARS (\$2,379,053), payable at times provided in the Credit Agreement, as defined below.

The Borrower further promises to pay to the order of the Bank interest on the aggregate unpaid principal amount hereof from time to time outstanding from the date hereof until paid in full at the rates per annum which shall be determined in accordance with the provisions of the Credit Agreement. Accrued interest shall be payable on the dates specified in the Credit Agreement.

The Tranche B LIBOR Margin for this Note and the indebtedness evidenced hereby is 2.25% per annum.

All payments of principal and interest under this Note shall be made in lawful money of the United States of America in immediately available funds at the office of U.S. Bank National Association, at 800 Nicollet Mall., Minneapolis, Minnesota 55402, or at such other place as may be designated by the Agent to the Borrower in writing.

This Note is one of the Tranche B Notes and the Notes referred to in, and evidences indebtedness incurred under, a Credit Agreement dated as of September 22, 2004 (herein, as it may be amended, modified or supplemented from time to time, called the "Credit Agreement") among the Borrower, the Banks, as defined therein (including the Bank) and U.S. Bank National Association, as Agent, to which Credit Agreement reference is made for a statement of the terms and provisions thereof, including those under which the Borrower is permitted and required to make prepayments and repayments of principal of such indebtedness and under which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment, demand, protest and notice of dishonor in connection with this Note.

This Note is made under and governed by the internal laws of the State of Minnesota.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: _____

Title: _____

Schedule I to
Tranche B Note in the original
principal amount of \$2,379,053

Principal of this Note shall be payable in (a) one installment of \$1,075,000, due on _____, 2004 and (b) \$1,304,053, due on October 8, 2004.

EXHIBIT A-5
TRANCHE B NOTE

\$7,500,000

Minneapolis, Minnesota: September 22, 2004

FOR VALUE RECEIVED, the undersigned AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “Borrower”), promises to pay to the order of U.S. BANK NATIONAL ASSOCIATION (the “Bank”), payable in installments in the amounts and on due dates set forth on Schedule I attached hereto, the principal sum of SEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$7,500,000), payable at times provided in the Credit Agreement, as defined below.

The Borrower further promises to pay to the order of the Bank interest on the aggregate unpaid principal amount hereof from time to time outstanding from the date hereof until paid in full at the rates per annum which shall be determined in accordance with the provisions of the Credit Agreement. Accrued interest shall be payable on the dates specified in the Credit Agreement.

The Tranche B LIBOR Margin for this Note and the indebtedness evidenced hereby is 3.00% per annum.

All payments of principal and interest under this Note shall be made in lawful money of the United States of America in immediately available funds at the office of U.S. Bank National Association, at 800 Nicollet Mall., Minneapolis, Minnesota 55402, or at such other place as may be designated by the Agent to the Borrower in writing.

This Note is one of the Tranche B Notes and the Notes referred to in, and evidences indebtedness incurred under, a Credit Agreement dated as of September 22, 2004 (herein, as it may be amended, modified or supplemented from time to time, called the “Credit Agreement”) among the Borrower, the Banks, as defined therein (including the Bank) and U.S. Bank National Association, as Agent, to which Credit Agreement reference is made for a statement of the terms and provisions thereof, including those under which the Borrower is permitted and required to make prepayments and repayments of principal of such indebtedness and under which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment, demand, protest and notice of dishonor in connection with this Note.

This Note is made under and governed by the internal laws of the State of Minnesota.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: _____

Title: _____

Schedule I to
Tranche B Note in the original
principal amount of \$5,500,000

Principal of this Note shall be payable in (a) one installment of \$1,000,000, due on September 30, 2004, and (b) additional installments of \$500,000 each, due on the last day of March, June, September and December of each year, commencing on December 31, 2004, with a final principal payment due on December 31, 2007 equal in principal amount to the outstanding principal balance hereunder on such date, if different from such other installments.

Exhibit D
Opinion of Counsel

To: The Agent and Banks party
to the Credit Agreement described herein

[address to each bank]

U.S. Bank National Association
800 Nicollet Mall
Mail Code BC-MN-H03N
Minneapolis, MN 55402
Attention: Mr. Ziad W. Amra

Ladies/Gentlemen:

We have acted as counsel for AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, (the “Borrower”), and we are delivering to you this opinion of counsel upon which you may rely, in connection with a Credit Agreement, dated as of September 22, 2004, entered into among the Borrower, the Banks, as defined therein, and U.S. Bank National Association, as Agent (the “Credit Agreement”), and the transactions and other Loan Documents described therein. Unless otherwise defined herein, capitalized terms used herein shall have the respective meanings assigned to such terms in the Credit Agreement.

In so acting, we, as counsel for the Borrower, have made such factual inquiries, and have examined or caused to be examined such questions of law, as we have considered necessary or appropriate for the purposes of this opinion and, upon the basis of such inquiries and examinations, advise you that, in our opinion:

- (1) The Borrower and each of its Subsidiaries are corporations duly organized, validly existing and in good standing under the laws of the state of their respective incorporation, and each is duly qualified and in good standing as a foreign corporation in all other jurisdictions in which its respective present operations or properties require such qualification.
- (2) The Borrower has full corporate power and authority to own and operate its properties and assets, carry on its business as presently conducted, and enter into and perform its obligations under the Loan Documents to which it is a party.
- (3) The execution and delivery of the Loan Documents to which the Borrower is a party, the performance by the Borrower of its obligations thereunder, and the borrowing by the Borrower under the Credit Agreement, have been duly authorized by all necessary corporate action, and all of said Loan Documents have been duly executed and delivered on behalf of the Borrower and constitute valid and binding obligations of the Borrower, enforceable in accordance with their respective terms.

- (4) There is no provision in the Borrower’s Articles of Incorporation or By-Laws, nor any provision in any indenture, mortgage, contract or agreement to which the Borrower is a party or by which it or its properties may be bound, nor any law, statute, rule or regulation, nor any writ, order or decision of any court or governmental instrumentality binding on the Borrower which would be contravened by the execution and delivery of the Loan Documents to which the Borrower is a party, nor do any of the foregoing prohibit the Borrower’s performance of any term, provision, condition, covenant or any other obligation of the Borrower contained therein.
- (5) There are no actions, suits or proceedings pending or, to the best of our knowledge after due inquiry, threatened against or affecting the Borrower before any court or arbitrator or by or before any administrative agency or government authority, which, if adversely determined, could constitute an Adverse Event.
- (6) Neither the making nor performance of the Loan Documents, nor the borrowing(s) under the Credit Agreement, requires the consent or approval of any governmental instrumentality.
- (7) The Borrower is not a “holding company”, a “subsidiary company” of a “holding company” or an “affiliate” of a “holding company”, within the meaning of the Public Utility Holding Company Act of 1935, as amended.
- (8) The Borrower is not an “investment company” or a company “controlled” by an “investment company”, within the meaning of the Investment Company Act of 1940, as amended.
- (9) The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and, to the best of our knowledge after due inquiry, no part of the proceeds of any loan under the Credit Agreement will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock.
- (10) Assuming that the Agent has taken and is retaining possession of the stock certificates evidencing the shares of stock described in the Borrower Pledge Agreement (the “Pledged Stock”) or entered into a satisfactory bailee arrangement with a third party who has taken and is retaining possession of the Pledged Stock on the Agent’s behalf, and the Agent has taken such Pledged Stock in good faith without notice (actual or constructive) of any adverse claim within the meaning of the Code, there has been created under the Borrower Pledge Agreement, and there has been granted to the Agent a valid and perfected security interest and lien upon the Pledged Stock to the extent a security interest may be obtained by possession under the Code.

Very truly yours,

Schedule 1.1
Revolving Commitments,
Tranche B Amounts and Percentages

Revolving Loans

Banks:	Revolving Commitment:	Revolving Percentage:
U.S. Bank	\$ 20,000,000	40.000000%
LaSalle Bank	\$ 20,000,000	40.000000%
West Bank	\$ 10,000,000	20.000000%
Total:	\$ 50,000,000	100.000000%

Tranche A Loans

Banks:	Tranche A Amount:	Tranche A Percentage:
U.S. Bank	\$ 20,000,000	40.000000%
LaSalle Bank	\$ 20,000,000	40.000000%

West Bank	\$	10,000,000	20.000000%
Total:	\$	50,000,000	100.000000%
Tranche B Loans:			
Tranche B Banks:	Tranche B Amounts:		Tranche B Percentage:
U.S. Bank	\$	18,379,053	100.000000%
Total Amount:	\$	68,379,053	
Total Percentages: Note that this assumes all Tranche B Loans are funded (Total Percentage will be calculated as provided in the definition thereof)			
Banks:	Percentage:		
U.S. Bank:	56.1269152%		
LaSalle:	29.2487232%		
West Bank	14.6243616%		
	100.000000%		

Schedule 7.16
Subsidiaries

American Equity Investment Life Insurance Company
American Equity Investment Life Insurance Company of New York
American Equity Properties, LC
American Equity Capital, Inc.
American Equity Capital Trust I
American Equity Capital Trust II
American Equity Capital Trust III
American Equity Capital Trust IV
American Equity Capital Trust VII

Schedule 7.18
Licenses, etc. (Section 7.18)

AMERICAN EQUITY *Investment Life Insurance Company*

- Geographic Coverage*
- Alabama
 - Alaska
 - Arkansas
 - Arizona
 - California
 - Colorado
 - Delaware
 - Florida
 - Georgia
 - Hawaii
 - Idaho
 - Illinois
 - Indiana
 - Iowa
 - Kansas
 - Kentucky
 - Louisiana
 - Maine
 - Maryland
 - Massachusetts
 - Michigan
 - Minnesota
 - Mississippi
 - Missouri
 - Montana

- 26. Nebraska
- 27. Nevada
- 28. New Hampshire
- 29. New Jersey
- 30. New Mexico
- 31. New York**
- 32. North Dakota
- 33. Ohio
- 34. Oklahoma
- 35. Oregon
- 36. Pennsylvania
- 37. Rhode Island
- 38. South Carolina
- 39. South Dakota
- 40. Tennessee
- 41. Texas
- 42. Utah
- 43. Vermont
- 44. Virginia

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- 45. Washington
 - 46. West Virginia
 - 47. Wisconsin
 - 48. Wyoming
- and District of Columbia

** The above listed states represent those which the Company is licensed to conduct business.*

Additional state filings are in process.

*** American Equity Investment Life Insurance Company of New York Map-3 09/08/04*

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Schedule 9.2

Liens (Section 9.2)

None

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Schedule 9.11

Surplus Relief Reinsurance Agreements (Section 9.11)

2002 Coinsurance and Yearly Renewable Term Reinsurance Agreement dated November 1, 2002 between American Equity Investment Life Holding Company and Hannover Life Reassurance Company of America.

2003 Coinsurance and Yearly Renewable Term Reinsurance Agreement dated September 30, 2003 between American Equity Investment Life Holding Company and Hannover Life Reassurance Company of America.

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[Suggested Form of Board of Directors' Resolutions—
Revolving Credit Agreement]

CERTIFICATE

I, _____, do hereby certify that I am the duly elected and qualified Secretary and the keeper of the records and corporate seal of AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, a corporation organized and existing under the laws of the State of [State] and that the following is a true and correct copy of certain resolutions duly adopted at a meeting of the Board of Directors thereof, convened and held in accordance with law and the by-laws of said corporation, and that such resolutions are now in full force and effect, unamended, unaltered and unrepealed:

WHEREAS, there has been presented to this meeting a form of Credit Agreement (the “Credit Agreement”) among this Corporation, the Banks named therein (the “Banks”) and U.S. Bank National Association, as Agent (the “Agent”) providing for, among other things, loans from time to time to this Corporation up to the amount of \$68,400,000 (as such amount may hereafter be amended);

NOW, THEREFORE, BE IT RESOLVED, that the [insert officers and the number necessary to act] of this Corporation is/are authorized to execute and deliver a Credit Agreement, substantially in the form of the Credit Agreement presented to this meeting, except such changes of the terms and provisions thereof as the officer(s) executing such Credit Agreement on behalf of this Corporation shall deem proper, such execution to be conclusive evidence that such officer(s) deem(s) all of the terms and provisions thereof to be proper;

FURTHER RESOLVED, that the [insert officers and the number necessary to act] of this Corporation is/are authorized to borrow from time to time on behalf of this Corporation amounts permitted to be borrowed by this Corporation under the Credit Agreement and to designate officers, agents or employees to borrow such amounts and to set rates of interest if applicable, to execute and deliver on behalf of this Corporation a promissory note or notes, substantially in the form provided for in the Credit Agreement, and to execute all amendments, waivers, modifications, supplements to, and restatements of, the Credit Agreement from time to time as such officers shall deem proper, such execution by such officer(s) to be conclusive evidence that such officer(s) deem(s) all of the terms and provisions thereof to be proper;

FURTHER RESOLVED, that each and every officer of this Corporation is authorized to take such action from time to time on behalf of this Corporation as he may deem necessary, advisable or proper in order to carry out and perform the obligations of this Corporation under the Credit Agreement and other agreements and documents executed and delivered by this Corporation pursuant to or in connection with the Credit Agreement.

FURTHER RESOLVED, that the Secretary or any other officer of this Corporation is authorized to certify to the Banks and the Agent a copy of these resolutions and the names and signatures of this Corporation’s officers or employees hereby authorized to act hereunder, and the Banks and Agent are hereby authorized to rely upon such certificate until formally advised by a like certificate of any change therein, and is hereby authorized to rely on any such additional certificates.

I FURTHER CERTIFY THAT the following persons have been appointed or elected and are now acting as officers or employees of said corporation in the capacity set before their respective names:

NAME	TITLE	SIGNATURE
------	-------	-----------

I FURTHER CERTIFY THAT the Articles of Incorporation attached hereto as Exhibit A and the Bylaws attached hereto as Exhibit B are, respectively, true, complete and correct copies of this Corporation’s Articles of Incorporation, duly filed with the Secretary of State of the state of [state], and the Bylaws of this Corporation, which Articles and Bylaws have been duly adopted by this Corporation and are presently in full force and effect.

IN WITNESS WHEREOF, I have subscribed my name as Secretary as of September 22, 2004.

Secretary
AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

Exhibit B
PLEDGE AGREEMENT

THIS PLEDGE AGREEMENT (this “Agreement”), dated as of September 22, 2004, is made between AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (herein, called the “Pledgor”), and U.S. BANK NATIONAL ASSOCIATION, as agent (in such capacity, the “Agent”) for the Banks party to the Credit Agreement, as hereinafter defined.

RECITALS

- A. The Pledgor, the Banks named therein and the Agent have entered into a Credit Agreement dated as of December 30, 2002 (the “Existing Credit Agreement”), pursuant to which the Banks have made certain credit facilities available to the Pledgor, said credit facilities being evidenced by the Notes of the Pledgor in favor such Banks (the “Existing Note”).
- B. The Pledgor’s obligations under the Existing Credit Agreement, the Existing Notes have the benefit of, inter alia, a Second Amended and Restated Borrower Pledge Agreement dated as of April 6, 2000 (the “Existing Pledge Agreement”).
- C. The parties are, concurrently herewith, amending and restating the Existing Credit Agreement in the form of a Credit Agreement, dated as of September 22, 2004 (as the same may be further amended, supplemented, restated or otherwise modified from time to time, the “Credit Agreement”).
- D. It is a condition precedent to the execution and delivery of the Credit Agreement by the Agent that the Existing Pledge Agreement be amended and restated in the form of this Agreement.

NOW, THEREFORE, in consideration of the premises, the extension of financial accommodations by the Banks to the Pledgor under the Credit Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Pledgor agrees with the Agent,

for the benefit of the Agent and the Banks, that the Existing Pledge Agreement is hereby amended and restated in its entirety to read as follows:

SECTION 1 Definitions.

Capitalized terms used herein, unless otherwise specified, shall have the meanings assigned thereto in the Credit Agreement; provided that such definitions shall survive any termination of the Credit Agreement. In addition, when used herein the following terms shall have the following meanings:

“AEILIC” shall mean American Equity Investment Life Insurance Company, an Iowa corporation.

“Collateral” see Section 2.

“Credit Agreement” see Recital C.

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“Indemnified Obligations” see Section 7(b)(vi).

“Permitted Actions” see Section 5(b).

“Pledged Shares” see Section 2.

“Pledged Surplus Notes” see Section 2.

“Securities” shall mean securities (whether debt or equity) issued by AELLIC (other than insurance policies or other insurance products which may constitute securities) including, without limitation, the common and preferred stock, partnership units and participations, notes, bonds, debentures, trust receipts and other obligations or instruments, including debt instruments and tax-exempt securities of AEILIC (including, without limitation, warrants, rights tied to AEILIC’s earnings, put and call options and other options relating thereto or any combination thereof, or any instruments convertible into any of the foregoing.

“Uniform Commercial Code” shall mean the Uniform Commercial Code as in effect from time to time in the State of Minnesota.

SECTION 2 Pledge.

To secure the prompt and complete payment and performance of the Obligations, the Pledgor hereby grants, pledges, hypothecates, assigns, transfers, sets over and delivers unto the Agent for the benefit of the Agent and the Banks a Lien on the following (herein collectively called the “Collateral”):

(a) the shares of capital stock of AEILIC and all other Securities, if any, described in Attachment 1 hereto whether in certificated form or otherwise, including the certificates representing or evidencing the certificated Securities, and with respect to any uncertificated Securities, such uncertificated Securities shall contain a notation of the Lien and pledge granted to the Agent hereunder on the books and records of AEILIC (herein called the “Pledged Shares”), together with all cash, securities, interests, dividends, rights, notes, instruments and other property at any time and from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Pledged Shares;

(b) all additional shares of capital stock of AEILIC and other Securities from time to time acquired by the Pledgor in any manner including, without limitation, any uncertificated Securities (which additional shares of capital stock and Securities shall constitute a part of, and be, “Pledged Shares”), and, in the case of certificated Securities, the certificates representing or evidencing such additional shares, together with all cash, securities, interest, dividends, rights, notes, instruments and other property at any time and from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such additional shares;

(c) all surplus notes or debentures issued at any time by AEILIC to the Pledgor (as the same shall thereafter be amended, extended, renewed, modified or replaced from time to time, called the “Pledged Surplus Notes”) and all cash, securities, interests, rights, notes, instruments and other property at any time and from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Surplus Notes;

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(d) all other property hereafter delivered to the Agent in substitution for or in addition to any of the foregoing, all certificates and instruments representing or evidencing such other property, together with all cash, securities, interest, dividends, rights and other property at any time and from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all thereof; and

(e) all proceeds of all of the foregoing.

TO HAVE AND TO HOLD the Collateral, together with all rights, titles, interests, privileges and preferences appertaining or incidental thereto, unto the Agent, its successors and assigns, forever; subject, however, to the terms, covenants and conditions and termination provisions hereafter set forth.

The Pledgor agrees to deliver to the Agent, promptly upon receipt and in the case of the Pledged Shares and the Pledged Surplus Notes, in due form for transfer (*i.e.*, endorsed in blank accompanied by undated stock or bond powers executed in blank or registered on the books of AEILIC) and, subject to the provisions of Section 6 hereof, any Collateral which may at any time or from time to time be in or come into possession or control of the Pledgor; and prior to the delivery thereof to the Agent, such Collateral shall be held by the Pledgor separate and apart from its other property and in express trust for the Agent.

SECTION 3 Representations, Warranties and Covenants.

(a) The Pledgor represents and warrants to the Agent that: (i) the Pledged Shares are duly authorized and validly issued and are fully paid and non-assessable; (ii) except for Liens in favor of the Agent hereunder and claims and rights of third parties arising solely through acts of the Agent, the Agent

has and will continue to have at all times as security for the Obligations a valid, first priority perfected Lien on the Collateral and the proceeds thereof free of all other Liens, claims and rights of third parties whatsoever; (iii) to the extent any Securities are evidenced by certificates, the Pledgor has delivered to the Agent, for the benefit of the Banks, for pledge under this Agreement on the date hereof the certificates representing all the Securities which it owns; (iv) the Pledged Shares and the Pledged Surplus Notes represent and will continue to represent all shares of the issued and outstanding shares of capital stock and other Securities of AEILIC and (v) the Pledgor will, at all times, keep pledged to the Agent, for the benefit of the Banks, pursuant hereto all of the capital stock, surplus notes and other Securities of AEILIC. The Pledgor agrees to endorse and deliver to the Agent for pledge hereunder, promptly upon its obtaining any thereof, any additional Collateral and to hold such additional Collateral, pending such delivery, in trust for the Agent, separate and distinct from any other property of the Pledgor. As of the date of any such delivery of additional Securities, surplus notes, certificates or instruments to the Agent, the Pledgor represents and warrants that (1) it will own such Securities, surplus notes, certificates and instruments free and clear of any rights of any other Person (other than the rights created in the Agent hereunder), (2) it will have good and marketable title to said Securities, surplus notes, certificates and instruments and have the right to pledge such Securities, surplus notes, certificates and instruments to the Agent pursuant to this Agreement and (3) it will have pledged to the Agent, as at such date, all of the capital stock, surplus notes and other Securities of AEILIC owned, directly or indirectly by the Pledgor. The Pledgor shall have represented and warranted by delivery of any additional Securities, surplus notes, certificates or instruments, that at the time of such

delivery the Agent has a valid, first priority perfected Lien on said Securities, surplus notes, certificates or instruments and the proceeds thereof free of all Liens, claims and rights of third parties whatsoever (except for the Lien of the Agent created under this Agreement). All documentary, stamp and other taxes and fees owing in connection with the issuance, transfer and/or pledge of the Pledged Shares, the Pledged Surplus Notes and other Securities, certificates or instruments have been paid and will hereafter be paid by the Pledgor as such become due and payable.

(b) The Pledgor further represents and warrants to the Agent that it is the lawful owner of the Collateral, free of all Liens, (except for the Lien of the Agent created under this Agreement), with full right to deliver, pledge, assign and transfer such Collateral to the Agent as Collateral hereunder. The pledge of the Collateral effected by this Agreement is effective to vest in the Agent the rights of Agent in the Collateral set forth herein.

(c) The Pledgor additionally represents and warrants to the Agent that (i) each of the Pledgor and its Subsidiaries is duly organized, validly existing and in good standing under the laws of its state of formation, (ii) the execution and delivery of this Agreement and the performance by the Pledgor of its obligations hereunder are within its corporate powers, have been duly authorized by all necessary corporate action (including, without limitation, shareholder approval if required), (iii) each of the Pledgor and its Subsidiaries has received all material governmental consents and approvals (if any shall be required) necessary for such execution, delivery and performance (except governmental consents required by any Applicable Insurance Code to foreclose on the Pledged Shares or Pledged Surplus Notes) and such execution, delivery and performance do not and will not contravene or conflict with, result in any breach of, or constitute a default under, any material agreement or instrument binding on it or result in the creation or imposition of or the obligation to create or impose any Lien (except for the Lien of the Agent created under this Agreement) and (iv) this Agreement is the legal, valid and binding obligation of the Pledgor, enforceable against the Pledgor in accordance with its terms, except to the extent such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws affecting the enforcement of creditors' rights generally and by the effect of general principles of equity (regardless of whether enforceability is considered in a proceeding in equity (including, without limitation, good faith, materiality and reasonableness) or at law).

(d) The Pledgor additionally covenants and agrees with the Agent that, until the expiration or termination of the Commitments and thereafter so long as any of the Obligations remain outstanding, the Pledgor will, unless the Agent shall otherwise consent in writing:

(i) at the Pledgor's sole expense, promptly deliver to the Agent, from time to time upon request of the Agent, such stock powers and other documents (including UCC financing statements), satisfactory in form and substance to the Agent, with respect to the Collateral as the Agent may reasonably request, to perfect, preserve and protect, and to enable the Agent to enforce, its rights and remedies hereunder;

(ii) not sell, assign, exchange, pledge or otherwise dispose of or transfer any of its rights to any of the Collateral;

(iii) not create or suffer to exist any Lien in or with respect to any of the Collateral (except for the Lien of the Agent created under this Agreement);

(iv) not make or consent to any amendment or other modification or waiver with respect to any of the Collateral, or enter into any agreement or permit to exist any restriction with respect to any of the Collateral other than pursuant hereto; and

(v) not take or fail to take any action which would in any manner impair the enforceability of the Agent's Lien on any of the Collateral.

(e) The information contained in Attachment 1 is true and accurate in all respects.

SECTION 4 Care of Collateral.

The Agent shall exercise reasonable care in the custody and preservation of the Collateral. In addition, the Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral if it takes such action for that purpose as the Pledgor requests in writing, but failure of the Agent to comply with any such request shall not of itself be deemed a failure to exercise reasonable care, and no failure of the Agent to preserve or protect any rights with respect to the Collateral against prior or other parties, or to do any act with respect to preservation of the Collateral not so requested by the Pledgor, shall be deemed a failure to exercise reasonable care in the custody or preservation of the Collateral.

SECTION 5 Certain Rights Regarding Collateral and Obligations.

(a) Subject to Sections 5(c) and 6 hereof, the Agent may, and upon the request of the Required Banks shall, from time to time, after the occurrence and during the continuance of an Event of Default under the Credit Agreement, without notice to the Pledgor, (i) transfer all or any part of the

Collateral into the name of the Agent or its nominee or sub-agent, with or without disclosing that such Collateral is subject to the Lien created hereunder, (ii) notify any Person obligated on any of the Collateral to make payment to the Agent of any amounts due or to become due thereunder, and (iii) enforce collection of any of the Collateral by suit or otherwise.

(b) If at any time the Agent takes any or all of the Permitted Actions (as hereinafter defined) whether such actions are taken before or after any of the Obligations shall be due and payable and without notice to the Pledgor, such actions shall not affect the enforceability of this Agreement. The Agent shall have taken a "Permitted Action" if it shall (to the extent permitted by the Credit Agreement and the other Loan Documents): (i) retain or obtain a Lien upon any property to secure payment and performance of any of the Obligations or any obligation hereunder, (ii) retain, obtain or release the primary or secondary obligation of any Person, in addition to the Pledgor, with respect to one or more of the Obligations, (iii) create, extend or renew for any periods (whether or not longer than the original period) or alter or exchange any of the Obligations, or release or compromise any obligation of any nature of any Person with respect to any of the Obligations, (iv) release or fail to perfect its Lien upon, or impair, surrender, release or permit any substitution or exchange for, all or any part of any property securing any of the Obligations or any obligation hereunder, or create, extend or renew for one or more periods (whether or not longer than the original period) or release, compromise, alter or exchange any obligations of any nature of any Person with respect to any such property (provided, that the Agent may release all or any

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portion of the Collateral to the Pledgor, and that upon such release, the rights of the Agent under this Agreement shall, to the extent of such Collateral, be deemed terminated), or (v) resort to the Collateral for payment of any of the Obligations whether or not the Agent (1) shall have resorted to any other property securing any of the Obligations or any obligation hereunder or (2) shall have proceeded against any Person primarily or secondarily obligated with respect to any of the Obligations (all of the actions referred to in preceding clauses (1) and (2) being hereby expressly waived by the Pledgor).

(c) The Agent shall have no right to vote the Pledged Shares or other Collateral or give consents, waivers or ratifications in respect thereof prior to the occurrence and during the continuance of an Event of Default. After the occurrence and during the continuance of an Event of Default, the Pledgor shall have the right to vote any and all of the Pledged Shares and other Collateral and give consents, waivers and ratifications in respect thereof unless and until it receives notice from the Agent that such right has been terminated. The Pledgor agrees to deliver (properly endorsed when required) to the Agent, after the occurrence of and during the continuance of an Event of Default shall have occurred and shall be continuing, promptly upon request of the Agent, such proxies and other documents as may be necessary for the Agent to exercise the voting power with respect to the Pledged Shares and other Collateral then or previously owned by the Pledgor.

SECTION 6 Dividends, etc.

(a) So long as no Event of Default shall have occurred and shall be continuing:

(i) Subject to the provisions of the Credit Agreement and notwithstanding the provisions of Section 2(a) of this Agreement, the Pledgor shall be entitled to receive any and all cash dividends and payments on the Collateral which it is otherwise entitled to receive, but any and all Securities and/or liquidating dividends, payments, distributions in property, returns of capital made on or in respect of the Collateral, whether resulting from a subdivision, combination, reclassification or conversion of the outstanding capital stock or other Securities of AEILIC, or received in exchange for the Collateral or any part thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which AEILIC may be a party or otherwise, and any and all cash and other property received in exchange for any Collateral shall be and become part of the Collateral pledged hereunder and, if received by the Pledgor, shall forthwith be delivered to the Agent or its designated nominee (accompanied, if appropriate, by proper instruments of assignment and/or stock powers executed by the Pledgor in accordance with the Agent's instructions) to be held by the Agent subject to the terms of this Agreement and, until delivery to the Agent, shall be held by the Pledgor separate and apart from its other property in trust for the Agent, for the benefit of the Banks.

(ii) If the Collateral or any part thereof shall have been registered in the name of the Agent or its sub-agent, the Agent shall execute and deliver (or cause to be executed and delivered) to the Pledgor all such dividend orders and other instruments as the Pledgor may request for the purpose of enabling the Pledgor to receive the dividends or other payments which it is authorized to receive and retain pursuant to Section 6(a)(i) above.

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(b) Upon the occurrence and during the continuance of an Event of Default, all rights of the Pledgor pursuant to Section 6(a)(i) hereof shall cease and the Agent shall have the sole and exclusive right and authority to receive and retain the dividends and other payments with respect of the Collateral which the Pledgor would otherwise be authorized to retain. All such dividends, payments, and all other distributions and payments made on or in respect of the Collateral which may at any time and from time to time be held by the Pledgor, shall, until delivery to the Agent, be held by the Pledgor separate and apart from its other property in trust for the Agent. Any and all money and other property paid over to or received by the Agent pursuant to the provisions of this paragraph (b) shall be retained by the Agent as additional Collateral hereunder and be applied in accordance with the provisions hereof.

SECTION 7 Default.

(a) Upon the occurrence and during the continuance of an Event of Default, the Agent may exercise from time to time any rights and remedies available to it under the Credit Agreement, the Uniform Commercial Code or the other Loan Documents or otherwise available to it, including, without limitation, sale, assignment, or other disposal of the Collateral in exchange for cash or credit. If any notification of intended disposition of any of the Collateral is required by law, such notification, if mailed, shall be deemed reasonably and properly given if mailed to the Pledgor at least ten (10) days before such disposition as provided in Section 12.5 of the Credit Agreement. Any proceeds of any disposition of Collateral shall be applied as provided in Section 8 hereof. No rights and remedies of the Agent expressed hereunder are intended to be exclusive of any other right or remedy, but every such right or remedy shall be cumulative and shall be in addition to all other rights and remedies herein conferred, or conferred upon the Agent under any other agreement or instrument relating to any of the Obligations or security therefor or now or hereafter existing at law or in equity or by statute. No delay on the part of the Agent in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Agent of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy.

(b)(i) The Pledgor agrees that in any sale of any of the Collateral, the Agent is authorized to comply with any limitation or restriction in connection with such sale as counsel may advise the Agent is necessary in order to avoid any violation of applicable law (including, without limitation, compliance with such procedures as may restrict the number of prospective bidders and purchasers, require that such prospective bidders and purchasers have certain qualifications, and restrict such prospective bidders and purchasers to persons who will represent and agree that they are purchasing for their own account for investment and not with a view to the distribution or resale of such Collateral), or in order to obtain any required approval of the sale or of the purchaser by any governmental regulatory authority or official, and the Pledgor further agrees that such compliance shall not result in such sale being considered or deemed not to have been made in a commercially reasonable manner, nor shall the Agent or any Bank be liable or accountable to the Pledgor for any discount allowed by reason of the fact that such Collateral is sold in compliance with any such limitation or restriction.

(ii) Without limiting the rights of the Agent under any other provision of this Agreement, and in addition thereto, the Pledgor agrees that, to the maximum extent permitted by law, after an Event of Default shall have occurred and shall be continuing,

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upon written request from the Agent, the Pledgor shall or shall cause AEILIC to prepare, file and cause to become effective promptly, registration statements complying with the Securities Act of 1933, as amended, for the public sale of such of the Collateral as the Agent may elect, and to take comparable action to permit such sales under the securities laws of such jurisdictions as the Agent may designate. The Pledgor further agrees to cause AEILIC to enter into and perform its obligations under one or more underwriting agreements in connection therewith, containing customary representations, warranties, covenants and indemnities and contribution provisions if requested by the Agent. If such registration statements are filed, the Pledgor agrees to cause AEILIC (A) to keep any such registration statement and related prospectus current and in compliance with applicable federal and state securities laws so long as required to satisfy applicable prospectus delivery requirements and (B) at the request of the Agent at any time after the effective date of any such registration statement, to use reasonable efforts to file post-effective amendments to such registration statement so that the Agent's sales of Pledged Shares or other Collateral will be covered by a current prospectus and can be made in compliance with all applicable federal and state securities laws.

(iii) The Pledgor further agrees, after an Event of Default shall have occurred and shall be continuing, and upon written request from the Agent, to (x) deliver, and cause AEILIC to deliver, to the Agent such information as the Agent shall reasonably request for inclusion in any registration statement, prospectus or offering memorandum or in any preliminary prospectus or preliminary offering memorandum or any amendment or supplement to any thereof or in any other writing prepared in connection with the offer, sale or resale of all or any portion of the Pledged Shares or other Collateral, which information shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated or necessary to make such information not misleading, and (y) do or cause to be done all such other acts and things as may be necessary to make such offer, sale or resale of all or any portion of the Pledged Shares or other Collateral valid and binding and in compliance with any and all applicable laws, regulations, orders, writs, injunctions, decrees or awards of any and all courts, arbitrators or governmental agencies or instrumentalities, domestic or foreign, having jurisdiction over any such offer, sale or resale.

Without limiting the foregoing paragraph, if the Agent decides to exercise its right to sell all or any of the Pledged Shares or other Collateral, upon written request, the Pledgor shall furnish or cause to be furnished to the Agent all such information as the Agent may request in order to qualify such Pledged Shares or other Collateral as exempt securities, or the sale or resale of such Pledged Shares or other Collateral as exempt transactions, under federal and state securities laws. The Pledgor agrees to allow, and to cause AEILIC to allow, upon request by the Agent, the Agent and any underwriter access at reasonable times and places to the books, records and premises of AEILIC; the Pledgor further agrees to assist, and cause AEILIC to assist, the Agent, any underwriter, any agent of any thereof, and any counsel, accountant or other expert for any thereof, an inspection, evaluation, and any other "due diligence" action of or with respect to any such books, records and premises; and the Pledgor further agrees to cause any independent public accountant for AEILIC to furnish a letter to the Agent and the underwriters in customary form and covering matters of the type customarily covered by letters of accountants for issuers to underwriters.

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(iv) The Pledgor, upon the occurrence and during the continuance of an Event of Default, further agrees that the Agent shall have the right, for and in the name, place and stead of the Pledgor to execute endorsements, assignments, stock powers and other instruments of conveyance or transfer with respect to all or any of the Collateral, and may, without demand, presentment or notice of any kind appropriate and apply toward the payment of the Obligations in order of application set forth in Section 8 any balances, credits, deposits, accounts or monies of the Pledgor held by the Agent.

(v) Without limiting the foregoing paragraph, upon the occurrence and during the continuance of an Event of Default, the Agent may, to the fullest extent permitted by applicable law, without notice, advertisement, hearing or process of law of any kind, (x) sell any or all of the Collateral, free of all rights and claims of the Pledgor therein and thereto at any public or private sale or brokers' board, and (y) bid for and purchase any or all of the Collateral at any such public sale free from rights of redemption, stay or appraisal of the Pledgor.

(vi) The Pledgor further agrees to indemnify and hold harmless the Agent and the Banks and each of their respective officers, directors, employees, agents, successors and assigns, and any Person in control of any thereof, from and against any loss, liability, claim, damage and expense, including, without limitation, reasonable attorneys' fees actually incurred (in this paragraph collectively called the "Indemnified Obligations"), under federal and state securities laws or otherwise insofar as such loss, liability, claim, damage or expense was caused by any untrue statement or alleged untrue statement of a material fact contained in any registration statement, any preliminary prospectus or the prospectus, or was caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages or Obligations were caused by any such untrue statement or omission or alleged untrue statement or omission based upon information relating to the Agent furnished to the Pledgor in writing by the Agent expressly for use therein, such indemnification to remain operative regardless of any investigation made by or on behalf of the Agent or any successors thereof, or any Person in control of any thereof. In connection with a public sale or other distribution, the Pledgor will provide customary indemnification to any underwriters, their respective successors and assigns, their respective officers and directors and each Person who controls any such underwriter (within the meaning of the Securities Act of 1933, as amended). If and to the extent that the foregoing undertakings in this paragraph may be unenforceable for any reason, the Pledgor agrees to make the maximum contribution to the payment and satisfaction of each of the Indemnified Obligations which is permissible under applicable law. The obligations of the Pledgor under this Section 7(b)(vi) shall survive any termination of this Agreement.

(vii) The Pledgor and the Agent acknowledge that the commissioners or departments of insurance of various states under all Applicable Insurance Codes, rules and regulations may have to consent to or approve any such sale, transfer or other disposition of the Collateral and the terms and conditions thereof. The Pledgor hereby waives and agrees not to assert against the Agent any claim that any such sale, transfer or other disposition hereunder, or the terms or conditions thereof, were not commercially reasonable because of any provision of any such insurance law, rule or regulation or any matter related thereto.

SECTION 8 Application of Proceeds.

All of the proceeds from the sale or disposition of any item of the Collateral sold pursuant to the terms of Section 7 hereof and/or, after an Event of Default shall have occurred and shall be continuing, the cash held as Collateral hereunder shall be applied by the Agent as follows:

First: to the payment of all of the reasonable costs and expenses of the Agent actually incurred by retaking, holding, preparing for sale or lease, selling, leasing and the like, including (i) the reasonable costs and expenses actually incurred by the Agent and the reasonable fees, costs and expenses of counsel actually incurred by the Agent (whether or not such costs and expenses are incurred by the Agent on its own behalf or on behalf of the Banks), and (ii) the payment of all reasonable costs and expenses actually incurred by the Agent in connection with the administration and enforcement of this Agreement, to the extent that such advances, costs and expenses shall not have been reimbursed to the Agent;

Second: to the payment in full of the Obligations in such order as is consistent with the Credit Agreement and to the extent not addressed in the Credit Agreement as the Agent may determine from time to time in its sole discretion (such application to be made ratably among the Banks); and

Third: the balance, if any, of such proceeds shall be paid to the Pledgor, its successors and assigns, or as a court of competent jurisdiction may direct.

SECTION 9 Authority of the Agent.

The Agent shall have, and be entitled to exercise, all such powers hereunder (to the extent permitted by the Credit Agreement) as are specifically delegated to the Agent by the terms hereof, together with such powers as are incidental thereto, for the benefit of the Banks. As to matters not expressly provided for by this Pledge Agreement (including, without limitation, enforcement or collection of this Pledge Agreement) the Agent shall not be required to exercise any discretion, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Required Banks and such instructions shall be binding upon all Banks. The Agent may execute any of its duties hereunder by or through agents or employees and shall be entitled to retain counsel and to act in reliance upon the reasonable advice of such counsel concerning all matters pertaining to its duties hereunder. Neither the Agent, the Banks nor any director, officer or employee thereof shall be liable for any action taken or omitted to be taken by it hereunder or in connection herewith, except for its own gross negligence or willful misconduct. Without limiting the generality of the foregoing, the Agent shall not be responsible to any Bank for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Pledge Agreement or any other Loan Document or other support or security (including the validity, priority or perfection of any Lien), or any other document furnished in connection with any of the foregoing; provided that, notwithstanding the foregoing, the Agent shall comply with Section 4 hereof. The Pledgor agrees to reimburse the Agent, on demand, for all reasonable costs and expenses actually incurred by the Agent in connection with the administration and enforcement of this Agreement (including, without limitation, reasonable costs and expenses actually incurred by any agent employed by the Agent) and agrees to indemnify (which indemnification shall survive any termination of this Agreement) and hold harmless the Agent and the Banks (and any such

agent) from and against any and all liability incurred by the Agent or any Bank or any such agent thereof, hereunder or in connection herewith, unless such liability shall be due to gross negligence or willful misconduct on the part of the Agent or any Bank or such agent, as the case may be.

SECTION 10 Termination.

The Pledgor agrees that its pledge hereunder shall (notwithstanding, without limitation, that at any time or from time to time all Obligations may have been paid in full) terminate only when all Obligations (except Obligations which by the terms of the Credit Agreement survive the payment in full of the Loans and the termination of this Agreement) (including, without limitation, any extensions or renewals of any thereof) and all expenses (including, without limitation, reasonable attorneys' fees and legal expenses) paid or actually incurred by the Agent or the holder or the holders of the Notes in endeavoring to enforce this Agreement, the Credit Agreement and the other Loan Documents to which the Agent is a party or of which it is a beneficiary shall have been finally paid in full and all other obligations of the Pledgor hereunder and thereunder have been fully performed, and all Commitments under the Credit Agreement have been terminated, at which time the Agent shall reassign and redeliver (or cause to be reassigned and redelivered) to the Pledgor, or to such Person or Persons as the Pledgor shall designate, such of the Collateral (if any) as shall not have been sold or otherwise applied by the Agent pursuant to the terms hereof and shall still be held by it hereunder, together with appropriate instruments of reassignment and release. Any such reassignment shall be without recourse upon, or representation or warranty by, the Agent or any Bank and at the sole cost and expense of the Pledgor.

SECTION 11 Miscellaneous.

(a) All notices or other communications hereunder shall be given in the manner specified under Section 12.5 of the Credit Agreement, whether or not then in effect.

(b) This Agreement, and the terms, covenants and conditions hereof, shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns, except the Pledgor shall not be permitted to assign this Agreement nor any interest herein nor in the Collateral, nor any part thereof, nor otherwise pledge, encumber or grant any option with respect to the Collateral, nor any part thereof.

(c) SUBMISSION TO JURISDICTION: WAIVER OF VENUE. EACH OF THE PLEDGOR AND THE AGENT (A) HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY MINNESOTA STATE OR FEDERAL COURT SITTING IN HENNEPIN COUNTY OR RAMSEY COUNTY, MINNESOTA OVER ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS, AND EACH OF THE PLEDGOR AND THE AGENT "HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN

RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH MINNESOTA STATE OR FEDERAL COURT, AND (B) AGREES NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST THE OTHER PARTY HERETO OR THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY OF ANY THEREOF, ARISING OUT OF OR RELATING TO THIS AGREEMENT, IN ANY COURT OTHER THAN AS HEREINABOVE SPECIFIED IN THIS SECTION 11(C). EACH OF THE PLEDGOR AND THE AGENT

HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE IN ANY ACTION OR PROCEEDING (WHETHER BROUGHT BY THE PLEDGOR, ANY OF ITS SUBSIDIARIES, THE AGENT, ANY BANK OR OTHERWISE) IN ANY COURT HEREINABOVE SPECIFIED IN THIS SECTION 11(c) AS WELL AS ANY RIGHT IT MAY NOW OR HEREAFTER HAVE TO REMOVE ANY SUCH ACTION OR PROCEEDING, ONCE COMMENCED, TO ANOTHER COURT ON THE GROUNDS OF FORUM NON CON VENIENS OR OTHERWISE. EACH OF THE PLEDGOR AND THE AGENT AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(d) At the option of the Agent, this Agreement, or a carbon, photographic or other reproduction of this Agreement or of any Uniform Commercial Code financing statement covering the Collateral or any portion thereof, shall be sufficient as a Uniform Commercial Code financing statement and may be filed as such.

(e) Subject to Section 12.1 of the Credit Agreement, no amendment to, modification or waiver of, or consent with respect to, any provision of this Agreement shall in any event be effective unless the same shall be in writing and signed and delivered by the Agent at the request of the Required Banks, and then any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

(f) The section headings in this Agreement are inserted for convenience of reference and shall not be considered a part of this Agreement or used in its interpretation.

(g) The Pledgor hereby expressly waives: (i) notice of the acceptance by the Agent of this Agreement, (ii) notice of the existence or creation or non-payment of all or any of the Obligations, (iii) presentment, demand, notice of dishonor, protest, and all other notices whatsoever (except as otherwise required herein), and (iv) all diligence in collection or protection of or realization upon the Obligations, or any security for or guaranty of any of the foregoing.

(h) The Agent may, from time to time, without notice to the Pledgor, assign or transfer any or all of the Obligations or any interest therein; and, notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Obligations shall be and remain Obligations for the purposes of this Agreement, and each and every immediate and successive assignee or transferee of any of the Obligations or of any interest therein shall, to the extent of the interest of such assignee or transferee in the Obligations, be entitled to the benefits of this Agreement to the same extent as if such assignee or transferee were the Agent; provided, however, that, unless the Agent shall otherwise consent in writing, the Agent shall have an unimpaired right, prior and superior to that of any such assignee or transferee, to enforce this Agreement, for the benefit of the Agent, as to those of the Obligations which the Agent has not assigned or transferred.

(i) The Pledgor agrees that, if at any time all or any part of any payment theretofore applied by the Agent to any of the Obligations is or must be rescinded or returned by the Agent for any reason whatsoever (including, without limitation, the insolvency, bankruptcy or reorganization of any of the Pledgor, AEILIC), such Obligations shall, for the purposes of this Agreement, to the

extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Agent, and the pledge by the Pledgor hereunder shall continue to be effective or be reinstated, as the case may be, as to such Obligations, all as though such application by the Agent had not been made.

(j) No action of the Agent permitted hereunder shall in any way affect or impair the rights of the Agent and the obligations of the Pledgor under this Agreement. The Pledgor hereby acknowledges that there are no conditions to the effectiveness of this Agreement.

(k) All obligations of the Pledgor and rights of the Agent or obligation expressed in this Agreement shall be in addition to and not in limitation of those provided in applicable law or in any other written instrument or agreement relating to any of the Obligations.

(l) GOVERNING LAW. THIS AGREEMENT SHALL BE A CONTRACT MADE UNDER AND GOVERNED BY THE LAWS OF THE STATE OF MINNESOTA, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES. ALL OBLIGATIONS OF THE PLEDGOR AND RIGHTS OF THE AGENT SHALL BE IN ADDITION TO AND NOT IN LIMITATION OF THOSE PROVIDED BY APPLICABLE LAW.

(m) This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed an original, but all such counterparts shall constitute but one and the same Agreement. The Pledgor hereby acknowledges receipt of a true, correct and complete counterpart of this Agreement.

(n) The Agent acts herein as agent for itself, the Banks and any and all future holders of the Obligations.

(o) The Agent hereby acknowledges that its exercise of any rights or remedies hereunder shall be subject to any Applicable Insurance Code and agrees to first comply with any Applicable Insurance Code in exercising its rights hereunder.

(p) WAIVER OF JURY TRIAL. EACH OF THE PLEDGOR AND THE AGENT HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM CONCERNING ANY RIGHTS UNDER THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR UNDER ANY OTHER DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREwith, OR ARISING FROM ANY BANKING

RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT; AND AGREES THAT ANY SUCH ACTION, PROCEEDING OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY; THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: /s/ Wendy L. Carlson

Title: CFO & General Counsel

U.S. BANK NATIONAL ASSOCIATION, as
Agent

By: /s/ Ziad W. Amra

Title: Corporate Banking Officer

ATTACHMENT 1

LISTING OF AMERICAN EQUITY’S STOCK PLEDGED

<u>Certificate Number</u>	<u>Number of Shares of Stock</u>	<u>% Ownership</u>
01	2,500,000	100%

LISTING OF AMERICAN EQUITY’S SURPLUS NOTES PLEDGED

<u>Note Number</u>	<u>Face Amount</u>	<u>% Ownership</u>
1	\$ 2,500,000	100%
2	\$ 5,500,000	100%
3	\$ 17,000,000	100%
4	\$ 16,000,000	100%
5	\$ 10,000,000	100%

REVOLVING NOTE

\$20,000,000 Minneapolis, Minnesota: September 22, 2004

FOR VALUE RECEIVED, the undersigned AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “Borrower”), promises to pay to the order of U.S. BANK NATIONAL ASSOCIATION (the “Bank”), on the Revolving Termination Date, or other due date or dates determined under the Credit Agreement hereinafter referred to, the principal sum of TWENTY MILLION DOLLARS (\$20,000,000), or if less, the then aggregate unpaid principal amount of the Revolving Loans (as such terms are defined in the Credit Agreement) as may be made by the Bank under the Credit Agreement. All Revolving Loans and all payments of principal shall be recorded by the holder in its records which records shall be conclusive evidence of the subject matter thereof, absent manifest error.

The Borrower further promises to pay to the order of the Bank interest on the aggregate unpaid principal amount hereof from time to time outstanding from the date hereof until paid in full at the rates per annum which shall be determined in accordance with the provisions of the Credit Agreement. Accrued interest shall be payable on the dates specified in the Credit Agreement.

All payments of principal and interest under this Note shall be made in lawful money of the United States of America in immediately available funds at the office of U.S. Bank National Association, at 800 Nicollet Mall, Minneapolis, Minnesota 55402, or at such other place as may be designated by the

Agent to the Borrower in writing.

This Note is one of the Revolving Notes and Notes referred to in, and evidences indebtedness incurred under, a Credit Agreement dated as of September 22, 2004 (herein, as it may be amended, modified or supplemented from time to time, called the “Credit Agreement”) among the Borrower, the Banks, as defined therein (including the Bank) and U.S. Bank National Association, as Agent, to which Credit Agreement reference is made for a statement of the terms and provisions thereof, including those under which the Borrower is permitted and required to make prepayments and repayments of principal of such indebtedness and under which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment, demand, protest and notice of dishonor in connection with this Note.

This Note is made under and governed by the internal laws of the State of Minnesota.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: /s/ Wendy L. Carlson

Title: CFO & General Counsel

REVOLVING NOTE

\$20,000,000 Minneapolis, Minnesota: September 22, 2004

FOR VALUE RECEIVED, the undersigned AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “Borrower”), promises to pay to the order of LaSALLE NATIONAL BANK (the “Bank”), on the Revolving Termination Date, or other due date or dates determined under the Credit Agreement hereinafter referred to, the principal sum of TWENTY MILLION DOLLARS (\$20,000,000), or if less, the then aggregate unpaid principal amount of the Revolving Loans (as such terms are defined in the Credit Agreement) as may be made by the Bank under the Credit Agreement. All Revolving Loans and all payments of principal shall be recorded by the holder in its records which records shall be conclusive evidence of the subject matter thereof, absent manifest error.

The Borrower further promises to pay to the order of the Bank interest on the aggregate unpaid principal amount hereof from time to time outstanding from the date hereof until paid in full at the rates per annum which shall be determined in accordance with the provisions of the Credit Agreement. Accrued interest shall be payable on the dates specified in the Credit Agreement.

All payments of principal and interest under this Note shall be made in lawful money of the United States of America in immediately available funds at the office of U.S. Bank National Association, at 800 Nicollet Mall, Minneapolis, Minnesota 55402, or at such other place as may be designated by the Agent to the Borrower in writing.

This Note is one of the Revolving Notes and Notes referred to in, and evidences indebtedness incurred under, a Credit Agreement dated as of September 22, 2004 (herein, as it may be amended, modified or supplemented from time to time, called the “Credit Agreement”) among the Borrower, the Banks, as defined therein (including the Bank) and U.S. Bank National Association, as Agent, to which Credit Agreement reference is made for a statement of the terms and provisions thereof, including those under which the Borrower is permitted and required to make prepayments and repayments of principal of such indebtedness and under which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment, demand, protest and notice of dishonor in connection with this Note.

This Note is made under and governed by the internal laws of the State of Minnesota.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: /s/ Wendy L. Carlson

Title: CFO & General Counsel

REVOLVING NOTE

\$10,000,000 Minneapolis, Minnesota: September 22, 2004

FOR VALUE RECEIVED, the undersigned AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “Borrower”), promises to pay to the order of WEST BANK (the “Bank”), on the Revolving Termination Date, or other due date or dates determined under the Credit Agreement hereinafter referred to, the principal sum of TEN MILLION DOLLARS (\$10,000,000), or if less, the then aggregate unpaid principal amount of the Revolving Loans (as such terms are defined in the Credit Agreement) as may be made by the Bank under the Credit Agreement. All Revolving Loans and all payments of principal shall be recorded by the holder in its records which records shall be conclusive evidence of the subject matter thereof, absent manifest error.

The Borrower further promises to pay to the order of the Bank interest on the aggregate unpaid principal amount hereof from time to time outstanding from the date hereof until paid in full at the rates per annum which shall be determined in accordance with the provisions of the Credit

Agreement. Accrued interest shall be payable on the dates specified in the Credit Agreement.

All payments of principal and interest under this Note shall be made in lawful money of the United States of America in immediately available funds at the office of U.S. Bank National Association, at 800 Nicollet Mall, Minneapolis, Minnesota 55402, or at such other place as may be designated by the Agent to the Borrower in writing.

This Note is one of the Revolving Notes and Notes referred to in, and evidences indebtedness incurred under, a Credit Agreement dated as of September 22, 2004 (herein, as it may be amended, modified or supplemented from time to time, called the “Credit Agreement”) among the Borrower, the Banks, as defined therein (including the Bank) and U.S. Bank National Association, as Agent, to which Credit Agreement reference is made for a statement of the terms and provisions thereof, including those under which the Borrower is permitted and required to make prepayments and repayments of principal of such indebtedness and under which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment, demand, protest and notice of dishonor in connection with this Note.

This Note is made under and governed by the internal laws of the State of Minnesota.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: /s/ Wendy L. Carlson

Title: CFO & General Counsel

TRANCHE B NOTE

\$8,500,000 Minneapolis, Minnesota: September 22, 2004

FOR VALUE RECEIVED, the undersigned AMERICAN EQUITY INVESTMENT LIFE HOLDING COMPANY, an Iowa corporation (the “Borrower”), promises to pay to the order of U.S. BANK NATIONAL ASSOCIATION (the “Bank”), payable in installments in the amounts and on due dates set forth on Schedule I attached hereto, the principal sum of EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS (\$8,500,000).

The Borrower further promises to pay to the order of the Bank interest on the aggregate unpaid principal amount hereof from time to time outstanding from the date hereof until paid in full at the rates per annum which shall be determined in accordance with the provisions of the Credit Agreement. Accrued interest shall be payable on the dates specified in the Credit Agreement.

The Tranche B LIBOR Margin for this Note and the indebtedness evidenced hereby is 3.00% per annum.

All payments of principal and interest under this Note shall be made in lawful money of the United States of America in immediately available funds at the office of U.S. Bank National Association, at 800 Nicollet Mall., Minneapolis, Minnesota 55402, or at such other place as may be designated by the Agent to the Borrower in writing.

This Note is one of the Tranche B Notes and the Notes referred to in, and evidences indebtedness incurred under, a Credit Agreement dated as of September 22, 2004 (herein, as it may be amended, modified or supplemented from time to time, called the “Credit Agreement”) among the Borrower, the Banks, as defined therein (including the Bank) and U.S. Bank National Association, as Agent, to which Credit Agreement reference is made for a statement of the terms and provisions thereof, including those under which the Borrower is permitted and required to make prepayments and repayments of principal of such indebtedness and under which such indebtedness may be declared to be immediately due and payable.

All parties hereto, whether as makers, endorsers or otherwise, severally waive presentment, demand, protest and notice of dishonor in connection with this Note.

This Note is made under and governed by the internal laws of the State of Minnesota.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY

By: /s/ Wendy L. Carlson

Title: CFO & General Counsel

Schedule I to
Tranche B Note in the original
principal amount of \$8,500,000

Principal of this Note shall be payable in installments of \$425,000 each, due on the last day of March, June, September and December of each year, commencing on December 31, 2004, with a final principal payment due on September 30, 2009 equal in principal amount to the outstanding principal balance hereunder on such date, if different from such other installments.

FORM OF CERTIFICATION FOR QUARTERLY REPORTS ON FORM 10-Q

I, David J. Noble, certify that:

1. I have reviewed this quarterly report on Form 10-Q of American Equity Investment Life Holding Company;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in the Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
 - a) Designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
 - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
 - c) Presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) All significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: November 9, 2004

By: /s/ David J. Noble
 David J. Noble, Chief Executive Officer
 (Principal Executive Officer)

FORM OF CERTIFICATION FOR QUARTERLY REPORTS ON FORM 10-Q

I, Wendy L. Carlson, certify that:

1. I have reviewed this quarterly report on Form 10-Q of American Equity Investment Life Holding Company;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in the Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
 - a) Designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
 - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
 - c) Presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) All significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: November 9, 2004

By: /s/ Wendy L. Carlson
 Wendy L. Carlson, Chief Financial Officer
 (Principal Financial Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of American Equity Investment Life Holding Company (the "Company") on Form 10-Q for the nine months ended September 30, 2004 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, D.J. Noble, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934;

and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 9, 2004

By: /s/ D.J. Noble

D.J. Noble, Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of American Equity Investment Life Holding Company (the "Company") on Form 10-Q for the nine months ended September 30, 2004 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Wendy L. Carlson, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934;

and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 9, 2004

By: /s/ Wendy L. Carlson
Wendy L. Carlson, Chief Financial Officer
(Principal Financial Officer)