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As filed with the Securities and Exchange Commission on May 2, 2006

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

PepsiCo, Inc.
(Exact Name of Registrant as Specified in Its Charter)

North Carolina	**13-1584302**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification Number)**

700 Anderson Hill Road
Purchase, New York 10577
(914) 253-2000
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Robert E. Cox
Vice President and Deputy General Counsel
PepsiCo, Inc.
700 Anderson Hill Road
Purchase, New York 10577
(914) 253-2000
Fax: (914) 253-3123
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent For Service)

Copy to:
Winthrop B. Conrad, Jr.
Davis Polk & Wardwell
450 Lexington Avenue
New York, NY 10017
(212) 450-4890
Fax: (212) 450-3890

Approximate date of commencement of proposed sale to the public: From time to time after this Registration Statement becomes effective.

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

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

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

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

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ☒

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ☐

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	**Amount to be Registered/Proposed Maximum Offering Price Per Unit/Proposed Maximum Aggregate Offering Price**	**Amount of Registration Fee**
Debt Securities		
Warrants		
Common Stock		
Units	(1)(2)	(3)

(1) Not applicable pursuant to Form S-3 General Instruction II (E).
(2) Such indeterminate amount of Debt Securities, Warrants, shares of Common Stock or Units as may from time to time be issued at indeterminate prices.
(3) Deferred in reliance upon Rule 456(b) and Rule 457(r).

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PROSPECTUS

PepsiCo, Inc.

COMMON STOCK
DEBT SECURITIES
WARRANTS
UNITS

We may offer from time to time debt securities, warrants, common stock or units. Specific terms of these securities will be provided in supplements to this prospectus. You should read this prospectus and any supplement carefully before you invest.

Investing in these securities involves certain risks. See the information included and incorporated by reference in this prospectus for a discussion of the factors you should carefully consider before deciding to purchase these securities.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities, or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is May 2, 2006.

You should rely only on the information contained in or incorporated by reference in this prospectus, in any accompanying prospectus supplement or in any free writing prospectus filed by us with the Securities and Exchange Commission and any information about the terms of securities offered conveyed to you by the issuer, its underwriters or agents. We have not authorized anyone to provide you with different information. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume that the information contained in or incorporated by reference in this prospectus or any prospectus supplement or in any such free writing prospectus is accurate as of any date other than their respective dates. The terms "PepsiCo", "we," "us," and "our" refer to PepsiCo, Inc.

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THE COMPANY

PepsiCo is a leading, global snack and beverage company. PepsiCo manufactures, markets and sells a variety of salty, convenient, sweet and grain-based snacks, carbonated and non-carbonated beverages and foods. PepsiCo is organized in four divisions:

- Frito-Lay North America,
- PepsiCo Beverages North America,
- PepsiCo International, and
- Quaker Foods North America.

Frito-Lay North America, or FLNA, manufactures or uses contract manufacturers, markets, sells and distributes branded snacks. These snacks include Lay's potato chips, Doritos tortilla chips, Cheetos cheese flavored snacks, Tostitos tortilla chips, Fritos corn chips, branded dips, Ruffles potato chips, Quaker Chewy granola bars, Rold Gold pretzels, Sun Chips multigrain snacks, Munchies snack mix, Grandma's cookies, Lay's Stax potato crisps, Quaker Quakes corn and rice snacks, Quaker Fruit & Oatmeal bars, Cracker Jack candy coated popcorn, Go Snacks and Stacy's pita chips.

PepsiCo Beverages North America, or PBNA, manufactures or uses contract manufacturers, markets and sells beverage concentrates, fountain syrups and finished goods, under various beverage brands including Pepsi, Mountain Dew, Gatorade, Tropicana Pure Premium, Sierra Mist, Tropicana juice drinks, Mug, Propel, SoBe, Tropicana Twister, Dole and Slice. PBNA also manufactures, markets and sells ready-to-drink tea and coffee products through joint ventures with Lipton and Starbucks. In addition, PBNA licenses the Aquafina water brand to its bottlers and markets this brand.

PepsiCo International, or PI, manufactures through consolidated businesses as well as through noncontrolled affiliates, a number of leading salty and sweet snack brands including Gamesa and Sabritas in Mexico, Walkers in the United Kingdom, and Smith's in Australia. PI also manufactures, markets and sells beverage concentrates, fountain syrups and finished goods under the brands Pepsi, 7UP, Mirinda, Gatorade, Mountain Dew and Tropicana. PI also licenses the Aquafina water brand to certain of its franchise bottlers.

Quaker Foods North America, or QFNA, manufactures or uses contract manufacturers, markets and sells cereals, rice, pasta and other branded products. QFNA's products include Quaker oatmeal, Aunt Jemima mixes and syrups, Quaker grits, Cap'n Crunch and Life ready-to-eat cereals, Rice-A-Roni, Pasta Roni and Near East side dishes.

Our principal executive offices are located at 700 Anderson Hill Road, Purchase, New York 10577 and our telephone number is (914) 253-2000. We maintain a website at www.pepsico.com where general information about us is available. We are not incorporating the contents of the website into this prospectus.

ABOUT THIS PROSPECTUS

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

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document that we file at the Public Reference Room of the SEC at 100 F Street, N.E., Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. In addition, the SEC maintains an Internet site at http://www.sec.gov, from which interested persons can electronically access the registration statement including the exhibits and schedules thereto.

The SEC allows us to "incorporate by reference" the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future filings made with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules), on or after the date of this prospectus until we sell all of the securities covered by this registration statement:

(a) Current Reports on Form 8-K filed with the SEC on February 2, 2006, February 10, 2006 and March 21, 2006;

(b) Quarterly Report on Form 10-Q for the quarter ended March 25, 2006;

(c) Annual Report on Form 10-K for the fiscal year ended December 31, 2005; and

(d) Proxy Statement on Schedule 14A filed with the SEC on March 24, 2006.

You may request a copy of these filings at no cost, by writing or telephoning the office of Manager, Shareholder Relations, PepsiCo, Inc., 700 Anderson Hill Road, Purchase, New York 10577, (914) 253-3055.

SPECIAL NOTE ON FORWARD-LOOKING STATEMENTS

We discuss expectations regarding our future performance, such as our business outlook, in our annual and quarterly reports, press releases, and statements incorporated by reference in this prospectus. These statements, and statements other than statements of historical facts included or incorporated by reference in this prospectus, including, without limitation, statements regarding our future financial position, business strategy, budgets, projected costs and plans and objectives of management for future operations, are forward-looking statements. These "forward-looking statements" are based on currently available competitive, financial and economic data and our operating plans. They are inherently uncertain, and investors must recognize that events could turn out to be significantly different from our expectations. All subsequent written and oral forward-looking statements attributable to us, or persons acting on our behalf, are expressly qualified in their entirety by these cautionary statements. We do not undertake to update our forward-looking statements to reflect future events or circumstances, except as may be required by applicable law.

USE OF PROCEEDS

Unless otherwise indicated in a prospectus supplement, the net proceeds from the sale of the securities will be used for general corporate purposes.

RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth our ratio of earnings to fixed charges for the periods indicated. “Fixed charges” consist of interest expense, capitalized interest, amortization of debt discount, and the interest portion of net rent expense which is deemed to be representative of the interest factor. The ratio of earnings to fixed charges is calculated as income from continuing operations, before provision for income taxes and cumulative effect of accounting changes, where applicable, less net unconsolidated affiliates’ interests, plus fixed charges (excluding capitalized interest), plus amortization of capitalized interest, with the sum divided by fixed charges.

Three Months Ended		Year Ended				
March 25, 2006	March 19, 2005	December 31, 2005	December 25, 2004	December 27, 2003	December 28, 2002	December 29, 2001
17.43	18.61	19.03	22.00	20.37	18.08	13.83

DESCRIPTION OF CAPITAL STOCK

The following description of our capital stock is based upon our Amended and Restated Articles of Incorporation ("Articles of Incorporation"), our By-Laws, as amended to March 17, 2006 ("By-Laws") and applicable provisions of law. We have summarized certain portions of the Articles of Incorporation and By-Laws below. The summary is not complete. The Articles of Incorporation and By-Laws are incorporated by reference into the registration statement for these securities that we have filed with the SEC and have been filed as exhibits to our registration statement on Form S-8 filed with the SEC on August 3, 2001 (File No. 333-66632), in the case of the Articles of Incorporation, and on Form 10-Q for the quarterly period ended March 25, 2006, in the case of the By-Laws. You should read the Articles of Incorporation and By-Laws for the provisions that are important to you.

Authorized Capital Stock

Our Articles of Incorporation authorizes us to issue 3,600,000,000 shares of common stock, par value one and two-thirds cents (1-2/3 cents) per share and 3,000,000 shares of convertible preferred stock, no par value per share.

Common Stock

As of March 10, 2006 there were 1,656,106,493 shares of common stock outstanding which were held of record by 196,232 shareholders.

Each holder of a share of PepsiCo common stock is entitled to one vote for each share held of record on the applicable record date on all matters submitted to a vote of shareholders. Holders of PepsiCo common stock are entitled to receive dividends as may be declared from time to time by PepsiCo's Board of Directors out of funds legally available therefor. Holders of PepsiCo common stock are entitled to share pro rata, upon any liquidation or dissolution of PepsiCo, in all remaining assets available for distribution to shareholders after payment or providing for PepsiCo's liabilities and the liquidation preference of any outstanding PepsiCo convertible preferred stock. Holders of PepsiCo common stock do not have the right to subscribe for, purchase or receive new or additional capital stock or other securities.

Convertible Preferred Stock

As of March 10, 2006 there were 349,953 shares of convertible preferred stock outstanding, which were held of record by 2,676 shareholders. The convertible preferred stock was issued, in connection with our merger with the Quaker Oats Company, to Fidelity Trust Management Co., as trustee of the Quaker 401(k) plans for hourly and salaried employees, which subsequently merged into the PepsiCo 401(k) Plan for Salaried Employees and the PepsiCo 401(k) Plan for Hourly Employees. These shares are held in the ESOP portion of these plans, which we refer to as the PepsiCo ESOP. If the shares of convertible preferred stock are transferred to any person other than a successor trustee, the shares of convertible preferred stock will automatically convert into shares of common stock.

Ranking. The convertible preferred stock ranks ahead of our common stock with respect to the payment of dividends and the distribution of assets in the event of our liquidation or dissolution.

Dividends. Subject to the rights of the holders of any capital stock ranking senior to convertible preferred stock, holders of convertible preferred stock will receive cumulative cash dividends when, as and if declared by our Board of Directors. Dividends of $5.46 per share per year accrue on a daily basis, payable quarterly in arrears on the fifteenth of January, April, July and October to holders of record at the start of business on that dividend payment date.

So long as any shares of convertible preferred stock are outstanding, no dividend may be declared or paid on any other series of stock of the same rank, unless all accrued dividends on the convertible preferred stock are

paid. Generally, if full cumulative dividends on the convertible preferred stock have not been paid, we will not pay any dividends or make any other distributions on any other class of stock or series of our capital stock ranking junior to the convertible preferred stock until full cumulative dividends on the convertible preferred stock have been paid.

Voting Rights. Holders of convertible preferred stock will be entitled to vote as one voting group with the holders of common stock on all matters submitted to shareholders. The holder of each share of convertible preferred stock will be entitled to a number of votes equal to the number of shares of common stock into which each share of convertible preferred stock could be converted on the relevant record date, rounded to the nearest one-tenth of a vote. Whenever the conversion price is adjusted for dilution, the voting rights of the convertible preferred stock will be similarly adjusted.

Except as otherwise required by law, holders of the convertible preferred stock will not have any special voting rights and their consent will not be required, except to the extent that they are entitled to vote with the holders of the common stock, for the taking of any corporate action. The approval of at least two-thirds of the outstanding shares of the convertible preferred stock, voting separately as one voting group, will be required if an alteration, amendment or repeal of any provision of our Articles of Incorporation would adversely affect their powers, preferences or special rights.

Rights upon Liquidation, Dissolution or Winding Up. In the event of any voluntary or involuntary liquidation, dissolution or winding up of us, the holders of convertible preferred stock will be entitled to receive, before any distribution is made to the holders of common stock or any other series of stock ranking junior to the convertible preferred stock, a liquidation preference in the amount of $78.00 per share, plus accrued and unpaid dividends. If the amounts payable with respect to convertible preferred stock and any other stock of the same rank are not paid in full, the holders of convertible preferred stock and any stock of equal rank will share pro rata in any distribution of assets. After payment of the full amount to which they are entitled, the holders of shares of convertible preferred stock will not be entitled to any further right or claim to any of our remaining assets.

Mandatory Redemption by PepsiCo. We must redeem the convertible preferred stock upon termination of the PepsiCo ESOP in accordance with the PepsiCo ESOP's terms. We will redeem all then outstanding shares of convertible preferred stock for a per share amount equal to the greater of $78.00 plus accrued and unpaid dividends or the fair market value of the convertible preferred stock. We, at our option, may make payment in cash or in shares of our common stock or in a combination of shares and cash.

Optional Redemption by the Holders. Holders of the convertible preferred stock may elect to redeem their shares if we enter into any consolidation or merger or similar business combination in which we exchange our common stock for property other than employer securities or qualifying employer securities. Upon notice from us of the agreement and the material terms of the transaction, each holder of convertible preferred stock will have the right to elect, by written notice to us, to receive a cash payment upon consummation of the transaction equal to the greater of the fair market value of the shares of convertible preferred stock to be so redeemed or $78.00 per share plus accrued and unpaid dividends. Additionally, holders of convertible preferred stock may redeem their shares under other limited circumstances more fully described in the Articles of Incorporation.

Conversion. On or prior to any date fixed for redemption, a holder of convertible preferred stock may elect to convert any or all of his or her shares into shares of common stock at a conversion ratio (which is subject to adjustment for a number of dilutive events) more fully described in the Articles of Incorporation.

Preemptive Rights. Holders of the convertible preferred stock do not have the right to subscribe for, purchase or receive new or additional capital stock or other securities.

Transfer Agent and Registrar

The Bank of New York is the transfer agent and registrar for PepsiCo common stock.

Stock Exchange Listing

The New York Stock Exchange is the principal market for PepsiCo's common stock, which is also listed on the Amsterdam, Chicago and Swiss stock exchanges.

Certain Provisions of PepsiCo's Articles of Incorporation and By-Laws; Director Indemnification Agreements

Advance Notice of Proposals and Nominations. Our By-Laws provide that shareholders must provide timely written notice to bring business before an annual meeting of shareholders or to nominate candidates for election as directors at an annual meeting of shareholders. Notice for an annual meeting is timely if it is received at our principal office not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year's annual meeting. However, if the date of the annual meeting is advanced by more than 30 days or delayed more than 60 days from this anniversary date, such notice by the shareholder must be delivered not earlier than the 120th day prior to the annual meeting and not later than the close of business on the later of the 90th day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such annual meeting was first made. The By-Laws also specify the form and content of a shareholder's notice. These provisions may prevent shareholders from bringing matters before an annual meeting of shareholders or from nominating candidates for election as directors at an annual meeting of shareholders.

Limits on Special Meetings. A special meeting of the shareholders may be called by our corporate secretary upon written request of the shareholders owning a majority of shares of our outstanding common stock entitled to vote at such meeting. Any such special meeting called at the request of our shareholders must be held at our principal office within 90 days from the receipt of such request by the corporate secretary. The By-Laws specify the form and content of a shareholder's request for a special meeting.

Indemnification of Directors, Officers and Employees. Our By-Laws provide that we shall indemnify, to the full extent permitted by law, any person who was or is, or who is threatened to be made, a party to an action, suit or proceeding (including appeals), whether civil, criminal, administrative, investigative or arbitrative, by reason of the fact that such person, such person's testator or intestate, is or was one of our directors, officers or employees, or is or was serving at our request as a director, officer or employee of another enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding. Pursuant to our By-Laws this indemnification may, at the Board's discretion, also include advancement of expenses related to such action, suit or proceeding.

In addition, we have entered into indemnification agreements with each of our directors, pursuant to which we have agreed to indemnify and hold harmless, to the full extent permitted by law, each director against any and all liabilities and assessments (including attorneys' fees and other costs, expenses and obligations) arising out of or related to any threatened, pending or completed action, suit, proceeding, inquiry or investigation, whether civil, criminal, administrative, or other, including, but not limited to, judgments, fines, penalties and amounts paid in settlement (whether with or without court approval), and any interest, assessments, excise taxes or other charges paid or payable in connection with or in respect of any of the foregoing, incurred by the director and arising out of his status as a director or member of a committee of our Board, or by reason of anything done or not done by the director in such capacities. After receipt of an appropriate request by a director, we will also advance all expenses, costs and other obligations (including attorneys' fees) arising out of or related to such matters. We will not be liable for payment of any liability or expense incurred by a director on account of acts which, at the time taken, were known or believed by such director to be clearly in conflict with our best interests.

Certain Anti-Takeover Effects of North Carolina Law

The North Carolina Shareholder Protection Act generally requires the affirmative vote of 95% of a public corporation's voting shares to approve a "business combination" with any entity that a majority of continuing

directors determines beneficially owns, directly or indirectly, more than 20% of the voting shares of the corporation (or ever owned, directly or indirectly, more than 20% and is still an "affiliate" of the corporation) unless the fair price provisions and the procedural provisions of the Act are satisfied.

"Business combination" is defined by the Act as (i) any merger, consolidation or conversion of a corporation with or into any other entity, or (ii) any sale or lease of all or any substantial part of the corporation's assets to any other entity, or (iii) any payment, sale or lease to the corporation or any subsidiary thereof in exchange for securities of the corporation of any assets having an aggregate fair market value equal to or greater than $5,000,000 of any other entity.

The Act contains provisions that allowed a corporation to "opt out" of the applicability of the Act's voting provisions within specified time periods that generally have expired. The Act applies to PepsiCo since we did not opt out within these time periods.

This statute could discourage a third party from making a partial tender offer or otherwise attempting to obtain a substantial position in our equity securities or seeking to obtain control of us. It also might limit the price that certain investors might be willing to pay in the future for our shares of common stock and may have the effect of delaying or preventing a change of control of us.

DESCRIPTION OF DEBT SECURITIES

This prospectus describes certain general terms and provisions of the debt securities. The debt securities will be issued under an indenture between us and JPMorgan Chase Bank, N.A., as trustee. When we offer to sell a particular series of debt securities, we will describe the specific terms for the securities in a supplement to this prospectus. The prospectus supplement will also indicate whether the general terms and provisions described in this prospectus apply to a particular series of debt securities.

We have summarized certain terms and provisions of the indenture. The summary is not complete. The indenture has been incorporated by reference as an exhibit to the registration statement for these securities that we have filed with the SEC. You should read the indenture for the provisions which may be important to you. The indenture is subject to and governed by the Trust Indenture Act of 1939, as amended.

The indenture will not limit the amount of debt securities which we may issue. We may issue debt securities up to an aggregate principal amount as we may authorize from time to time. The prospectus supplement will describe the terms of any debt securities being offered, including:

- classification as senior or subordinated debt securities;
- ranking of the specific series of debt securities relative to other outstanding indebtedness, including subsidiaries' debt;
- if the debt securities are subordinated, the aggregate amount of outstanding indebtedness, as of a recent date, that is senior to the subordinated securities, and any limitation on the issuance of additional senior indebtedness;
- the designation, aggregate principal amount and authorized denominations;
- the maturity date;
- the interest rate, if any, and the method for calculating the interest rate;
- the interest payment dates and the record dates for the interest payments;
- any mandatory or optional redemption terms or prepayment, conversion, sinking fund or exchangeability or convertibility provisions;

- the place where we will pay principal and interest;
- if other than denominations of $1,000 or multiples of $1,000, the denominations the debt securities will be issued in;
- whether the debt securities will be issued in the form of global securities or certificates;
- the inapplicability of and additional provisions, if any, relating to the defeasance of the debt securities;
- the currency or currencies, if other than the currency of the United States, in which principal and interest will be paid;
- any United States federal income tax consequences;
- the dates on which premium, if any, will be paid;
- our right, if any, to defer payment of interest and the maximum length of this deferral period;
- any listing on a securities exchange;
- the initial public offering price; and
- other specific terms, including any additional events of default or covenants.

Senior Debt

Senior debt securities will rank equally and pari passu with all other unsecured and unsubordinated debt of PepsiCo.

Subordinated Debt

Subordinated debt securities will be subordinate and junior in right of payment, to the extent and in the manner set forth in the indenture, to all "senior indebtedness" of PepsiCo. The indenture defines "senior indebtedness" as obligations of, or guaranteed or assumed by, PepsiCo for borrowed money or evidenced by bonds, debentures, notes or other similar instruments, and amendments, renewals, extensions, modifications and refundings of any such indebtedness or obligation. "Senior indebtedness" does not include nonrecourse obligations, the subordinated debt securities or any other obligations specifically designated as being subordinate in right of payment to senior indebtedness. See the indenture, section 13.03.

In general, the holders of all senior indebtedness are first entitled to receive payment of the full amount unpaid on senior indebtedness before the holders of any of the subordinated debt securities or coupons are entitled to receive a payment on account of the principal or interest on the indebtedness evidenced by the subordinated debt securities in certain events. These events include:

- any insolvency or bankruptcy proceedings, or any receivership, liquidation, reorganization or other similar proceedings which concern PepsiCo or a substantial part of its property;
- a default having occurred for the payment of principal, premium, if any, or interest on or other monetary amounts due and payable on any senior indebtedness or any other default having occurred concerning any senior indebtedness, which permits the holder or holders of any senior indebtedness to accelerate the maturity of any senior indebtedness with notice or lapse of time, or both. Such an event of default must have continued beyond the period of grace, if any, provided for such event of default, and such an event of default shall not have been cured or waived or shall not have ceased to exist; or
- the principal of, and accrued interest on, any series of the subordinated debt securities having been declared due and payable upon an event of default pursuant to section 5.02 of the indenture. This declaration must not have been rescinded and annulled as provided in the indenture.

If this prospectus is being delivered in connection with a series of subordinated debt securities, the accompanying prospectus supplement or the information incorporated in this prospectus by reference will set forth the approximate amount of senior indebtedness outstanding as of the end of the most recent fiscal quarter.

Events of Default

When we use the term "Event of Default" in the indenture with respect to the debt securities of any series, here are some examples of what we mean:

(1) default in paying interest on the debt securities when it becomes due and the default continues for a period of 30 days or more;

(2) default in paying principal, or premium, if any, on the debt securities when due;

(3) default is made in the payment of any sinking or purchase fund or analogous obligation when the same becomes due, and such default continues for 30 days or more;

(4) default in the performance, or breach, of any covenant in the indenture (other than defaults specified in clause (1), (2) or (3) above) and the default or breach continues for a period of 90 days or more after we receive written notice from the trustee or we and the trustee receive notice from the holders of at least 51% in aggregate principal amount of the outstanding debt securities of the series;

(5) certain events of bankruptcy, insolvency, reorganization, administration or similar proceedings with respect to PepsiCo has occurred; or

(6) any other Events of Default set forth in the prospectus supplement.

If an Event of Default (other than an Event of Default specified in clause (5) with respect to PepsiCo) under the indenture occurs with respect to the debt securities of any series and is continuing, then the trustee or the holders of at least 51% in principal amount of the outstanding debt securities of that series may by written notice require us to repay immediately the entire principal amount of the outstanding debt securities of that series (or such lesser amount as may be provided in the terms of the securities), together with all accrued and unpaid interest and premium, if any.

If an Event of Default under the indenture specified in clause (5) with respect to PepsiCo occurs and is continuing, then the entire principal amount of the outstanding debt securities (or such lesser amount as may be provided in the terms of the securities) will automatically become due and payable immediately without any declaration or other act on the part of the trustee or any holder.

After a declaration of acceleration, the holders of a majority in principal amount of outstanding debt securities of any series may rescind this accelerated payment requirement if all existing Events of Default, except for nonpayment of the principal and interest on the debt securities of that series that has become due solely as a result of the accelerated payment requirement, have been cured or waived and if the rescission of acceleration would not conflict with any judgment or decree. The holders of a majority in principal amount of the outstanding debt securities of any series also have the right to waive past defaults, except a default in paying principal or interest on any outstanding debt security, or in respect of a covenant or a provision that cannot be modified or amended without the consent of all holders of the debt securities of that series.

Holders of at least 51% in principal amount of the outstanding debt securities of a series may seek to institute a proceeding only after they have notified the Trustee of a continuing Event of Default in writing and made a written request, and offered reasonable indemnity, to the trustee to institute a proceeding and the trustee has failed to do so within 60 days after it received this notice. In addition, within this 60-day period the trustee must not have received directions inconsistent with this written request by holders of a majority in principal amount of the outstanding debt securities of that series. These limitations do not apply, however, to a suit instituted by a holder of a debt security for the enforcement of the payment of principal, interest or any premium on or after the due dates for such payment.

During the existence of an Event of Default, the trustee is required to exercise the rights and powers vested in it under the indenture and use the same degree of care and skill in its exercise as a prudent man would under

the circumstances in the conduct of that person's own affairs. If an Event of Default has occurred and is continuing, the trustee is not under any obligation to exercise any of its rights or powers at the request or direction of any of the holders unless the holders have offered to the trustee reasonable security or indemnity. Subject to certain provisions, the holders of a majority in principal amount of the outstanding debt securities of any series 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.

The trustee will, within 90 days after any default occurs, give notice of the default to the holders of the debt securities of that series, unless the default was already cured or waived. Unless there is a default in paying principal, interest or any premium when due, the trustee can withhold giving notice to the holders if it determines in good faith that the withholding of notice is in the interest of the holders.

Modification and Waiver

The indenture may be amended or modified without the consent of any holder of debt securities in order to:

- evidence a succession to the Trustee;
- cure ambiguities, defects or inconsistencies;
- provide for the assumption of our obligations in the case of a merger or consolidation or transfer of all or substantially all of our assets;
- make any change that would provide any additional rights or benefits to the holders of the debt securities of a series;
- add guarantors with respect to the debt securities of any series;
- secure the debt securities of a series;
- establish the form or forms of debt securities of any series;
- maintain the qualification of the indenture under the Trust Indenture Act; or
- make any change that does not adversely affect in any material respect the interests of any holder.

Other amendments and modifications of the indenture or the debt securities issued may be made with the consent of the holders of not less than a majority of the aggregate principal amount of the outstanding debt securities of each series affected by the amendment or modification. However, no modification or amendment may, without the consent of the holder of each outstanding debt security affected:

- reduce the principal amount, or extend the fixed maturity, of the debt securities;
- alter or waive the redemption or repayment provisions of the debt securities;
- change the currency in which principal, any premium or interest is paid;
- reduce the percentage in principal amount outstanding of debt securities of any series which must consent to an amendment, supplement or waiver or consent to take any action;
- impair the right to institute suit for the enforcement of any payment on the debt securities;
- waive a payment default with respect to the debt securities or any guarantor;
- reduce the interest rate or extend the time for payment of interest on the debt securities;
- adversely affect the ranking of the debt securities of any series; or
- release any guarantor from any of its obligations under its guarantee or the indenture, except in compliance with the terms of the indenture.

Covenants

Limitation of Liens Applicable to Senior Debt Securities

The indenture provides that with respect to senior debt securities, unless otherwise provided in a particular series of senior debt securities, we will not, and will not permit any of our restricted subsidiaries to, incur, suffer to exist or guarantee any debt secured by a lien on any principal property or on any shares of stock of (or other interests in) any of our restricted subsidiaries unless we or that first-mentioned restricted subsidiary secures or causes such restricted subsidiary to secure the senior debt securities (and any of its or such restricted subsidiary's other debt, at its option or such restricted subsidiary's option, as the case may be, not subordinate to the senior debt securities), equally and ratably with (or prior to) such secured debt, for as long as such secured debt will be so secured.

These restrictions will not, however, apply to debt secured by:

(1) any liens existing prior to the issuance of such senior debt securities;

(2) any lien on property of or shares of stock of (or other interests in) or debt of any entity existing at the time such entity becomes a restricted subsidiary;

(3) any liens on property, shares of stock of (or other interests in) or debt of any entity (a) existing at the time of acquisition of such property or shares (or other interests) (including acquisition through merger or consolidation), (b) to secure the payment of all or any part of the purchase price of such property or shares (or other interests) or construction or improvement of such property or (c) to secure any debt incurred prior to, at the time of, or within 365 days after the later of the acquisition, the completion of construction or the commencement of full operation of such property or within 365 days after the acquisition of such shares (or other interests) for the purpose of financing all or any part of the purchase price of such shares (or other interests) or construction thereon;

(4) any liens in favor of us or any of our restricted subsidiaries;

(5) any liens in favor of, or required by contracts with, governmental entities; or

(6) any extension, renewal, or refunding of liens referred to in any of the preceding clauses (1) through (5).

Notwithstanding the foregoing, we or any of our restricted subsidiaries may incur, suffer to exist or guarantee any debt secured by a lien on any principal property or on any shares of stock of (or other interests in) any of our restricted subsidiaries if, after giving effect thereto, the aggregate amount of such debt does not exceed 15% of our consolidated net tangible assets.

The indenture does not restrict the transfer by us of a principal property to any of our unrestricted subsidiaries or our ability to change the designation of a subsidiary owning principal property from a restricted subsidiary to an unrestricted subsidiary and, if we were to do so, any such unrestricted subsidiary would not be restricted from incurring secured debt nor would we be required, upon such incurrence, to secure the debt securities equally and ratably with such secured debt.

Definitions. The following are definitions of some terms used in the above description. We refer you to the indenture for a full description of all of these terms, as well as any other terms used herein for which no definition is provided.

"Consolidated net tangible assets" means the total amount of our assets and our restricted subsidiaries' assets minus:

- all applicable depreciation, amortization and other valuation reserves;
- all current liabilities of ours and our restricted subsidiaries (excluding any intercompany liabilities); and

- all goodwill, trade names, trademarks, patents, unamortized debt discount and expenses and other like intangibles, all as set forth on our and our restricted subsidiaries' latest consolidated balance sheets prepared in accordance with U.S. GAAP.

"Debt" means any indebtedness for borrowed money.

"Principal property" means any single manufacturing or processing plant, office building or warehouse owned or leased by us or any of our restricted subsidiaries other than a plant, warehouse, office building or portion thereof which, in the opinion of our Board of Directors, is not of material importance to the business conducted by us and our restricted subsidiaries taken as an entirety.

"Restricted subsidiary" means, at any time, any subsidiary which at the time is not an unrestricted subsidiary of ours.

"Subsidiary" means any entity, at least a majority of the outstanding voting stock of which shall at the time be owned, directly or indirectly, by us or by one or more of our subsidiaries, or both.

"Unrestricted subsidiary" means any subsidiary of ours (not at the time designated as our restricted subsidiary) (1) the major part of whose business consists of finance, banking, credit, leasing, insurance, financial services or other similar operations, or any combination thereof, (2) substantially all the assets of which consist of the capital stock of one or more subsidiaries engaged in the operations referred to in the preceding clause (1), or (3) designated as an unrestricted subsidiary by our Board of Directors.

Consolidation, Merger or Sale of Assets

The indenture provides that we may consolidate or merge with or into, or convey or transfer all or substantially all of our assets to, any entity (including, without limitation, a limited partnership or a limited liability company); *provided* that:

- we will be the surviving corporation or, if not, that the successor will be a corporation that is organized and validly existing under the laws of any state of the United States of America or the District of Columbia and will expressly assume by a supplemental indenture our obligations under the indenture and the debt securities;
- immediately after giving effect to such transaction, no event of default, and no default or other event which, after notice or lapse of time, or both, would become an event of default, will have happened and be continuing; and
- we will have delivered to the trustee an opinion of counsel, stating that such consolidation, merger, conveyance or transfer complies with the indenture.

In the event of any such consolidation, merger, conveyance, transfer or lease, any such successor will succeed to and be substituted for us as obligor on the debt securities with the same effect as if it had been named in the indenture as obligor.

There are no other restrictive covenants contained in the Indenture. The Indenture does not contain any provision that will restrict us from entering into one or more additional indentures providing for the issuance of debt securities or warrants, or from incurring, assuming, or becoming liable with respect to any indebtedness or other obligation, whether secured or unsecured, or from paying dividends or making other distributions on our capital stock, or from purchasing or redeeming our capital stock. The Indenture does not contain any financial ratios or specified levels of net worth or liquidity to which we must adhere. In addition, the Indenture does not contain any provision that would require us to repurchase, redeem, or otherwise modify the terms of any of the debt securities upon a change in control or other event involving us that may adversely affect our creditworthiness or the value of the debt securities.

Satisfaction, Discharge and Covenant Defeasance

We may terminate our obligations under the indenture, when:

- either:
  - all debt securities of any series issued that have been authenticated and delivered have been delivered to the trustee for cancellation; or
  - all the debt securities of any series issued that have not been delivered to the trustee for cancellation have become due and payable, will become due and payable within one year, or are to be called for redemption within one year and we have made arrangements satisfactory to the trustee for the giving of notice of redemption by such trustee in our name and at our expense, and in each case, we have irrevocably deposited or caused to be deposited with the trustee sufficient funds to pay and discharge the entire indebtedness on the series of debt securities to pay principal, interest and any premium; and
- we have paid or caused to be paid all other sums then due and payable under the indenture; and
- we have delivered to the trustee an officers' certificate and an opinion of counsel, each stating that all conditions precedent under the indenture relating to the satisfaction and discharge of the indenture have been complied with.

We may elect to have our obligations under the indenture discharged with respect to the outstanding debt securities of any series ("legal defeasance"). Legal defeasance means that we will be deemed to have paid and discharged the entire indebtedness represented by the outstanding debt securities of such series under the indenture, except for:

- the rights of holders of the debt securities to receive principal, interest and any premium when due;
- our obligations with respect to the debt securities concerning issuing temporary debt securities, registration of transfer of debt securities, mutilated, destroyed, lost or stolen debt securities and the maintenance of an office or agency for payment for security payments held in trust;
- the rights, powers, trusts, duties and immunities of the trustee; and
- the defeasance provisions of the indenture.

In addition, we may elect to have our obligations released with respect to certain covenants in the indenture ("covenant defeasance"). Any omission to comply with these obligations will not constitute a default or an event of default with respect to the debt securities of any series. In the event covenant defeasance occurs, certain events, not including non-payment, bankruptcy and insolvency events, described under "Events of Default" will no longer constitute an event of default for that series.

In order to exercise either legal defeasance or covenant defeasance with respect to outstanding debt securities of any series:

- we must irrevocably have deposited or caused to be deposited with the trustee as trust funds for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to the benefits of the holders of the debt securities of a series:
  - money in an amount;
  - U.S. government obligations (or equivalent government obligations in the case of Securities denominated in other than U.S. dollars or a specified currency) that will provide, not later than one day before the due date of any payment, money in an amount; or
  - a combination of money and U.S government obligations (or equivalent government obligations, as applicable),

in each case sufficient, in the written opinion (with respect to U.S. or equivalent government obligations or a combination of money and U.S. or equivalent government obligations, as applicable) of a nationally recognized firm of independent public accountants to pay and discharge, and which shall be applied by the trustee to pay and discharge, all of the principal (including mandatory sinking fund payments), interest and any premium at due date or maturity;

- in the case of legal defeasance, we have delivered to the trustee an opinion of counsel stating that, under then applicable Federal income tax law, the holders of the debt securities of that series will not recognize income, gain or loss for federal income tax purposes as a result of the deposit, defeasance and discharge to be effected and will be subject to the same federal income tax as would be the case if the deposit, defeasance and discharge did not occur;
- in the case of covenant defeasance, we have delivered to the trustee an opinion of counsel to the effect that the holders of the debt securities of that series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of the deposit and covenant defeasance to be effected and will be subject to the same federal income tax as would be the case if the deposit and covenant defeasance did not occur;
- no event of default or default with respect to the outstanding debt securities of that series has occurred and is continuing at the time of such deposit after giving effect to the deposit or, in the case of legal defeasance, no default relating to bankruptcy or insolvency has occurred and is continuing at any time on or before the 91st day after the date of such deposit, it being understood that this condition is not deemed satisfied until after the 91st day;
- the legal defeasance or covenant defeasance will not cause the trustee to have a conflicting interest within the meaning of the Trust Indenture Act, assuming all debt securities of a series were in default within the meaning of such Act;
- the legal defeasance or covenant defeasance will not result in a breach or violation of, or constitute a default under, any other agreement or instrument to which we are a party;
- the legal defeasance or covenant defeasance will not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act of 1940, as amended, unless the trust is registered under such Act or exempt from registration; and
- we have delivered to the trustee an officers' certificate and an opinion of counsel stating that all conditions precedent with respect to the defeasance or covenant defeasance have been complied with.

Concerning our Relationship with the Trustees

We and our subsidiaries maintain ordinary banking relationships and credit facilities with JPMorgan Chase Bank, N.A. JPMorgan Chase Bank, N.A. serves as trustee under certain indentures related to other securities that we have issued or guaranteed.

DESCRIPTION OF WARRANTS

We may issue warrants to purchase our debt or equity securities or securities of third parties or other rights, including rights to receive payment in cash or securities based on the value, rate or price of one or more specified commodities, currencies, securities or indices, or any combination of the foregoing. Warrants may be issued independently or together with any other securities and may be attached to, or separate from, such securities. Each series of warrants will be issued under a separate warrant agreement to be entered into between us and a warrant agent. The terms of any warrants to be issued and a description of the material provisions of the applicable warrant agreement will be set forth in the applicable prospectus supplement.

The applicable prospectus supplement will describe the following terms of any warrants in respect of which this prospectus is being delivered:

- the title of such warrants;
- the aggregate number of such warrants;
- the price or prices at which such warrants will be issued;
- the currency or currencies, in which the price of such warrants will be payable;
- the securities or other rights, including rights to receive payment in cash or securities based on the value, rate or price of one or more specified commodities, currencies, securities or indices, or any combination of the foregoing, purchasable upon exercise of such warrants;
- the price at which and the currency or currencies, in which the securities or other rights purchasable upon exercise of such warrants may be purchased;
- the date on which the right to exercise such warrants shall commence and the date on which such right shall expire;
- if applicable, the minimum or maximum amount of such warrants which may be exercised at any one time;
- if applicable, the designation and terms of the securities with which such warrants are issued and the number of such warrants issued with each such security;
- if applicable, the date on and after which such warrants and the related securities will be separately transferable;
- information with respect to book-entry procedures, if any;
- if applicable, a discussion of any material United States Federal income tax considerations; and
- any other terms of such warrants, including terms, procedures and limitations relating to the exchange and exercise of such warrants.

DESCRIPTION OF UNITS

As specified in the applicable prospectus supplement, we may issue units consisting of one or more warrants, debt securities, shares of common stock or any combination of such securities. The applicable prospectus supplement will describe:

- the terms of the units and of the warrants, debt securities and common stock comprising the units, including whether and under what circumstances the securities comprising the units may be traded separately;
- a description of the terms of any unit agreement governing the units; and
- a description of the provisions for the payment, settlement, transfer or exchange or the units.

FORMS OF SECURITIES

Each debt security, warrant, and unit will be represented either by a certificate issued in definitive form to a particular investor or by one or more global securities representing the entire issuance of securities. Certificated securities in definitive form and global securities will be issued in registered form. Definitive securities name you or your nominee as the owner of the security, and in order to transfer or exchange these securities or to receive payments other than interest or other interim payments, you or your nominee must physically deliver the securities to the trustee, registrar, paying agent or other agent, as applicable. Global securities name a depositary or its nominee as the owner of the debt securities, warrants, or units represented by these global securities. The depositary maintains a computerized system that will reflect each investor's beneficial ownership of the securities through an account maintained by the investor with its broker/dealer, bank, trust company or other representative, as we explain more fully below.

Global Securities

Registered Global Securities. We may issue the registered debt securities, warrants, and units in the form of one or more fully registered global securities that will be deposited with a depositary or its custodian identified in the applicable prospectus supplement and registered in the name of that depositary or its nominee. In those cases, one or more registered global securities will be issued in a denomination or aggregate denominations equal to the portion of the aggregate principal or face amount of the securities to be represented by registered global securities. Unless and until it is exchanged in whole for securities in definitive registered form, a registered global security may not be transferred except as a whole by and among the depositary for the registered global security, the nominees of the depositary or any successors of the depositary or those nominees.

If not described below, any specific terms of the depositary arrangement with respect to any securities to be represented by a registered global security will be described in the prospectus supplement relating to those securities. We anticipate that the following provisions will apply to all depositary arrangements.

Ownership of beneficial interests in a registered global security will be limited to persons, called participants, that have accounts with the depositary or persons that may hold interests through participants. Upon the issuance of a registered global security, the depositary will credit, on its book-entry registration and transfer system, the participants' accounts with the respective principal or face amounts of the securities beneficially owned by the participants. Any dealers, underwriters or agents participating in the distribution of the securities will designate the accounts to be credited. Ownership of beneficial interests in a registered global security will be shown on, and the transfer of ownership interests will be effected only through, records maintained by the depositary, with respect to interests of participants, and on the records of participants, with respect to interests of persons holding through participants. The laws of some states may require that some purchasers of securities take physical delivery of these securities in definitive form. These laws may impair your ability to own, transfer or pledge beneficial interests in registered global securities.

So long as the depositary, or its nominee, is the registered owner of a registered global security, that depositary or its nominee, as the case may be, will be considered the sole owner or holder of the securities represented by the registered global security for all purposes under the applicable indenture, warrant agreement or unit agreement. Except as described below, owners of beneficial interests in a registered global security will not be entitled to have the securities represented by the registered global security registered in their names, will not receive or be entitled to receive physical delivery of the securities in definitive form and will not be considered the owners or holders of the securities under the applicable indenture, warrant agreement or unit agreement. Accordingly, each person owning a beneficial interest in a registered global security must rely on the procedures of the depositary for that registered global security and, if that person is not a participant, on the procedures of the participant through which the person owns its interest, to exercise any rights of a holder under the applicable indenture, warrant agreement or unit agreement. We understand that under existing industry practices, if we request any action of holders or if an owner of a beneficial interest in a registered global security

desires to give or take any action that a holder is entitled to give or take under the applicable indenture, warrant agreement or unit agreement, the depositary for the registered global security would authorize the participants holding the relevant beneficial interests to give or take that action, and the participants would authorize beneficial owners owning through them to give or take that action or would otherwise act upon the instructions of beneficial owners holding through them.

Principal, premium, if any, and interest payments on debt securities, and any payments to holders with respect to warrants or units, represented by a registered global security registered in the name of a depositary or its nominee will be made to the depositary or its nominee, as the case may be, as the registered owner of the registered global security. None of PepsiCo, the trustee, the warrant agents, the unit agents or any other agent of PepsiCo, agent of the trustee or agent of the warrant agents or unit agents will have any responsibility or liability for any aspect of the records relating to payments made on account of beneficial ownership interests in the registered global security or for maintaining, supervising or reviewing any records relating to those beneficial ownership interests.

We expect that the depositary for any of the securities represented by a registered global security, upon receipt of any payment of principal, premium, interest or other distribution of underlying securities or other property to holders on that registered global security, will immediately credit participants' accounts in amounts proportionate to their respective beneficial interests in that registered global security as shown on the records of the depositary. We also expect that payments by participants to owners of beneficial interests in a registered global security held through participants will be governed by standing customer instructions and customary practices, as is now the case with the securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of those participants.

If the depositary for any of these securities represented by a registered global security is at any time unwilling or unable to continue as depositary or ceases to be a clearing agency registered under the Securities Exchange Act of 1934, and a successor depositary registered as a clearing agency under the Securities Exchange Act of 1934 is not appointed by us within 90 days, we will issue securities in definitive form in exchange for the registered global security that had been held by the depositary. Any securities issued in definitive form in exchange for a registered global security will be registered in the name or names that the depositary gives to the relevant trustee, warrant agent, unit agent or other relevant agent of ours or theirs. It is expected that the depositary's instructions will be based upon directions received by the depositary from participants with respect to ownership of beneficial interests in the registered global security that had been held by the depositary.

VALIDITY OF SECURITIES

The validity of the securities in respect of which this prospectus is being delivered will be passed on for us by Davis Polk & Wardwell as to New York law and by Womble Carlyle Sandridge & Rice, PLLC as to North Carolina law.

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The consolidated financial statements of PepsiCo, Inc. as of the balance sheet dates for each of the three years in the period ended December 31, 2005 and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2005 (which is included in Management's Report on Internal Control over Financial Reporting), appearing in the PepsiCo 10-K for the fiscal year ended December 31, 2005 and incorporated by reference into this registration statement have been audited by KPMG LLP, independent registered public accounting firm, as set forth in their report thereon incorporated by reference herein, and are included in reliance upon such report given upon the authority of such firm as experts in accounting and auditing.

With respect to the unaudited interim financial information for the periods ended March 25, 2006 and March 19, 2005, appearing in the PepsiCo 10-Q for the twelve weeks ended March 25, 2006 and incorporated by reference into this registration statement, the independent registered public accounting firm has reported that they applied limited procedures in accordance with professional standards for a review of such information. However, their separate report included in PepsiCo's quarterly report on Form 10-Q for the quarter ended March 25, 2006, and incorporated by reference, states that they did not audit and they do not express an opinion on that interim financial information. Accordingly, the degree of reliance on their report on such information should be restricted in light of the limited nature of the review procedures applied. The accountants are not subject to the liability provisions of Section 11 of the Securities Act of 1933 (the "1933 Act") for their report on the unaudited interim financial information because that report is not a "report" or a "part" of the registration statement prepared or certified by the accountants within the meaning of Sections 7 and 11 of the 1933 Act.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. ***Other Expenses of Issuance and Distribution***

The following table sets forth the costs and expenses payable by the Registrant in connection with the sale of the securities being registered hereby. All amounts are estimates.

	Amount to be Paid
Registration fee	(1)
Printing	$ 6,500
Legal fees and expenses	150,000
Trustee fees	50,000
Accounting fees and expenses	10,000
Miscellaneous	500
TOTAL	$217,000

(1) Deferred in reliance upon Rule 456(b) and Rule 457(r).

Item 15. ***Indemnification of Directors and Officers***

PepsiCo, Inc. does not have any provisions for indemnification of directors or officers in its Amended and Restated Articles of Incorporation. Article III, Section 3.7 of its By-Laws, as amended to March 17, 2006, provides that PepsiCo shall indemnify, to the full extent permitted by law, any person who was or is, or who is threatened to be made, a party to an action, suit or proceeding (and any appeal therein), whether civil, criminal, administrative, investigative or arbitrative, by reason of the fact that such person, such person's testator or intestate, is or was a director, officer or employee of PepsiCo, or is or was serving at the request of PepsiCo as a director, officer or employee of another enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding. At the Board's discretion, such indemnification may also include advances of a director's, officer's or employee's expenses prior to final disposition of such action, suit or proceeding.

Section 55-2-02 of the North Carolina Business Corporation Act (the "North Carolina Act") enables a corporation in its articles of incorporation to eliminate or limit, with certain exceptions, the personal liability of directors arising out of an action whether by or in the right of the corporation or otherwise for monetary damages for breach of their duties as directors. No such provision is effective to eliminate or limit a director's liability for: (1) acts or omissions that the director at the time of the breach knew or believed to be clearly in conflict with the best interests of the corporation; (2) improper distributions as described in Section 55-8-33 of the North Carolina Act; (3) any transaction from which the director derived an improper personal benefit; or (4) acts or omissions occurring prior to the date the exculpatory provision became effective.

Sections 55-8-50 through 55-8-58 of the North Carolina Act permit a corporation to indemnify its directors, officers, employees or agents under either or both a statutory or nonstatutory scheme of indemnification. Under the statutory scheme, a corporation may, with certain exceptions, indemnify a director, officer, employee or agent of the corporation who was, is, or is threatened to be made, a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, because of the fact that such person was or is a director, officer, agent or employee of the corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. This indemnity may include the obligation to pay any judgment, settlement, penalty, fine (including an excise tax assessed with

respect to an employee benefit plan) or reasonable expenses incurred in connection with a proceeding (including counsel fees), but no such indemnification may be granted unless such director, officer, employee or agent (1) conducted himself in good faith, (2) reasonably believed (a) that any action taken in his official capacity with the corporation was in the best interests of the corporation or (b) that in all other cases his conduct was at least not opposed to the corporation's best interests, and (3) in the case of any criminal proceeding, had no reasonable cause to believe his conduct was unlawful. Whether a director has met the requisite standard of conduct for the type of indemnification set forth above is determined by a majority vote of a quorum of the board of directors who are not parties to the proceeding in question, a duly designated committee of directors if a quorum of the full board cannot be established, special legal counsel selected by the board or duly designated committee of directors, or the shareholders (excluding shares owned or controlled by directors who are parties to the proceeding in question) in accordance with Section 55-8-55 of the North Carolina Act. A corporation may not indemnify a director under the statutory scheme in connection with a proceeding by or in the right of the corporation in which a director was adjudged liable to the corporation or in connection with any other proceeding charging improper personal benefit in which a director was adjudged liable (whether or not involving action in his official capacity) on the basis of having received an improper personal benefit.

Sections 55-8-52 and 55-8-56 of the North Carolina Act require a corporation, unless its articles of incorporation provide otherwise, to indemnify a director or officer who has been wholly successful, on the merits or otherwise, in the defense of any proceeding to which such director or officer was, or was threatened to be, made a party because he is or was a director or officer of the corporation against reasonable expenses incurred by him in connection with the proceeding. Unless prohibited by the articles of incorporation, a director or officer also may make application for and obtain court-ordered indemnification if the court determines that such director or officer is (1) entitled to mandatory indemnification under Section 55-8-52, in which case the court will also order the corporation to pay the director's or officer's reasonable expenses incurred to obtain court-ordered indemnification, and (2) fairly and reasonably entitled to indemnification in view of all relevant circumstances, whether or not he met the standard of conduct set forth in Section 55-8-51 or was adjudged liable as described in Section 55-8-51.

In addition to, and notwithstanding the conditions of and limitations on, the indemnification described above under the statutory scheme, Section 55-8-57 of the North Carolina Act permits a corporation to indemnify, or agree to indemnify, any of its directors, officers, employees or agents against liability and expenses (including attorneys' fees) in any proceeding (including proceedings brought by or on behalf of the corporation) arising out of their status as such or their activities in such capacities, except for any liabilities or expenses incurred on account of activities that were, at the time taken, known or believed by the person to be clearly in conflict with the best interests of the corporation. Consistent with the foregoing, PepsiCo, Inc. has entered into indemnification agreements with each of its directors, pursuant to which PepsiCo has agreed to indemnify and hold harmless, to the full extent permitted by law, each director against any and all liabilities and assessments (including attorneys' fees and other costs, expenses and obligations) arising out of or related to any threatened, pending or completed action, suit, proceeding, inquiry or investigation, whether civil, criminal, administrative, or other, including, but not limited to, judgments, fines, penalties and amounts paid in settlement (whether with or without court approval), and any interest, assessments, excise taxes or other charges paid or payable in connection with or in respect of any of the foregoing, incurred by the director and arising out of his status as a director or member of a committee of the Board of PepsiCo, or by reason of anything done or not done by the director in such capacities. After receipt of an appropriate request by a director, PepsiCo will also advance all expenses, costs and other obligations (including attorneys' fees) arising out of or related to such matters. PepsiCo will not be liable for payment of any liability or expense incurred by a director on account of acts which, at the time taken, were known or believed by such director to be clearly in conflict with PepsiCo's best interests.

Additionally, Section 55-8-57 of the North Carolina Act authorizes a corporation to purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee or agent of the corporation against certain liabilities incurred by such a person, whether or not the corporation is otherwise authorized by the North Carolina Act to indemnify that person. PepsiCo has purchased and maintains such insurance.

The proposed form of Underwriting Agreement to be filed as Exhibit 1.1 to this Registration Statement provides for indemnification of directors and officers of the Registrant by the underwriters against certain liabilities.

Item 16. ***Exhibits and Financial Statement Schedules***

(a) The list of exhibits is incorporated herein by reference to the Exhibit Index following the signature pages.

Item 17. ***Undertakings***

(a) The undersigned Registrant hereby undertakes:

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

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

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

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (i), (ii) and (iii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Securities and Exchange Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

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

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

(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

(A) Each prospectus filed by the Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(B) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of

the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the Registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities:

The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

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

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

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Purchase, State of New York, on May 2, 2006.

PepsiCo, Inc.

By: /s/ Steven S Reinemund
Name: Steven S Reinemund
Title: Chairman and Chief Executive Officer

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Larry D. Thompson, Robert E. Cox and Thomas H. Tamoney, Jr., and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement and any and all additional registration statements pursuant to Rule 462(b) of the Securities Act of 1933, as amended, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto each said attorney-in-fact and agent full power and authority to do and perform each and every act in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or either of them or their or his or her substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Steven S Reinemund **Steven S Reinemund**	Chairman of the Board and Chief Executive Officer	May 2, 2006
/s/ Indra K. Nooyi **Indra K. Nooyi**	Director, President and Chief Financial Officer	May 2, 2006
/s/ Peter A. Bridgman **Peter A. Bridgman**	Senior Vice President and Controller (Principal Accounting Officer)	May 2, 2006
/s/ John F. Akers **John F. Akers**	Director	May 2, 2006
/s/ Robert E. Allen **Robert E. Allen**	Director	May 2, 2006
/s/ Dina Dublon **Dina Dublon**	Director	May 2, 2006
/s/ Victor J. Dzau **Victor J. Dzau**	Director	May 2, 2006
/s/ Ray L. Hunt **Ray L. Hunt**	Director	May 2, 2006

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Signature	Title	Date
/s/ Alberto Ibargüen **Alberto Ibargüen**	Director	May 2, 2006
/s/ Arthur C. Martinez **Arthur C. Martinez**	Director	May 2, 2006
/s/ Sharon Percy Rockefeller **Sharon Percy Rockefeller**	Director	May 2, 2006
/s/ James J. Schiro **James J. Schiro**	Director	May 2, 2006
/s/ Franklin A. Thomas **Franklin A. Thomas**	Director	May 2, 2006
/s/ Cynthia M. Trudell **Cynthia M. Trudell**	Director	May 2, 2006
/s/ Daniel Vasella **Daniel Vasella**	Director	May 2, 2006
/s/ Michael D. White **Michael D. White**	Director	May 2, 2006

EXHIBIT INDEX

Exhibit No.	Document
1.1	Form of Underwriting Agreement
1.2	Form of Distribution Agreement
4.1	Amended and Restated Articles of Incorporation of PepsiCo, Inc., which are incorporated herein by reference to Exhibit 4.1 to PepsiCo, Inc.'s Registration Statement on Form S-8 (Registration No. 333-66632)
4.2	Form of Indenture between the Registrant and JPMorgan Chase Bank, N.A.
4.3	Form of Note (included in Exhibit 4.2)
4.4*	Form of Warrant Agreement
4.5*	Form of Unit Agreement
5.1	Opinion of Davis Polk & Wardwell
5.2	Opinion of Womble Carlyle Sandridge & Rice, PLLC
12.1	Statement regarding computation of Ratio of Earnings to Fixed Charges, which is incorporated herein by reference to Exhibit 12 to PepsiCo, Inc.'s Form 10-K for the year ended December 31, 2005 and Form 10-Q for the quarter ended March 25, 2006
15.1	Letter regarding unaudited interim financial information
23.1	Consent of KPMG LLP
23.2	Consent of Davis Polk & Wardwell (included in Exhibit 5.1)
23.3	Consent of Womble Carlyle Sandridge & Rice, PLLC (included in Exhibit 5.2)
24.1	Power of Attorney (included on the signature page of the Registration Statement)
25.1	Statement of Eligibility on Form T-1 of JPMorgan Chase Bank, N.A.

* To be filed by amendment or as an exhibit to a document to be incorporated by reference herein in connection with an offering of the offered securities.

Exhibit 1.1

PEPSICO, INC.

Underwritten Securities

UNDERWRITING AGREEMENT STANDARD PROVISIONS

[insert date]

From time to time, PepsiCo, Inc., a corporation organized under the laws of the State of North Carolina (the "**Company**"), proposes to enter into one or more terms agreements (each, a "**Terms Agreement**") in substantially the form of Exhibit A hereto, with such additions and deletions as the parties thereto may determine, and, subject to the terms and conditions stated herein and therein, to issue and sell certain securities to the underwriter or underwriters named in the applicable Terms Agreement (the "**Underwriters,**" which term shall include any underwriter substituted pursuant to Section 8 hereof). The provisions included herein (the "**Standard Provisions**") shall be incorporated by reference into each Terms Agreement.

Section 1. *Definitions*. The Company has filed with the Securities and Exchange Commission (the "**Commission**") a registration statement on Form S-3 (File No. 333-_____) covering the registration of certain securities of the Company to be issued and sold from time to time, in or pursuant to one or more offerings on terms to be determined at the time of sale (the "**Underwritten Securities**"), under the Securities Act of 1933, as amended (the "**Securities Act**"), and the offering thereof from time to time in accordance with Rule 415 of the rules and regulations of the Commission under the Securities Act (the "**Securities Act Regulations**"). Such registration statement has been declared effective by the Commission. Such registration statement (as so amended, if applicable), including the information, if any, deemed to be a part thereof pursuant to Rule 430B of the Securities Act Regulations (the "**Rule 430 Information**"), is referred to herein as the "Registration Statement"; and the final prospectus and the final prospectus supplement relating to the offering of the Underwritten Securities (as defined below), in the forms first used to confirm sales of Underwritten Securities (or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act), are collectively referred to herein as the "Prospectus"; *provided*, that all references to the "Registration Statement" and the "Prospectus" shall also be deemed to include all documents incorporated therein by reference which are filed pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**") and the Securities Act, prior to the execution of the applicable Terms Agreement; provided, further, that if the Company files a registration statement with the Commission pursuant to Rule 462(b) of the Securities Act Regulations (the "**Rule 462(b) Registration Statement**"), then all

references to “Registration Statement” shall also be deemed to include the Rule 462(b) Registration Statement. A “preliminary prospectus” shall be deemed to refer to any prospectus that omitted, as applicable, the Rule 430 Information or other information to be included upon pricing in a form of prospectus filed with the Commission pursuant to Rule 424(b) of the Securities Act Regulations and was used after such effectiveness and prior to the initial delivery of the Prospectus to the Underwriters by the Company.

For purposes of these Standard Provisions and each Terms Agreement, “**free writing prospectus**” has the meaning set forth in Rule 405 under the Securities Act, “**Time of Sale Prospectus**” means the preliminary prospectus together with the free writing prospectuses, if any, each identified in Schedule I to the Terms Agreement. For purposes of these Standard Provisions, all references to the Registration Statement, Prospectus, preliminary prospectus or the Time of Sale Prospectus or to any amendment or supplement to any of the foregoing shall be deemed to include any copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system (“**EDGAR**”).

All references in these Standard Provisions to financial statements and schedules and other information which is “contained,” “included” or “stated” (or other references of like import) in the Registration Statement, Time of Sale Prospectus, Prospectus or preliminary prospectus shall be deemed to mean and include all such financial statements and schedules and other information which is incorporated by reference in the Registration Statement, Prospectus or preliminary prospectus, as the case may be, prior to the execution of the applicable Terms Agreement; and all references in these Standard Provisions to amendments or supplements to the Registration Statement, Prospectus, Time of Sale Prospectus or preliminary prospectus shall be deemed to include the filing of any document under the Exchange Act which is incorporated by reference in the Registration Statement, Prospectus, Time of Sale Prospectus or preliminary prospectus, as the case may be, after the execution of the applicable Terms Agreement.

Section 2. *Purchase and Sale of Securities by the Underwriters.* Whenever the Company determines to make an offering of Securities the Company will enter into a Terms Agreement providing for the sale of such Securities to, and the purchase and offering thereof by, the Underwriters. The Terms Agreement relating to the offering of Securities shall specify the number or amount of Securities to be issued (the “**Underwritten Securities**”), the name of each Underwriter participating in such offering (subject to substitution as provided in Section 8 hereof) and the name of any Underwriter acting as manager or co-manager in connection with such offering, the number or amount of Underwritten Securities which each such Underwriter severally agrees to purchase, whether such offering is on a fixed or variable price basis and, if on a fixed price basis, the initial offering price, the price at which the Underwritten

Securities are to be purchased by the Underwriters, the form, time, date and place of delivery and payment of the Underwritten Securities and any other material terms of the Underwritten Securities. The Terms Agreement, which shall be substantially in the form of Exhibit A hereto, may take the form of an exchange of any standard form of written telecommunication between the Company and the Underwriter or Underwriters, acting, if applicable, through the Underwriters' representative. Each offering of Underwritten Securities will be governed by these Standard Provisions, as supplemented by the applicable Terms Agreement.

Section 3. *Underwriters' Obligation to Purchase Underwritten Securities.* The several commitments of the Underwriters to purchase the Underwritten Securities pursuant to the applicable Terms Agreement shall be deemed to have been made on the basis of the representations, warranties and agreements herein contained and shall be subject to the terms and conditions herein set forth.

Section 4. *Terms Agreement.* No agreement for the purchase of Securities by the Underwriters will be deemed to exist until the Company and the Underwriters have executed a Terms Agreement. Each Terms Agreement will incorporate all applicable terms and provisions of these Standard Provisions as fully as though such terms and provisions were expressly stated therein.

Section 5. *Delivery of Certain Documents, Certificates, and Opinions.* On each Closing Date (as defined below), the Underwriters have received or will receive the following documents:

(a) the opinion of counsel for the Company, selected by the Company and reasonably agreed to by the Underwriters (the "**Company's Counsel**"), dated as of the Closing Date, which shall be substantially in the form of Exhibit B hereto,

(b) the opinion of counsel to the Underwriters, selected by the Underwriters and reasonably agreed to by the Company (the "**Underwriters' Counsel**"), dated as of the Closing Date, in form and substance satisfactory to the Underwriters,

(c) a certificate of the Assistant Secretary of the Company, dated as of the Closing Date, substantially in the form of Exhibit C hereto, and

(d) a certificate of the Chief Financial Officer and Senior Vice President or Treasurer of the Company, dated as of the Closing Date, substantially in the form of Exhibit D hereto.

Section 6. *Certain Conditions Precedent to the Underwriters' Obligations.* The Underwriters' obligation to purchase any Underwritten

Securities will in all cases be subject to the accuracy of the representations and warranties of the Company set forth in Section 7 hereof, to receipt of the opinions and certificates to be delivered to the Underwriters pursuant to the terms of Section 5 hereof, to the accuracy of the statements of the Company's officers made in each certificate to be furnished as provided herein, to the performance and observance by the Company of all covenants and agreements contained herein on its part to be performed and observed, in each case at the time the Company executes a Terms Agreement and as of the Closing Date, and (in each case) to the following additional conditions precedent, when and as specified:

(a) As of the Closing Time (as defined below) for any Underwritten Securities, and with respect to the period from the date of the applicable Terms Agreement to and including the applicable Closing Time:

(i) there shall not have occurred (A) any material adverse change (or development involving a prospective material adverse change) in the business, properties, earnings, or financial condition of the Company and its subsidiaries on a consolidated basis or (B) any suspension or material limitation of trading in the Company's capital stock by the Commission or the New York Stock Exchange, Inc. (the "**NYSE**") (the events described in the foregoing clauses A and B, the "**Company-Specific Events**"), the effect of any of which Company-Specific Events shall have made it impracticable, in the reasonable judgment of the Underwriters, to market such Underwritten Securities, such judgment to be based on relevant market conditions;

(ii) there shall not have occurred (A) any suspension or material limitation of trading in securities generally on the NYSE, (B) a declaration of a general moratorium on commercial banking activities in New York by either Federal or New York State authorities, or (C) any outbreak or material escalation of hostilities or other national or international calamity or crisis (the events described in the foregoing clauses A through C, the "**Market Events**"), the effect of any of which Market Events shall have made it impracticable, in the judgment of the Underwriters, to market such Underwritten Securities, such judgment to be based on relevant market conditions, including, without limitation, the impact of such Market Event on equity securities having substantially similar characteristics; and

(iii) there shall not have been issued any stop order suspending the effectiveness of the Registration Statement nor shall any proceedings for that purpose or pursuant to Section 8A of the Securities Act against the Company or related to the offering of the Underwritten Securities have been instituted or threatened.

(b) The Underwriters will receive, upon execution and delivery of any applicable Terms Agreement a letter from KPMG LLP ("**KPMG**"), or such other registered public accounting firm as may be selected by the Company (KPMG or such other registered public accounting firm each, successively, the "**Company's Auditors**"), containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial

statements and certain financial information of the Company contained in the Registration Statement and the Prospectus.

(c) At Closing Time, the Underwriters shall have received from the Company's Auditors a letter, dated as of Closing Time, to the effect that they reaffirm the statements made in the letter furnished pursuant to subsection (b) of this Section, except that the specified date referred to shall be a date not more than three business days prior to Closing Time.

(d) On each Closing Date, the Underwriters shall have received from the Company such appropriate further information, certificates, and documents as the Company and the Underwriters shall have agreed, as reflected in the applicable Terms Agreement.

Section 7. *Representations and Warranties of the Company.* The Company represents and warrants to each Underwriter named in the applicable Terms Agreement, as of the date thereof, and as of each Closing Time, the following statements are and shall be true:

(a) (i) The Registration Statement constitutes an "automatic shelf registration statement" (as defined in Rule 405 of the Securities Act) filed within three years of the date of the applicable Terms Agreement, (ii) the Company is a "well known seasoned issuer" (as defined in Rule 405 of the Securities Act), (iii) the Registration Statement has become effective and no stop order suspending the effectiveness of the Registration Statement is in effect nor, to the Company's knowledge, are any proceedings for such purpose pending before or threatened by the Commission, (iv) as of the effective date of the Registration Statement (the "**Effective Date**"), the Company met the applicable requirements for use of Form S-3 under the Securities Act with respect to the registration under the Securities Act of the Securities, and (v) as of the Effective Date, the Registration Statement met the requirements set forth in Rule 415(a)(1)(x) under the Securities Act and complied in all material respects with said Rule.

(b) (i) Each document, if any, filed or to be filed pursuant to the Exchange Act or the Securities Act and incorporated or to be incorporated by reference in the Prospectus or Time of Sale Prospectus complies or will comply, in all material respects, with the applicable provisions of the Exchange Act or the Securities Act, as applicable, and the rules and regulations of the Commission thereunder, (ii) the Registration Statement does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (iii) the Registration Statement and the Prospectus comply, in all material respects, with the Securities Act and the rules and regulations of the Commission thereunder, (iv) the Prospectus does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the

circumstances under which they were made, not misleading, and (v) the Time of Sale Prospectus does not, and at the time of each sale of the Underwritten Securities in connection with the offering when the Prospectus is not yet available to prospective purchasers and at the Closing Date, the Time of Sale Prospectus, as then amended or supplemented by the Company, if applicable, will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however,* that the Company makes no representations and warranties as to information contained in or omitted from the Registration Statement, the Prospectus or the Time of Sale Prospectus in reliance upon and in conformity with information furnished in writing to the Company by the Underwriters expressly for use in the Registration Statement, the Prospectus or the Time of Sale Prospectus or any amendment or supplement thereto or the Statement of Eligibility and Qualification of the Trustee (the "**Form T-1**") under the Trust Indenture Act of 1939, as amended (the "**Trust Indenture Act**").

(c) The Company is not an "ineligible issuer" in connection with the offering pursuant to Rules 164, 405 and 433 under the Securities Act. Any free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder.

(d) The Company has been duly incorporated and is validly existing under the laws of the State of North Carolina, has the corporate power and authority to own its property and to conduct its business as described in the Time of Sale Prospectus and the Prospectus, and is duly qualified to transact business as a foreign corporation and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or in good standing would not have a material adverse effect on the Company and its subsidiaries taken as a whole.

(e) The applicable Terms Agreement, incorporating these Standard Provisions, as amended by agreement of the parties to the applicable Terms Agreement, as of the date of such Terms Agreement will have been, duly authorized, executed and delivered by the Company.

(f) [*For equity securities* - The Underwritten Securities have been duly authorized for issuance and sale pursuant to these Standard Provisions and such Terms Agreement. Such Underwritten Securities, when issued and delivered by the Company pursuant to these Standard Provisions and such Terms Agreement against payment of the consideration therefor specified in such Terms Agreement, will be validly issued, fully paid and non-assessable and will not be subject to preemptive or other similar rights of any securityholder of the Company. No

holder of such Underwritten Securities is or will be subject to personal liability by reason of being such a holder.]

[*For debt securities* - The Underwritten Securities have been duly authorized and, when issued, executed, and authenticated in accordance with the provisions of the applicable indenture (the "Indenture"), or when countersigned by the trustee in accordance with the provisions of the Indenture, as the case may be, will be entitled to the benefits of the Indenture, and will be valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, if applicable, by general principles of equity.]

(g) [*For debt securities* - The Indenture has been duly qualified under the Trust Indenture Act of 1939, as amended and has been duly authorized, executed, and delivered by the Company and (assuming due authorization, valid execution, and delivery thereof by the trustee) is a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, by general principles of equity.]

(h) The execution and delivery of and performance by the Company of its obligations under the applicable Terms Agreement, incorporating these Standard Provisions as amended by agreement of the parties to such Terms Agreement, and the Securities, as the case may be, will not contravene any provision of any applicable law or of the Restated Charter or By-Laws of the Company, or of any agreement or other instrument binding upon the Company or any of its subsidiaries that is material to the Company and its subsidiaries taken as a whole, or of any judgment, order, or decree of any governmental body, agency, or court having jurisdiction over the Company or any of its subsidiaries, in each of the foregoing cases except as would not reasonably be expected to have a material adverse effect on the Company and its subsidiaries taken as a whole, and no consent, approval, authorization, or order of or qualification with any governmental body or agency is, to the Company's knowledge, required for the performance by the Company of its obligations under the applicable Terms Agreement, incorporating these Standard Provisions as amended by agreement of the parties to such Terms Agreement, or the Securities, except such as may be required by Blue Sky laws or other securities laws of the various states in which the Securities are offered and sold and except to the extent where the failure to obtain such consent, approval, authorization, order or qualification would not reasonably be expected to have a material adverse effect on the Company and its subsidiaries taken as a whole.

(i) There has not been any material adverse change (or development involving a prospective material adverse change) in the business, properties, earnings, or financial condition of the Company and its subsidiaries on a consolidated basis from that set forth in the Company's last periodic report filed with the Commission under the Exchange Act and the rules and regulations promulgated thereunder. Since the respective dates as of which information is given in the Registration Statement, the Time of Sale Prospectus and the Prospectus, except as otherwise stated therein, there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock.

(j) There are no legal or governmental proceedings pending or, to the Company's knowledge, threatened, to which the Company or any of its subsidiaries is a party or to which any of the properties of the Company or any of its subsidiaries is subject that is required to be described in the Registration Statement, the Time of Sale Prospectus or the Prospectus and is not so described, or any applicable statute, regulation, contract, or other document that is required to be described in the Registration Statement, the Time of Sale Prospectus or the Prospectus that is not so described.

Section 8. *Default by One or More of the Underwriters.* If one or more of the Underwriters shall fail at the Closing Time to purchase the Underwritten Securities which it or they are obligated to purchase under the applicable Terms Agreement (the "**Defaulted Securities**"), then the remaining Underwriters shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Underwriters shall not have completed such arrangements within such 24-hour period, then:

(a) if the number or principal amount of Defaulted Securities does not exceed 10% of the number of Underwritten Securities to be purchased on such date pursuant to such Terms Agreement, the non-defaulting Underwriters shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations under such Terms Agreement bear to the underwriting obligations of all non-defaulting Underwriters, or

(b) if the number or aggregate principal amount of Defaulted Securities exceeds 10% of the number or aggregate principal amount of Underwritten Securities to be purchased on such date pursuant to such Terms Agreement, such Terms Agreement shall terminate without liability on the part of any non-defaulting Underwriter. No action taken pursuant to this Section 8 shall relieve any defaulting Underwriter from liability in respect of its default.

In the event of any such default which does not result in a termination of the applicable Terms Agreement, either the Underwriters or the Company shall have the right to postpone the Closing Time for a period not exceeding seven days in order to effect any required changes in the Registration Statement or the Prospectus or in any other documents or arrangements.

Section 9. *Agreements.*

(a) The Company covenants with the Underwriters as follows:

(i) Prior to the filing by the Company of any amendment to the Registration Statement, the Time of Sale Prospectus or of any prospectus supplement that shall name the Underwriters, the Company will afford the Underwriters or the Underwriters' Counsel a reasonable opportunity to review and comment on the same, provided, however, that the foregoing requirement will not apply to any of the Company's filings with the Commission required to be filed pursuant to Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act. Subject to the foregoing sentence, the Company will promptly cause each applicable prospectus supplement to be filed with or transmitted for filing with the Commission in accordance with Rule 424(b) or 424(c) under the Securities Act or pursuant to such other rule or regulation of the Commission as then deemed appropriate by the Company. The Company will promptly advise the Underwriters of (A) the filing and effectiveness of any amendment to the Registration Statement other than by virtue of the Company's filing any report required to be filed under the Exchange Act, (B) any request by the Commission for any amendment to the Registration Statement, for any amendment or supplement to the Time of Sale Prospectus or the Prospectus, or for any information from the Company, (C) the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the institution or threatening of any proceeding for that purpose, and (D) the receipt by the Company of any notification with respect to the suspension of the qualification of the Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose. The Company will use reasonable efforts to prevent the issuance of any such stop order or notice of suspension of qualification and, if issued, to obtain as soon as reasonably possible the withdrawal thereof.

(ii) If the Time of Sale Prospectus is being used to solicit offers to buy the Underwritten Securities at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Time of Sale Prospectus in order to make the statements therein, in the light of the circumstances, not misleading, or if any event shall occur or condition exist as a result of which the Time of Sale Prospectus conflicts with the

information contained in the Registration Statement then on file, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Time of Sale Prospectus to comply with applicable law, forthwith to prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, either amendments or supplements to the Time of Sale Prospectus so that the statements in the Time of Sale Prospectus as so amended or supplemented will not, in the light of the circumstances when delivered to a prospective purchaser, be misleading or so that the Time of Sale Prospectus, as amended or supplemented, will no longer conflict with the Registration Statement, or so that the Time of Sale Prospectus, as amended or supplemented, will comply with applicable law.

(iii) If, at any time when a Prospectus (or in lieu thereof the notice referred to in Rule 173(a) under the Securities Act) relating to any Underwritten Securities is required to be delivered under the Securities Act, any event occurs or condition exists as a result of which the Prospectus would include an untrue statement of a material fact, or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if it is necessary to amend or supplement the Prospectus in order to comply with the Securities Act, the Exchange Act, the respective rules and regulations of the Commission thereunder, or any other applicable law, the Company will promptly notify the Underwriters, by telephone or by facsimile (in either case with written confirmation from the Company by mail), to cease use and distribution of the Prospectus (and all then existing supplements thereto) and to suspend all efforts to resell the Securities in its capacity as underwriter or dealer, as the case may be, and the Underwriters will promptly comply with the terms of such notice. The Company will forthwith prepare and cause to be filed with the Commission an amendment or supplement to the Registration Statement or the Prospectus, as the case may be, satisfactory in the reasonable judgment of the Underwriters to correct such statement or omission or to effect such compliance, and the Company will supply the Underwriters with one signed copy of such amended Registration Statement and as many copies of such amended or supplemented Prospectus as the Underwriters may reasonably request, provided, however, that the expense of preparing, filing, and supplying copies to the Underwriters of any such amendment or supplement will be borne by the Company only for the nine-month period immediately following the purchase of such Underwritten Securities by the Underwriters and thereafter will be borne by the Underwriters.

(iv) The Company will furnish to the Underwriters, without charge, as many copies of the Time of Sale Prospectus, the Prospectus, each preliminary prospectus, any documents incorporated by reference

therein, and any supplements and amendments thereto as the Underwriters may reasonably request.

(v) The Company will, with such assistance from the Underwriters as the Company may reasonably request, endeavor to qualify the Securities for offer and sale under the Blue Sky laws or other securities laws of such jurisdictions as the Underwriters shall reasonably request and will maintain such qualifications for as long as required with respect to the offer, sale, and distribution of the Securities.

(vi) [*For equity securities* - During a period as specified in the applicable Terms Agreement, the Company will not, without the prior written consent of the Underwriters, directly or indirectly, (A) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant for the sale of, lend or otherwise dispose of or transfer any share of Common Stock or any securities convertible into or exercisable or exchangeable for or repayable with Common Stock or (B) enter into any swap or any other agreement that transfers, in whole or in part, the economic consequences of ownership of the Common Stock, whether any such swap or transaction described in clause (A) or (B) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. The foregoing sentence shall not apply to (1) the Securities to be sold hereunder, (2) Common Stock issued by the Company upon the exercise of an option or warrant or the conversion of a security outstanding on the date of the applicable Terms Agreement, (3) any shares of Common Stock issued or options to purchase Common Stock granted pursuant to existing and future employee benefit plans of the Company, or (4) any shares of Common Stock issued pursuant to any non-employee director stock plan or dividend reinvestment plan.]

(vii) The Company will make generally available to its security holders earnings statements that satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 promulgated thereunder.

(viii) The Company will use its best efforts to effect the listing of the Common Stock, prior to the Closing Time, on the New York Stock Exchange.

(b) Each Underwriter, severally and not jointly, covenants with the Company as follows:

(i) It has not and will not use, authorize use of, refer to, or participate in the planning for use of, any "free writing prospectus," as defined in Rule 405 under the Securities Act (which term includes use of any written information furnished to the Commission by the Company and not incorporated by reference into the Registration Statement and any press release issued by the Company) (each such communication by the Company or its agents or representatives an "**Issuer Free Writing Prospectus**") other than (A) a free writing prospectus that contains no "issuer information" (as defined in Rule 433(h)(2) under the Securities Act) that was not included (including through incorporation by reference) in the preliminary prospectus or a previously filed Issuer Free Writing Prospectus, (B) any Issuer Free Writing Prospectus listed on Schedule I to the applicable Terms Agreement or (C) any free writing prospectus prepared by such underwriter and approved by the Company in advance in writing (each such free writing prospectus referred to in clauses (A) or (C), an "**Underwriter Free Writing Prospectus**").

(ii) It has not and will not distribute any Underwriter Free Writing Prospectus referred to in Section 9(b)(i)(A) above in a manner reasonably designed to lead to its broad unrestricted dissemination.

(iii) It has not and will not, without the prior written consent of the Company, use any free writing prospectus that contains the final terms of the Shares unless such terms have previously been included in a free writing prospectus filed with the Commission.

(iv) It is not subject to any pending proceeding under Section 8A of the Securities Act with respect to the offering (and will promptly notify the Company if any such proceeding against it is initiated during the Prospectus Delivery Period).

Section 10. *Fees and Expenses*. The Company will pay all costs, fees, and expenses arising in connection with the sale of any Securities through the Underwriters and in connection with the performance by the Underwriters of its related obligations hereunder and under any Terms Agreement, including the following: (i) expenses incident to the preparation and filing of the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, the Prospectus, any free writing prospectus prepared by or on behalf of, used by, or referred to by the Company, and all amendments and supplements thereto, (ii) expenses incident to the issuance and delivery of such Securities, (iii) the fees and disbursements of the Company's Counsel and the Company's Auditors, (iv) expenses incident to the qualification of such Securities under Blue Sky laws and other applicable state securities laws in accordance with the provisions of Section 9(a)(v) hereof, including related filing fees and the reasonable fees and disbursements of the Underwriters' Counsel in connection therewith and in

connection with the preparation of any survey of Blue Sky laws (a "**Blue Sky Survey**"), (v) expenses incident to the printing and delivery to the Underwriters, in the quantities hereinabove stated, of copies of the Registration Statement and all amendments thereto and of the Prospectus, each preliminary prospectus, and all amendments and supplements thereto, (vi) expenses incident to the printing and delivery to the Underwriters, in such quantities as the Underwriters shall reasonably request, of copies of any Blue Sky Survey, (vii) the fees and expenses, if any, incurred with respect to any applicable filing with the National Association of Securities Dealers, (viii) the fees and expenses incurred in connection with the listing of any Underwritten Securities on the New York Stock Exchange and (ix) if applicable, the fees and expenses of the trustee under the applicable Indenture.

Section 11. *Inspection; Place of Delivery; Payment.*

(a) *Inspection*. The Company agrees to have available for inspection, checking, and packaging by the Underwriters in The City of New York, the Underwritten Securities to be sold to the Underwriters hereunder, not later than 1:00 P.M. on the New York Business Day prior to the applicable Closing Date.

(b) *Place of Delivery of Documents, Certificates and Opinions*. The documents, certificates and opinions required to be delivered to the Underwriters pursuant to Sections 5 and 6 of these Standard Provisions will be delivered at the offices of the Underwriters' Counsel, or at such other location as may be agreed upon by the Company and the Underwriters, not later than the Closing Time.

(c) *Payment*. Payment of the purchase price for, and delivery of certificates for, the Underwritten Securities shall be made at the offices of Underwriters' Counsel, or at such other place as shall be agreed upon by the Underwriters and the Company, at 9:00 A.M. (Eastern time) on the third (fourth, if the pricing occurs after 4:30 P.M. (Eastern time) on any given day) business day after the date of the applicable Terms Agreement (unless postponed in accordance with the provisions of Section 8 hereof), or such other time not later than ten business days after such date as shall be agreed upon by the Underwriters and the Company (such time and date of payment and delivery being herein called the "**Closing Time**" and the "**Closing Date**", respectively). Payment shall be made to the Company by wire transfer of immediately available funds to a bank account designated in writing by the Company, against delivery to the Underwriters for the respective accounts of the Underwriters of the Underwritten Securities to be purchased by them. It is understood that each Underwriter has authorized the Underwriters' representative, for its account, to accept delivery of, receipt for, and make payment of the purchase price for, the Underwritten Securities which it has severally agreed to purchase. The Underwriters' representative, individually and not as representative of the Underwriters, may (but shall not be obligated to) make payment of the purchase price for the Underwritten Securities to be purchased by any Underwriter whose funds have

not been received by the Closing Time, but such payment shall not relieve such Underwriter from its obligations hereunder.

Section 12. *Indemnification and Contribution.*

(a) The Company agrees to indemnify and hold each Underwriter and each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, harmless from and against any and all losses, claims, damages, or liabilities to which such Underwriter come subject under the Securities Act, the Exchange Act, or any other federal or state law or regulation, at common law or otherwise, insofar as such losses, claims, damages, or liabilities (and actions in respect thereof) arise out of, are based upon, or are caused by any untrue statement or allegedly untrue statement of a material fact contained in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, or the Prospectus or in any amendment or supplement thereto, or arise out of, are based upon or are 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, and the Company agrees to reimburse each such indemnified party for any reasonable legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability, or action; *provided, however*, that the Company will not be liable to the extent that such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of, are based upon, or are caused by any such untrue statement or omission or allegedly untrue statement or omission included in or omitted from the Registration Statement, any preliminary prospectus or the Prospectus in reliance upon and in conformity with information furnished by the Underwriters in writing expressly for use in the Registration Statement or such preliminary prospectus or the Time of Sale Prospectus or the Prospectus or any amendment or supplement thereto, and *provided further*, that the foregoing indemnity with respect to any preliminary prospectus, the Time of Sale Prospectus or the Prospectus shall not inure to the benefit of any Underwriter from whom the person asserting any losses, claims, damages or liabilities otherwise covered by this paragraph purchased Underwritten Securities, or to the benefit of any person controlling such Underwriter, if a copy of the preliminary prospectus, the Time of Sale Prospectus or the Prospectus (as then amended and supplemented if the Company shall have furnished any amendments or supplements thereto) was not sent or given by or on behalf of such Underwriter to such person if required so to have been delivered, at or prior to the entry into the contract of sale of Underwritten Securities with such person, and if the preliminary prospectus, the Time of Sale Prospectus or the Prospectus (as so amended or supplemented) would have cured the defect giving rise to such loss, claim, damage or liability.

(b) Each Underwriter severally agrees to indemnify and hold harmless the Company, its directors, its officers who sign the Registration Statement, and

each person, if any, who controls the Company within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, to the same extent as the foregoing indemnity from the Company to the Underwriters, but only with respect to such losses, claims, damages, and liabilities (and actions in respect thereof) that arise out of, are based upon, or are caused by any untrue statement or omission or allegedly untrue statement or omission included in or omitted from the Registration Statement, or any preliminary prospectus or the Time of Sale Prospectus or the Prospectus in reliance upon and in conformity with information furnished by the Underwriters in writing expressly for use in the Registration Statement or such preliminary prospectus or the Time of Sale Prospectus or the Prospectus or any amendment or supplement thereto.

(c) In case any proceeding (including any governmental investigation) shall be instituted involving any person in respect of which indemnity may be sought pursuant to either paragraph (a) or (b) of this Section 12, such person (the "**indemnified party**") will promptly notify the person against whom such indemnity may be sought (the "**indemnifying party**") in writing and the indemnifying party, upon request of the indemnified party, will retain counsel reasonably satisfactory to the indemnified party to represent the indemnified party and any others the indemnifying party may designate in such proceeding and will pay the fees and disbursements of such counsel related to such proceeding. In any such proceeding, any indemnified party will have the right to retain its own counsel, but the fees and expenses of such counsel will be borne by the indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel or (ii) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and, in the judgment of the indemnified party, representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the indemnifying party will not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all such indemnified parties and that all such reasonable fees and expenses will be reimbursed as they are incurred. Such firm will be designated in writing by the Underwriters (in the case of parties indemnified pursuant to paragraph (a) of this Section 12) or by the Company (in the case of parties indemnified pursuant to paragraph (b) of this Section 12), as the case may be. The indemnifying party will not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent, or if there shall be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. No indemnifying party will, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could

have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding. Any provision of this paragraph (c) to the contrary notwithstanding, no failure by an indemnified party to notify the indemnifying party as required hereunder will relieve the indemnifying party from any liability it may have had to an indemnified party otherwise than under this Section 12 to the extent the indemnifying party is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement.

(d) If the indemnification provided for in paragraph (a) or (b) of this Section 12 is unavailable to an indemnified party or is insufficient in respect of any losses, claims, damages, or liabilities referred to therein, then each indemnifying party under such paragraph, in lieu of indemnifying the indemnified party thereunder, will contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriters, on the other, from the offering of the Underwritten Securities pursuant to the applicable Terms Agreement, or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and the Underwriters, on the other, in connection with the statements or omissions that resulted in such losses, claims, damages, or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand, and the Underwriters, on the other, in connection with the offering of the Underwritten Securities pursuant to the applicable Terms Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of such Underwritten Securities (before deducting expenses) received by the Company and the total underwriting discount received by the Underwriters, in each case as set forth on the cover of the Prospectus, bear to the aggregate initial public offering price of such Underwritten Securities as set forth on such cover. The relative fault of the Company, on the one hand, and of the Underwriters, on the other, will be determined by reference to, among other things, whether the untrue or allegedly untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied or to be supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission. The Underwriters' respective obligations to contribute pursuant to this Section 12(d) are several in proportion to the number of Underwritten Securities set forth opposite their respective names in the applicable Terms Agreement, and not joint.

(e) The Company and the Underwriters agree that it would not be just or equitable if contribution pursuant to paragraph (d) above were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to therein. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, and liabilities referred to in paragraph (d) above will be deemed to include, subject to the limitations set forth above, any reasonable legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Any other provisions of this Section 12 to the contrary notwithstanding, (i) the Underwriters will not be required to contribute to the Company any amount in excess of the amount by which the total price at which the Underwritten Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of any such untrue or alleged untrue statement or omission or alleged omission (other than in reliance upon and in conformity with information furnished to the Company by the Underwriters in writing expressly for use in the Registration Statement, the preliminary prospectus or the Prospectus or any amendment or supplement thereto), and (ii) no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(f) The remedies provided for in this Section 12 are not exclusive and will not limit any rights or remedies that may otherwise be available to any indemnified party at law or in equity.

Section 13. *Termination.* The applicable Terms Agreement will automatically terminate upon the expiration of the offering to which the Prospectus relates. The applicable Terms Agreement may not be terminated by the Underwriters prior to delivery of and payment for such Securities except upon the failure of any of the conditions precedent described in Section 6 hereof.

Section 14. *Representations and Indemnities to Survive.* The respective agreements of the Company and the Underwriters set forth in Section 9(a)(ii), 9(a)(vii), 10, 12, and 18 hereof, the representations and warranties of the Company set forth in Section 7 hereof, and the statements and opinions of the Company and its officers set forth in the documents to be delivered by the Company to the Underwriters as provided in Sections Section 5(a), 5(c), 5(d), and 6(d) hereof, will survive delivery of and payment for any Securities as contemplated hereunder and will survive termination of the applicable Terms Agreement in accordance with the provisions of Section 13 above.

Section 15. *Notices.* Except as otherwise specifically provided herein, all communications hereunder will be in writing and will be effective one business day after having been delivered by hand, mailed via Express Mail, deposited with

Federal Express or any nationally recognized commercial courier service for "next day" delivery, or telecopied and confirmed in writing (by telecopied facsimile or otherwise) to the respective addresses or telecopier numbers set forth on the signature page hereto, or to such other address or telecopier number as either party may hereafter designate to the other in writing. The foregoing notwithstanding, copies of any Terms Agreement and of any certificate or opinion to be delivered by the Company to the Underwriters under paragraphs 5(a), 5(c) or 5(d) hereof will be deemed delivered if executed by all required signatories and telecopied to the Company and/or the Underwriters, as the case may be, with receipt confirmed in writing (by telecopied facsimile or otherwise). In the event that any Terms Agreement or any such certificate or opinion is delivered via telecopier as contemplated in the preceding sentence, the parties will use best efforts to ensure that "original" copies of such documents will be distributed promptly thereafter.

Section 16. *Successors; Non-transferability.* The applicable Terms Agreement shall inure to the benefit of and be binding upon the Company and the Underwriters, their respective successors, and the officers, directors, and controlling persons referred to in Section 12 hereof. No other person will have any right or obligation hereunder. No party to the applicable Terms Agreement may assign its rights thereunder without the written consent of the other parties.

Section 17. *Counterparts.* The Terms Agreement may be signed in any number of counterparts, each of which will be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 18. *Applicable Law.* These Standard Provisions and any applicable Terms Agreement will be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law.

Section 19. *Headings.* The headings of the sections of these Standard Provisions have been inserted for convenience of reference only and will not affect the construction of any of the terms or provisions hereof.

Exhibit A

PEPSICO, INC.

Underwritten Securities

TERMS AGREEMENT

[Date]

To: PepsiCo, Inc.
700 Anderson Hill Road
Purchase, New York 10577

Ladies and Gentlemen:

We understand that PepsiCo, Inc., a North Carolina corporation (the "**Company**"), proposes to issue and sell _____ (such securities also being hereinafter referred to as the "**Underwritten Securities**") subject to the terms and conditions stated herein and in the Underwriting Agreement Standard Provisions, dated [insert date] (the "**Standard Provisions**"). Each of the applicable provisions in the Standard Provisions is incorporated herein by reference in its entirety, and shall be deemed to be a part of this Agreement to the same extent as if such provisions had been set forth in full herein. We [the underwriters named below (the "**Underwriters**")] offer to purchase [, severally and not jointly,] the number or amount of Underwritten Securities [opposite their names set forth below] at the purchase price set forth below.

Underwriter	**[Number][Amount] of Underwritten Securities**
[Name of Underwriter(s)]	
Total	[$]

The Underwritten Securities shall have the following terms:

Terms of the Securities

[Number][Amount] of securities:	
Initial public offering price	$
Purchase price	$
Period specified in Section 9(a)(vi) of the Standard Provisions:	____ days beginning from the date of this Terms Agreement

Other terms and conditions:

IN WITNESS WHEREOF, the parties hereto have executed this Terms Agreement as of the ____ day of _____, 20__.

PEPSICO, INC.

By: _____
Title:

CONFIRMED AND ACCEPTED, as of the date first above written:

[UNDERWRITERS' REPRESENTATIVE]

By: _____
Authorized Signatory

Schedule I

Time of Sale Prospectus:

1. Preliminary Prospectus issued [date]
2. Identify all free writing prospectuses filed by the Company under Rule 433(d) of the Securities Act
3. [free writing prospectus containing a description of terms that does not reflect final terms, if the Time of Sale Prospectus does not include a final term sheet]
4. [orally communicated pricing information to be included on Schedule II if a final term sheet is not used]

Exhibit B

FORM OF OPINION OF COMPANY'S COUNSEL

TO BE DELIVERED PURSUANT

TO SECTION 5(a)

1. The Company is a corporation in existence under the laws of the State of North Carolina, has the corporate power to conduct its business as described in the Time of Sale Prospectus and the Prospectus, and is duly qualified to do business as a foreign corporation in each jurisdiction where the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified would not have a material adverse effect on the financial condition of the Company and its subsidiaries taken as a whole.

2. The applicable Terms Agreement has been duly authorized by the Company by all necessary corporate action, executed and delivered by the Company.

3. [*For equity or equity-linked securities* - The Company has authorized by all necessary corporate action the issuance and sale of Underwritten Securities pursuant to the applicable Terms Agreement. The Underwritten Securities, when issued and delivered by the Company pursuant to the Terms Agreement against payment of the consideration therefor specified in such Terms Agreement, will be validly issued, fully paid and non-assessable and will not be subject to preemptive or other similar rights of any securityholder of the Company. No holder of the Underwritten Securities is or will be subject to personal liability by reason of being such a holder.]

[*For debt securities* - The Company has authorized by all necessary corporate action the execution and delivery of Underwritten Securities and, when issued, executed, and authenticated in accordance with the provisions of the applicable indenture (the "Indenture"), or when countersigned by the trustee in accordance with the provisions of the Indenture, as the case may be, will be entitled to the benefits of the Indenture, and will be valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, if applicable, by general principles of equity.]

4. [*For debt securities* - The Indenture has been duly qualified under the Trust Indenture Act of 1939, as amended and has been duly authorized, by the

Company by all necessary corporate action, executed, and delivered by the Company and (assuming due authorization, valid execution, and delivery thereof by the trustee) is a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, by general principles of equity.]

5. The Registration Statement, including any Rule 462(b) Registration Statement, has been declared effective under the Securities Act; any required filing of the Prospectus pursuant to Rule 424(b) has been made in the manner and within the time period required by Rule 424(b); and, to [our] [my] knowledge, no stop order suspending the effectiveness of the Registration Statement or any Rule 462(b) Registration Statement has been issued under the Securities Act and no proceedings for that purpose have been instituted or are pending or threatened by the Commission.

6. The execution and delivery of and performance by the Company of its obligations under the applicable Terms Agreement will not contravene any provision of the Restated Charter or By-Laws of the Company, or of any agreement or other instrument binding upon the Company or any of its subsidiaries that is material to the Company and its subsidiaries taken as a whole, or, to my knowledge, of any judgment, order, or decree of any governmental body, agency, or court having jurisdiction over the Company or any of its subsidiaries, in each of the foregoing cases except as would not reasonably be expected to have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole. No consent, approval, authorization, or order of or qualification with any governmental body or agency is required to be obtained or made by the Company for the execution and delivery by the Company of the applicable Terms Agreement, except as may be required by the Blue Sky laws or other securities laws of the various states in which the Securities may be offered and sold and except for consents, approvals, authorizations, actions, filings and registrations

which, if not obtained or made, are not reasonable likely to have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole.

7. [I][We] have considered the statements relating to legal matters or documents included in the Prospectus under the captions "[Description of PepsiCo Stock] [Description of Debt Securities]". In [my][our] opinion, such statements fairly summarize in all material respects such matters or documents.

8. To [my][our] knowledge, there is no legal or governmental proceeding pending or threatened to which the Company or any of its significant subsidiaries is a party, or by which any of the properties of the Company or its significant subsidiaries is bound, which would reasonably be expected to have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole; and to [my] [our] knowledge, there is no agreement or other document that is required to be described in the Registration Statement, the Prospectus, any applicable Pricing Supplement or Prospectus Supplement, or any Time of Sale Prospectus, or that is required to be filed as an exhibit to the Registration Statement, that is not so described or filed.

9. [I][We] have not [myself][ourselves] checked the accuracy, completeness or fairness of, or otherwise verified, the information furnished with respect to matters in the Registration Statement, the Time of Sale Prospectus or the Prospectus (except to the extent stated in paragraph 7 above). [I][We] have generally reviewed and discussed with the representatives of the Underwriters and with certain officers and employees of, and counsel for, the Company, and with independent registered public accountants for the Company, the information furnished, whether or not subject to [my][our] check and verification. On the basis of such consideration, review and discussion, but without independent check or verification except as stated above, (i) in [my][our] opinion, the Registration Statement and the Prospectus appear on their face to be appropriately responsive in all material respects to the requirements of the Act and the applicable rules and regulations of the Commission thereunder, and (ii) nothing has come to [my][our] attention that causes [me][us] to believe that, insofar as relevant to the offering of the Securities, (a) the Registration Statement at the time such Registration Statement became effective contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (b) the Time of Sale Prospectus, at the time of each sale of the Underwritten Securities in connection with the offering when the Prospectus is not yet available to prospective purchasers, contained an untrue statement of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, or (c) the Prospectus, as of its date or as of the date hereof, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. In expressing the

foregoing opinion and belief, we have not been called to pass upon, and we express no opinion or belief as to, the financial statements or financial schedules or other financial or statistical data included in the Registration Statement, the Time of Sale Prospectus or the Prospectus or the Statement of Eligibility of the Trustee on Form T-1.

The opinions and belief expressed in paragraph 3 above (except as to due authorization of the Underwritten Securities), in paragraph 7 above as to the statements in the Prospectus under the captions "[Description of PepsiCo Stock][Description of Debt Securities]," and in paragraph 9 above do not, in any case, address any provision of the Commodity Exchange Act, as amended, or the rules, regulations, or interpretations of the Commodity Futures Trading Commission, as may be applicable to any debt securities whose principal and/or interest payments will be determined by reference to one or more currency exchange rates, commodity prices, equity indices, or other variable factors.

In rendering such opinion, [I] [we] may rely, as to matters of fact (but not as to legal conclusions), to the extent [I] [we] deem proper, on certificates of responsible officers of the Company and public officials. Such opinion will be limited to the laws of the State of New York and the federal laws of the United States of America. Insofar as such opinion involves matters governed by the laws of North Carolina, [I] [we] may rely, without independent investigation, on the opinion of North Carolina counsel for the Company.

Exhibit C

ASSISTANT SECRETARY'S CERTIFICATE

I, _____, the duly qualified, elected, and acting Secretary of PepsiCo, Inc., a company organized under the laws of the State of North Carolina (the "**Company**"), hereby certify as follows:

1. Attached hereto as Exhibit A is a true and complete copy of the Restated Articles of Incorporation of the Company, certified as of _____ by the Secretary of State of the State of North Carolina. No further amendments or supplements to the Restated Articles of Incorporation have been proposed to or approved by the Board of Directors or shareholders of the Company.

2. Attached hereto as Exhibit B is a true, correct, and complete copy of the By-Laws of the Company. Such By-Laws have been in effect at all times since _____.

3. Attached hereto as Exhibit C are true, correct and complete copies of certain resolutions duly adopted by the Board of Directors of the Company on March 17, 2006 [and, if common stock or securities convertible into common stock are being offered insert date]. Such resolutions have not been amended or modified, are in full force and effect in the form adopted and are the only resolutions adopted by the Board of Directors of the Company or a duly authorized committee thereof relating to (i) the authorization of the Company's Registration Statement on Form S-3 (Registration No. 333-_____), (the "**Registration Statement**") filed with the Securities and Exchange Commission (the "**Commission**") for the registration of Company's securities, (ii) the execution and delivery of the Terms Agreement, dated _____ (the "**Terms Agreement**"), between the Company and _____ (the "**Underwriters**"), and (iii) all other actions relating to the foregoing. Such resolutions have not been amended, rescinded or modified since their adoption (other than as expressly set forth in such resolutions) and remain in full force and effect as of the date of this Certificate.

4. Each person who, as a director or officer of the Company or attorney- in-fact of such director or officer, signed (i) the Registration Statement, (ii) the Terms Agreement, and (iii) any document delivered prior hereto or on the date of this Certificate in connection with the execution and filing of the Registration Statement, or the execution and delivery of the Terms Agreement, or the transactions contemplated thereby, or the execution and delivery of the certificates representing the Shares, was, at the time or the respective times of such execution and delivery of such documents, and, in the case of the filing of the Registration Statement with the Commission, duly elected or appointed,

qualified and acting as such director or officer or duly appointed and acting as such attorney-in-fact and the signatures of such persons appearing on such documents are their genuine signatures or, in case of the certificates evidencing the Shares, the true facsimile thereof.

5. The minute book records of the Company relating to proceedings of the Board of Directors of the Company made available to _____, counsel for the Underwriters, are true and correct and constitute all such records in the possession and control of the Company through and including _____.

The persons named below are duly qualified, elected, and acting officers of the Company, have been duly elected or appointed to the offices set forth opposite their respective names, have held such offices at all times relevant to the preparation of the Registration Statement, and hold such offices as of the date hereof. The signatures set forth below opposite the names of such persons are the genuine signatures of such persons.

Name	Office	Signature

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company as of the _____ day of _____, 20__.

By: _____
Name:
Title:

I, _____, a Vice President of the Company, hereby certify that _____ is the duly qualified, elected, and acting _____ of the Company, has been duly elected or appointed to such offices, has held such offices at all times relevant to the preparation of the Registration Statement, holds such offices as of the date hereof, and that the signature set forth above is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand as of the ___ day of _____, 20__.

By: _____
Name:
Title: Vice President

Exhibit D

OFFICERS' CERTIFICATE

[Name:]_____, [title:]_____, and [name:]_____, [title:] _____, of PepsiCo, Inc., a corporation organized under the laws of the State of North Carolina (the "**Company**"), each hereby certifies as follows:

1. I have examined the Company's Registration Statement on Form S-3, File No. 333-_____ (the "**Registration Statement**") filed by the Company with the Securities and Exchange Commission (the "**Commission**") on May 2, 2006, including all of the documents filed as exhibits thereto. Capitalized terms used herein and not otherwise defined have the meanings ascribed to such terms by the prospectus filed as part of the Registration Statement (such prospectus hereinafter the "**Prospectus**").

2. To my knowledge, no proceedings for the merger, consolidation, liquidation, or dissolution of the Company or the sale of all or substantially all of its assets are pending or contemplated.

3. To my knowledge, the Registration Statement as supplemented by the Time of Sale Prospectus (i) contains no untrue statement of a material fact regarding the Company or any of its consolidated subsidiaries and (ii) does not omit to state any material fact necessary to make any such statement, in the light of the circumstances under which it was made, not misleading.

IN WITNESS WHEREOF, I have hereunto set my hand as of the ___ of _____, 20__.

By: _____
Name:
Title:

By: _____
Name:
Title:

PEPSICO, INC.

Debt Securities, Warrants and Units

U.S. DISTRIBUTION AGREEMENT

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THIS DISTRIBUTION AGREEMENT, dated as of _____, among PepsiCo, Inc., a corporation organized under the laws of the State of North Carolina (the "**Company**"), and the banks set forth in Schedule I hereto (individually, the "**Bank**" and collectively, the "**Banks**").

W I T N E S S E T H:

WHEREAS, the Company has filed with the Securities and Exchange Commission (the "**Commission**") a registration statement on Form S-3, File No. 333-_____ (the "**Registration Statement**"), including a prospectus (the "**Prospectus**"), relating to the Company's securities, including the Company's Debt Securities, Warrants and Units (as such terms are defined in the Prospectus); and

WHEREAS, each Bank has agreed to participate in the offer and sale of Debt Securities, Warrants and Units (sometimes referred to collectively as the "**Securities**") to investors on the terms and conditions set forth herein;

NOW, THEREFORE, the parties hereto agree as follows:

Section 1. *Definitions.* Capitalized terms used in this Agreement and not otherwise defined herein have the meanings ascribed to such terms by the Prospectus; provided, however, that in the event of a conflict between the Prospectus and any applicable Supplement regarding the definition of any capitalized term used herein, the definition set forth in the applicable Supplement will govern; and provided, further, that the terms "**Registration Statement**", "**Prospectus**", "**Pricing Supplement**", "**Prospectus Supplement**", and "**Time of Sale Prospectus**" as used herein, (a) include, in each case, the documents (if any) incorporated by reference therein, and (b) refer, in each case, to such document as supplemented or otherwise amended from time to time.

For purposes of this Agreement and each Terms Agreement (as defined below), "**free writing prospectus**" has the meaning set forth in Rule 405 under the Securities Act, "**Time of Sale Prospectus**" means the preliminary prospectus together with the free writing prospectuses, if any, each identified in Annex A to the applicable Terms Agreement.

Section 2. *Appointment of Banks as Agents.* From the date hereof and until the expiration or earlier termination of this Agreement, each Bank will be an agent of the Company with respect to the distribution and sale of the Securities, and will use reasonable efforts, consistent with standard industry practice, to solicit offers for the purchase of the Securities upon the terms and conditions set forth in the Prospectus and, with respect to Securities of a given series, in the applicable preliminary and final Pricing Supplement or Prospectus Supplement (each such supplement a "**Supplement**" or an "**applicable Supplement**"),

provided, however, that no Bank will be required to solicit offers to purchase Securities issued pursuant to a Supplement that does not name such Bank as an agent. All sales of Securities resulting from a solicitation made or an offer to purchase received by any Bank in its capacity as agent during the term of this Agreement will be subject to the provisions of this Section 2 and to all other provisions of this Agreement not specifically limited to sales of Securities made to such Bank as underwriter and/or as purchaser for its own account.

(a) *Non-Exclusive Agency.* Each Bank acknowledges and agrees that its agency hereunder is non-exclusive and that its obligations as agent hereunder will continue notwithstanding the offer or sale of Securities by the Company directly to investors (including such Bank as purchaser for its own account), to underwriters (including such Bank as underwriter, as contemplated by Section 3 below), and/or through other agents, as the Company may, in its sole discretion, elect. The obligations of each Bank in its capacity as agent hereunder, and the obligations of each other person that has been authorized by the Company to act as its agent in soliciting offers to purchase Securities, shall be several and not joint.

(b) *Solicitation of Offers as Agent; Rights of Acceptance and Rejection of Offers.* Each Bank may reject, and will not be required to communicate to the Company, any offer to purchase Securities that it reasonably deems unacceptable. The Company will have the sole right to accept any offer to purchase Securities and may reject any such offer in whole or in part. The Company will in no event approve any solicitation of offers or accept any offers to purchase Securities the aggregate public offering price of which, with respect to Securities of a given series, would exceed the maximum aggregate public offering price stated in the applicable Supplement.

(c) *Commissions.* As consideration for the sale of Securities of a given series that occurs as a result of a solicitation made or an offer to purchase received by any Bank in its capacity as agent, the Company will pay such Bank the commission identified in the applicable Supplement, which commission will be expressed as a percentage of the aggregate public offering price of such Securities. Payment of the commission will be made on the Settlement Date (as defined in Section 10(c) hereof), in U.S. dollars or such other currency as the Company and such Bank may agree in writing, by discount from the proceeds of the sale of such Securities or by such other means as may be agreed to in writing by the Company and such Bank and set forth in the applicable Terms Agreement (hereinafter defined). Any provision of this Agreement to the contrary notwithstanding, no Bank will be entitled to payment of any commission with respect to the sale of a given Security unless (i) the sale of such Security shall have occurred as a result of a solicitation made or an offer to purchase received by such Bank in its capacity as agent hereunder, on the terms and conditions set forth herein and in the applicable Terms Agreement, (ii) such Bank shall have been

named as an agent in the applicable Supplement, and (iii) such Security shall have been sold by the Company directly to a third-party investor without such Bank acquiring legal title thereto.

(d) *Termination or Suspension of Solicitations by Banks as Agents.* The Company may at any time require the Banks to terminate or temporarily suspend the solicitation of offers to purchase Securities. Upon receipt of written notice from the Company to the Banks directing the Banks (or any of them) to terminate or suspend solicitations of offers to purchase Securities, until (in the case of a temporary suspension) such time as may be indicated in such notice or in any subsequent notice from the Company to the Banks, the Banks will forthwith terminate or suspend such solicitations (as the case may be). The provisions of this paragraph notwithstanding, the termination or suspension by the Company of any Bank's solicitation of offers to purchase Securities will not (except under the circumstances contemplated in Section 5 or Section 8(b) hereof) relieve or otherwise affect any Bank's obligation to purchase any Securities such Bank shall have agreed to purchase in its capacity as underwriter, or the Company's obligation to sell any Securities it shall have agreed to sell to a third-party investor through such Bank in its capacity as agent, in either case as set forth in an applicable Terms Agreement that shall have been executed and delivered by both the Company and such Bank.

(e) *Scope of Agency.* In soliciting offers to purchase Securities, the Banks will be acting solely as agents for the Company. Each Bank will use its best efforts consistent with standard industry practice to assist the Company in obtaining performance by each purchaser whose offer to purchase Securities has been solicited by such Bank and accepted by the Company, but no Bank will have any liability to the Company in the event that any such purchase is not consummated for any reason. If the Company shall default in its obligations to deliver Securities to a purchaser whose offer it has accepted, the Company will hold each Bank harmless against any loss, claim, damage, or liability arising from or as a result of such default and will pay to such Bank the commission such Bank would have received had such sale been consummated.

Section 3. *Purchase and Sale of Securities by a Bank as Underwriter.* The Company and any Bank may agree upon one or more sales of Securities to such Bank as underwriter, for resale to investors on the terms set forth in the Prospectus and in any applicable Supplement. All sales of Securities made to a Bank in its capacity as underwriter during the term of this Agreement will be subject to the provisions of this Section 3 and to all other provisions of this Agreement not specifically limited to sales of Securities through such Bank as agent and/or to such Bank as purchaser for its own account.

(a) *The Banks' Obligation to Purchase Securities; Multiple Underwriters.* In the event that a Bank is the sole underwriter with respect to a

particular series of Securities, such Bank will be obligated to purchase all of the Securities of such series. In the event that such Bank is one of two or more underwriters with respect to a particular series of Securities, the applicable Terms Agreement will specify the aggregate public offering price of the Securities that such Bank and such other underwriter or underwriters will be obligated to purchase, such obligations to be several and not joint.

(b) *Discounts.* All Securities of any series to be sold to a Bank in its capacity as underwriter will be sold at a discount from the price at which such Securities are to be sold to the public. Such discount will be identified in the applicable Terms Agreement, expressed as a percentage of the aggregate public offering price of such Securities. Any provision of this Agreement to the contrary notwithstanding, such Bank will not be entitled to any discount with respect to the purchase of a given Security unless (i) such Bank shall have purchased such Security with a view, at the time of such purchase, to the immediate resale thereof to a third-party investor, unless the Company shall have otherwise agreed in the applicable Terms Agreement, and (ii) such Bank shall have been named as an underwriter in the applicable Supplement. It is expressly acknowledged and agreed that a Bank may, in its capacity as underwriter with respect to any given series of Securities, sell such Securities to one or more dealers that are not parties to this Agreement or the applicable Terms Agreement, and may allow to such dealers a discount from the public offering price of such Securities, provided that the aggregate of all such discounts allowed by such Bank to such dealers with respect to such Securities will not exceed the discount received by such Bank from the Company with respect to such Securities.

Section 4. *Terms Agreement; Administrative Procedures.* No agreement for the purchase of Securities by any Bank in its capacity as underwriter or through any Bank in its capacity as agent will be deemed to exist until the terms of such agreement shall have been put in writing, substantially in the form of the attached Schedule II, and such writing shall have been signed by both the Company and such Bank (any such signed writing a "**Terms Agreement**"). In the event of a conflict between any provision of a Terms Agreement with respect to Securities of a given series and any term of the applicable Supplement, the terms of the applicable Supplement will govern.

Each of the Company and the Banks agrees that it will perform its respective administrative obligations with respect to the offer and sale of Securities as set forth in the Administrative Procedures attached to this Agreement as Schedule III. Each Terms Agreement will incorporate all applicable terms and provisions of this Agreement and the Administrative Procedures as fully as though such terms and provisions were expressly stated therein.

Section 5. *Certain Conditions Precedent to Banks' Obligations.* The obligation of each Bank to solicit offers to purchase Securities in its capacity as

agent, and its obligation to purchase any Securities in its capacity as underwriter, will in all cases be subject to the accuracy of the representations and warranties of the Company set forth in Section 6 hereof or in the applicable Terms Agreement (as the case may be), to receipt of the opinions and certificates to be delivered to such Bank pursuant to the terms of Section 5 and 8 hereof or the provisions of the applicable Terms Agreement (as the case may be), to the accuracy of the statements of the Company's officers made in each certificate to be furnished as provided herein or in the applicable Terms Agreement (as the case may be), to the performance and observance by the Company of all covenants and agreements contained herein or in the applicable Terms Agreement (as the case may be) on its part to be performed and observed, in each case at the time of solicitation by such Bank of offers to purchase Securities, at the time the Company accepts any offer to purchase Securities through such Bank in its capacity as agent or by such Bank in its capacity as underwriter, as the case may be, and at the time of purchase, and (in each case) to the following additional conditions precedent, when and as specified:

(a) As of the Settlement Date for any Securities to be purchased through a Bank in its capacity as agent or by a Bank in its capacity as underwriter (for purposes of this paragraph (a), the "**Applicable Settlement Date**"), and with respect to the period from the date of the applicable Terms Agreement to and including the Applicable Settlement Date:

(i) there shall not have occurred (A) any material adverse change (or development involving a prospective material adverse change) in the business, properties, earnings, or financial condition of the Company and its subsidiaries on a consolidated basis or (B) any suspension or material limitation of trading in the Company's capital stock by the Commission or the New York Stock Exchange, Inc. (the "**NYSE**") (the events described in the foregoing clauses A and B, the "**Company-Specific Events**"), the effect of any of which Company-Specific Events shall have made it impracticable, in the reasonable judgment of such Bank, to market such Securities, such judgment to be based on relevant market conditions;

(ii) there shall not have occurred (A) any suspension or material limitation of trading in securities generally on the NYSE, (B) a declaration of a general moratorium on commercial banking activities in New York by either Federal or New York State authorities, or (C) any outbreak or material escalation of hostilities or other national or international calamity or crisis (the events described in the foregoing clauses A through C the "**Market Events**"), the effect of any of which Market Events shall have made it impracticable, in the reasonable

judgment of such Bank, to market such Securities, such judgment to be based on relevant market conditions, including, without limitation, the impact of such Market Event on debt securities having substantially similar characteristics; and

(iii) there shall not have been issued any stop order suspending the effectiveness of the Registration Statement nor shall any proceedings for that purpose or pursuant to Section 8A of the Securities Act against the Company or related to the offering of the Securities have been instituted or threatened.

(b) Each relevant Bank will receive, upon execution and delivery of any applicable Terms Agreement and on each Settlement Date, a letter from KPMG LLP ("**KPMG**"), or such other independent certified public accountants as may be selected by the Company (KPMG or such other independent certified public accountants each, successively, the "**Company's Auditors**"), dated such date containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to financial statements and certain financial information contained in the Registration Statement, the Prospectus and the applicable Supplement (each such letter an "**Auditors' Letter**").

(c) On each Settlement Date, the relevant Bank shall have received the following documents and such appropriate further information, certificates, and documents as the Company and such Bank shall have agreed, as reflected in the applicable Terms Agreement:

(i) the opinion of counsel to the Company, selected by the Company and reasonably agreed to by such Bank (the "**Company's Counsel**"), dated as of such Settlement Date, substantially in the form of Exhibit A hereto,

(ii) the opinion of counsel to the Banks, selected by the Banks and reasonably agreed to by the Company (the "**Banks' Counsel**"), dated as of such Settlement Date, substantially in the form of Exhibit B hereto,

(iii) a certificate of the Assistant Secretary of the Company, dated as of such Settlement Date, substantially in the form of Exhibit C hereto, and

(iv) a certificate of the Chief Financial Officer and Senior Vice President or Treasurer of the Company, dated as of such Settlement Date, substantially in the form of Exhibit D hereto.

Section 6. *Representations and Warranties of the Company.* The Company represents and warrants to each Bank that, as of each date on which the Company and such Bank execute and deliver a Terms Agreement and as of each date the Company issues and sells Securities through such Bank in its capacity as agent or to such Bank in its capacity as underwriter:

(a) (i) The Registration Statement constitutes an "automatic shelf registration statement" (as defined in Rule 405 of the Securities Act) filed within three years of the date of the applicable Terms Agreement, (ii) the Company is a "well known seasoned issuer" (as defined in Rule 405 of the Securities Act), (iii) the Registration Statement has become effective and no stop order suspending the effectiveness of the Registration Statement is in effect nor, to the Company's knowledge, are any proceedings for such purpose pending before or threatened by the Commission, (iv) as of the effective date of the Registration Statement (the "**Effective Date**"), the Company met the applicable requirements for use of Form S-3 under the Securities Act with respect to the registration under the Securities Act of the Securities, and (v) as of the Effective Date, the Registration Statement met the requirements set forth in Rule 415(a)(1)(x) under the Securities Act and complied in all material respects with said Rule.

(b) (i) Each document, if any, filed or to be filed pursuant to the Exchange Act and incorporated or to be incorporated by reference in the Prospectus or Time of Sale Prospectus complies or will comply, in all material respects, with the applicable provisions of the Exchange Act and the rules and regulations of the Commission thereunder, (ii) the Registration Statement does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (iii) the Registration Statement and the Prospectus comply, in all material respects, with the Securities Act and the rules and regulations of the Commission thereunder, and (iv) the Prospectus does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and (v) the Time of Sale Prospectus does not, and at the time of each sale of the Securities in connection with the offering when the Prospectus is not yet available to prospective purchasers and at the Closing Date, the Time of Sale Prospectus, as then amended or supplemented by the Company, if applicable, will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however,* that the Company makes no representations and warranties as to information contained in or omitted from the Registration Statement, the Prospectus or the Time of Sale Prospectus in

reliance upon and in conformity with information furnished in writing to the Company by the underwriters expressly for use in the Registration Statement, the Prospectus or the Time of Sale Prospectus or any amendment or supplement thereto or the Statement of Eligibility and Qualification of the Trustee (the "**Form T-1**") under the Trust Indenture Act of 1939, as amended (the "**Trust Indenture Act**").

(c) The Company is not an "ineligible issuer" in connection with the offering pursuant to Rules 164, 405 and 433 under the Securities Act. Any free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder.

(d) The Company has been duly incorporated and is validly existing under the laws of the State of North Carolina, has the corporate power and authority to own its property and to conduct its business as described in the Prospectus and the Time of Sale Prospectus, and is duly qualified to transact business as a foreign corporation in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified would not have a material adverse effect on the Company and its subsidiaries taken as a whole.

(e) The Indenture has been duly qualified under the Trust Indenture Act and has been duly authorized, executed, and delivered by the Company and (assuming due authorization, valid execution, and delivery thereof by the Trustee) is a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, by general principles of equity, or by the discretion of any court before which any proceeding therefor may be brought.

(f) This Agreement has been duly authorized, executed, and delivered by the Company and (assuming due authorization, valid execution, and delivery by each Bank) is a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforceability of any term or provision hereof (including, without limitation, the Company's indemnity obligations under Section 11 hereof) may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by rights of acceleration, by any other federal or state law. by general principles of equity, or by the discretion of any court before which any proceeding therefor may be brought.

(g) The form of Terms Agreement filed by the Company as exhibits to the Registration Statement, and the form of any Shelf Warrant Agreement or Unit Agreement to be filed by the Company as an exhibit to the Registration Statement, have been or will be duly authorized by the Company and, assuming valid execution and delivery by the Company and due authorization, valid execution, and delivery by each of the other parties thereto, each such agreement will be a valid and binding agreement of the Company, enforceable against the Company in accordance with its respective terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by general principles of equity, or by the discretion of any court before which any proceeding therefor may be brought.

(h) The Securities have been duly authorized and, when issued, executed, and authenticated in accordance with the provisions of the Indenture, or when countersigned by the Warrant Agent or Unit Agent in accordance with the provisions of the applicable Warrant Agreement or Unit Agreement, as the case may be, and delivered to and duly paid for in accordance with the applicable provisions of the Prospectus and the Time of Sale Prospectus and any applicable Supplement, and Section 10(c) hereof, will be entitled to the benefits of the Indenture or the applicable Warrant Agreement or Unit Agreement, as the case may be, and will be valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, if applicable, by general principles of equity.

(i) The execution and delivery of and performance by the Company of its obligations under this Agreement, the Securities, the Indenture, any Warrant Agreement, any Unit Agreement and any Terms Agreement, as the case may be, will not contravene any provision of any applicable law or of the Restated Charter or By-Laws of the Company, or of any agreement or other instrument binding upon the Company or any of its subsidiaries that is material to the Company and its subsidiaries taken as a whole, or of any judgment, order, or decree of any governmental body, agency, or court having jurisdiction over the Company or any of its subsidiaries, in each of the foregoing cases except as would not reasonably be expected to have a material adverse effect on the Company and its subsidiaries taken as a whole, and no consent, approval, authorization, or order of or qualification with any governmental body or agency is, to the Company's knowledge, required for the performance by the Company of its obligations under this Agreement, the Securities, the Indenture, or any Warrant Agreement or any Unit Agreement or Terms Agreement, except such as may be required by Blue Sky laws or other securities laws of the various states in which the Securities are offered and sold and except to the extent where the failure to obtain such consent,

approval, authorization, order or qualification would not reasonably be expected to have a material adverse effect on the Company and its subsidiaries taken as a whole.

(j) There has not been any material adverse change (or development involving a prospective material adverse change) in the business, properties, earnings, or financial condition of the Company and its subsidiaries on a consolidated basis from that set forth in the Company's last periodic report filed with the Commission under the Exchange Act and the rules and regulations promulgated thereunder.

(k) There are no legal or governmental proceedings pending or, to the Company's knowledge, threatened, to which the Company or any of its subsidiaries is a party or to which any of the properties of the Company or any of its subsidiaries is subject that is required to be described in the Registration Statement, the Prospectus or the Time of Sale Prospectus and is not so described, or any applicable statute, regulation, contract, or other document that is required to be described in the Registration Statement, the Prospectus or the Time of Sale Prospectus that is not so described.

Section 7. *Authority, Compliance with Laws.* As of each date on which the Company and any Bank execute and deliver a Terms Agreement and as of each date the Company issues and sells Securities through any Bank in its capacity as agent or to any Bank in its capacity as underwriter, the following statements are and shall be true:

(a) Each of this Agreement and any Terms Agreement has been duly authorized, executed, and delivered by such Bank and (assuming due authorization, valid execution, and delivery thereof by the Company) is a valid and binding agreement of such Bank, enforceable against such Bank in accordance with its respective terms, except as the enforceability of any such terms or provisions (including, without limitation, such Bank's agency obligations under Section 2 hereof and such Bank's indemnification obligations under Section 11 hereof) may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by general principles of equity, or by the discretion of any court before which any proceeding therefor may be brought.

(b) Neither the execution and delivery of this Agreement or any Terms Agreement by such Bank nor the performance by such Bank of its obligations hereunder or thereunder is precluded by any provision of any applicable federal or state law (including, without limitation, the Blue Sky laws of any jurisdiction, to the extent that such laws apply to such Bank), or of any term or provision of the Charter or By-Laws of such Bank, any agreement or other instrument binding upon such Bank, or any judgment, order, or decree of any governmental body,

agency, or court having jurisdiction over such Bank, and all consents, approvals, authorizations, and orders of and qualifications with all governmental bodies and agencies that are, to such Bank's knowledge, required for the performance by such Bank of its obligations under this Agreement or any Terms Agreement have been obtained, except such as may be required by Blue Sky laws or other securities laws of the various states in which the Securities are offered and sold.

(c) Each Bank has delivered and will deliver a copy of the Prospectus and the Time of Sale Prospectus (as the same may be amended as of the date of such delivery, together with all applicable Supplements), to each person who has agreed to purchase Securities as to which such Bank is named as an agent or underwriter, in each case in accordance with all applicable federal and state laws. Such Bank has not made and will not make any representation, warranty, or other statement to any third party in connection with the solicitation, offer, sale, or distribution of any of the Securities that is or, at the time it is made, will be in violation of any applicable federal or state law.

Section 8. *Agreements*. The Company and each Bank agree as follows:

(a) Prior to the filing by the Company of any amendment to any Prospectus or of any Supplement that shall name such Bank as agent or underwriter, the Company will afford such Bank or such Bank's Counsel a reasonable opportunity to review and comment on the same, provided, however, that the foregoing requirement will not apply to any of the Company's filings with the Commission required to be filed pursuant to Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act. Subject to the foregoing sentence, the Company will promptly cause each applicable Supplement to be filed with or transmitted for filing with the Commission in accordance with Rule 424(b) or 424(c) under the Securities Act or pursuant to such other rule or regulation of the Commission as then deemed appropriate by the Company. The Company will promptly advise the Banks of (i) any request by the Commission for any amendment to the Registration Statement, for any amendment or supplement to the Prospectus, or for any information from the Company, (ii) the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the institution or threatening of any proceeding for that purpose, and (iii) the receipt by the Company of any notification with respect to the suspension of the qualification of the Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose. The Company will use reasonable efforts to prevent the issuance of any such stop order or notice of suspension of qualification and, if issued, to obtain as soon as reasonably possible the withdrawal thereof.

(b) If, at any time when a prospectus relating to any series of Securities is required to be delivered under the Securities Act, any event occurs or condition exists as a result of which the Prospectus or the Time of Sale Prospectus would

include an untrue statement of a material fact, or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if it is necessary to amend or supplement the Prospectus in order to comply with the Securities Act, the Exchange Act, the respective rules and regulations of the Commission thereunder, or any other applicable law, the Company will promptly notify each Bank, by telephone or by facsimile (in either case with written confirmation from the Company by mail), to cease use and distribution of the Prospectus or the Time of Sale Prospectus (and all then existing supplements thereto) and to suspend all efforts to solicit offers to purchase Securities in its capacity as agent or to suspend all efforts to resell the Securities in its capacity as underwriter or dealer, as the case may be, and each Bank will promptly comply with the terms of such notice. If the Company thereafter decides to amend or supplement the Registration Statement or the Time of Sale Prospectus or the Prospectus to correct such statement or omission or to effect such compliance, it will promptly advise each Bank of such decision, either by telephone or telecopier (in either case with confirmation from the Company by mail) and, at the Company's expense, will promptly prepare and cause to be filed with the Commission an appropriate amendment or supplement to the Registration Statement or the Time of Sale Prospectus or the Prospectus, as the case may be, and will supply each Bank with one signed copy of any such amended Registration Statement and as many copies of any such amended or supplemented Prospectus as such Bank may reasonably request. If such amendment or supplement is satisfactory in the reasonable judgment of the Banks to correct such statement or omission or to effect such compliance, then upon the effective date of such amendment to the Registration Statement or the filing with the Commission of such amendment or supplement to the Prospectus or the Time of Sale Prospectus, as the case may be, the Banks may resume solicitation of offers to purchase such Securities or the resale of such Securities as the case may be, in accordance with the terms hereof. Any other provision of this Agreement to the contrary notwithstanding, if any event or condition contemplated in the first sentence of this paragraph (b) shall occur before the Settlement Date for any sale of Securities to be made through any Bank in its capacity as agent, or before such Bank has completed distribution of any Securities it may have purchased in its capacity as underwriter, the Company will forthwith prepare and cause to be filed with the Commission an amendment or supplement to the Registration Statement or the Prospectus or the Time of Sale Prospectus, as the case may be, satisfactory in the reasonable judgment of such Bank to correct such statement or omission or to effect such compliance, and the Company will supply such Bank with one signed copy of such amended Registration Statement and as many copies of such amended or supplemented Prospectus or the Time of Sale Prospectus as such Bank may reasonably request, provided, however, that the expense of preparing, filing, and supplying copies to such Bank of any such amendment or supplement will be borne by the Company

only for the nine-month period immediately following the purchase of such Securities by such Bank and thereafter will be borne by such Bank.

(c) The Company will furnish to each Bank, without charge, as many copies of the Prospectus and the Time of Sale Prospectus, any documents incorporated by reference therein, and any supplements and amendments thereto as such Bank may reasonably request.

(d) The Company will, with such assistance from the Banks as the Company may reasonably request, endeavor to qualify the Securities for offer and sale under the Blue Sky laws or other securities laws of such jurisdictions as the Banks shall reasonably request and will maintain such qualifications for as long as required with respect to the offer, sale, and distribution of the Securities.

(e) From the date of any Terms Agreement providing for the purchase of Securities by any Bank in its capacity as an underwriter hereunder to and including the corresponding Settlement Date, the Company will not, without such Bank's prior consent (which consent may not be unreasonably withheld), offer, sell, or contract to sell to, or announce any offering of any Securities to be distributed by, any underwriter other than such Bank pursuant to any underwriting agreement or other similar agreement (including a distribution agreement) between the Company and one or more third parties. It is expressly understood and agreed that the foregoing will not prohibit or restrict any sale of Securities outside the United States or any sale of Securities by the Company directly to one or more investors, through such Bank as agent hereunder, or through any other agent of the Company.

(f) As of each date on which the Company and the Banks execute and deliver a Terms Agreement and as of each date the Company issues and sells Securities through the Banks in their capacity as agents or to the Banks in their capacity as underwriters, each Bank has disclosed and will disclose to the Company the purchase of any Security made by such Bank as principal, for its own account, and not with a view to the immediate sale or resale of such Security to a bona fide third-party investor.

(g) Such Bank has not used and will not use, has not authorized the use of and will not authorize the use of, has not referred to and will not refer to, and has not participated and will not participate in the planning for use of any "free writing prospectus," as defined in Rule 405 under the Securities Act (which term includes use of any written information furnished to the Commission by the Company and not incorporated by reference into the Registration Statement and any press release issued by the Company) (each such communication by the Company or its agents or representatives an "**Issuer Free Writing Prospectus**") other than (i) a free writing prospectus that contains no "issuer information" (as defined in Rule 433(h)(2) under the Securities Act) that was not included

(including through incorporation by reference) in the preliminary prospectus or a previously filed Issuer Free Writing Prospectus, (ii) any Issuer Free Writing Prospectus listed on Annex A to the applicable Terms Agreement or (iii) any free writing prospectus prepared by such Bank and approved by the Company in advance in writing (each such free writing prospectus referred to in clauses (i) or (iii), an "**Underwriter Free Writing Prospectus**").

(h) Such Bank has not distributed and will not distribute any Underwriter Free Writing Prospectus in a manner reasonably designed to lead to its broad unrestricted distribution.

(i) Such Bank has not used and will not use, without the prior written consent of the Company, any free writing prospectus that contains the final terms of the Securities unless such terms have previously been included in a free writing prospectus filed with the Commission.

(j) Such Bank represents and warrants that it is not subject to any pending proceeding under Section 8A of the Securities Act with respect to the offering (and will promptly notify the Company if any such proceeding against it is initiated during the prospectus delivery period).

Section 9. *Fees and Expenses*. The Company will pay all costs, fees, and expenses arising in connection with the sale of any Securities through the Banks in their capacity as agents or to the Banks in their capacity as underwriters and in connection with the performance by the Banks of their related obligations hereunder and under any Terms Agreement, including the following: (a) expenses incident to the preparation and filing of the Registration Statement, any preliminary prospectus, the Prospectus, any free writing prospectus and the Time of Sale Prospectus and all amendments and supplements thereto, (b) expenses incident to the issuance and delivery of such Securities, (c) the fees and disbursements of the Company's Counsel, the Tax Counsel, the Company's Auditors and the Trustee, (d) expenses incident to the qualification of such Securities under Blue Sky laws and other applicable state securities laws in accordance with the provisions of Section 8(d) hereof, including related filing fees and the reasonable fees and disbursements of the Banks' Counsel in connection therewith and in connection with the preparation of any survey of Blue Sky laws (a "**Blue Sky Survey**"), (e) expenses incident to the printing and delivery to the Banks, in the quantities hereinabove stated, of copies of the Registration Statement and all amendments thereto, of the Prospectus and all amendments and supplements thereto, and of the Time of Sale Prospectus and all amendments and supplements thereto, (f) expenses incident to the printing and delivery to the Banks, in such quantities as each Bank shall reasonably request, of copies of the Indenture, any Warrant Agreement, any Unit Agreement and any Blue Sky Survey, (g) any fees charged by rating agencies for the rating of such Securities, (h) the fees and expenses, if any, incurred with respect to any applicable filing

with the National Association of Securities Dealers, and (i) the reasonable fees and disbursements of the Banks' Counsel incurred in connection with the offering and sale of such Securities, including reasonable fees for the issuance of any opinion to be delivered by the Banks' Counsel hereunder; *provided, however*, that each Bank will pay all costs, fees, and expenses incurred by such Bank in connection with the purchase of Securities by such Bank for its own account or with respect to the resale of Securities purchased by such Bank in its capacity as underwriter hereunder, including all transfer taxes, advertising expenses, and fees and expenses of the Banks' Counsel incident to the resale of any such Securities.

Section 10. *Inspection; Place of Delivery; Payment.*

(a) *Inspection*. The Company agrees to have available for inspection, checking, and packaging by the Banks or their appointed agent, at the office of the Trustee in The City of New York, the Securities to be sold through or to the Banks as agents or underwriters hereunder, not later than 1:00 P.M. on the New York Business Day prior to the applicable Settlement Date. As used in this Agreement, "**New York Business Day**" means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in The City of New York.

(b) *Place of Delivery of Documents, Certificates and Opinions*. The documents, certificates and opinions required to be delivered to the Banks pursuant to Section 5 of this Agreement will be delivered at the offices of the Banks' Counsel, or at such other location as may be agreed upon by the Company and the Banks, not later than 12:00 p.m., New York time, in each case on the date or dates indicated in the applicable Section, or at such other time as the Banks and the Company may agree upon in writing.

(c) *Payment*. Delivery of Securities sold by or through the Banks as underwriters or agents will be made to the Banks on the date that the Company receives payment in full of the aggregate purchase price therefor, discounted as provided in the applicable Supplement with respect to Securities purchased by the Banks as underwriters or (unless otherwise set forth in the applicable Terms Agreement) discounted as provided in paragraph 2(c) hereof regarding payment of the commission set forth in the applicable Supplement with respect to Securities sold through the Banks as agents (each such date a "**Settlement Date**"), in the currency specified in such Securities and in the applicable Supplement, by wire transfer of immediately available funds to an account designated in writing by the Company or by such other means as may be agreed upon by the Company and the Banks and set forth in the applicable Terms Agreement.

Section 11. *Indemnification and Contribution.*

(a) The Company agrees to indemnify and hold each Bank and each person, if any, who controls such Bank within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, harmless from and against any and all losses, claims, damages, or liabilities to which any Bank comes subject under the Securities Act, the Exchange Act, or any other federal or state law or regulation, at common law or otherwise, insofar as such losses, claims, damages, or liabilities (and actions in respect thereof) arise out of, are based upon, or are caused by any untrue statement or allegedly untrue statement of a material fact contained in the Registration Statement, any preliminary prospectus, the Prospectus, or the Time of Sale Prospectus or in any amendment or supplement thereto, or arise out of, are based upon or are 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, and the Company agrees to reimburse each such indemnified party for any reasonable legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability, or action; *provided, however,* that the Company will not be liable to the extent that such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of, are based upon, or are caused by any such untrue statement or omission or allegedly untrue statement or omission included in or omitted from the Registration Statement, the Prospectus or the Time of Sale Prospectus in reliance upon and in conformity with information furnished to the Company by the Banks in writing expressly for use in the Registration Statement, any preliminary prospectus, the Prospectus or the Time of Sale Prospectus or any amendment or supplement thereto, *provided, further,* that any amount payable by the Company to any Bank pursuant to the provisions of this paragraph shall be offset by the amount of any losses, claims, damages, and liabilities sustained or incurred by the Company arising out of or in connection with a violation by the Banks of the provisions of paragraph (b) of Section 7 hereof (except to the extent that such violation occurs as a direct result of a violation by the Company of its obligations under paragraphs (b) or (c) of Section 8 hereof), as such amounts are finally determined by a court of competent jurisdiction, and *provided* that the foregoing indemnity with respect to any preliminary prospectus, the Prospectus or the Time of Sale Prospectus will not inure to the benefit of any Bank, or any underwriter or agent from whom the person asserting any losses, claims, damages or liabilities otherwise covered by this paragraph purchased Securities, or to the benefit of any person controlling such underwriter or agent, if a copy of the preliminary prospectus, the Prospectus or the Time of Sale Prospectus (as then amended and supplemented if the Company shall have furnished any amendments or supplements thereto) was not sent or given by or on behalf of such underwriter or agent to such person if required so to have been delivered, at or prior to the entry into the contract of sale of Securities with such person, and if the preliminary prospectus, the Prospectus or the Time of Sale Prospectus (as so amended or supplemented) would have cured the defect giving rise to such loss, claim, damage or liability.

(b) The Banks agree to indemnify and hold harmless the Company, its directors, its officers who sign the Registration Statement, and each person, if any, who controls the Company within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, to the same extent as the foregoing indemnity from the Company to the Banks, but only with respect to such losses, claims, damages, and liabilities (and actions in respect thereof) that arise out of, are based upon, or are caused by any untrue statement or omission or allegedly untrue statement or omission included in or omitted from the Registration Statement, the Prospectus or the Time of Sale Prospectus in reliance upon and in conformity with information furnished to the Company by the Banks in writing expressly for use in the Registration Statement, the Prospectus or the Time of Sale Prospectus, in each case as amended or supplemented.

(c) In case any proceeding (including any governmental investigation) shall be instituted involving any person in respect of which indemnity may be sought pursuant to either paragraphs (a) or (b) of this Section 11, such person (the "**indemnified party**") will promptly notify the person against whom such indemnity may be sought (the "**indemnifying party**") in writing and the indemnifying party, upon request of the indemnified party, will retain counsel reasonably satisfactory to the indemnified party to represent the indemnified party and any others the indemnifying party may designate in such proceeding and will pay the fees and disbursements of such counsel related to such proceeding. In any such proceeding, any indemnified party will have the right to retain its own counsel, but the fees and expenses of such counsel will be borne by the indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel or (ii) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the indemnifying party will not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all such indemnified parties and that all such reasonable fees and expenses will be reimbursed as they are incurred. Such firm will be designated in writing by the Banks (in the case of parties indemnified pursuant to the second preceding paragraph) or by the Company (in the case of parties indemnified pursuant to the first preceding paragraph), as the case may be. The indemnifying party will not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent, or if there shall be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. No indemnifying party will, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have

been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding. Any provision of this paragraph (c) to the contrary notwithstanding, no failure by an indemnified party to notify the indemnifying party as required hereunder will relieve the indemnifying party from any liability it may have had to an indemnified party otherwise than under this Section 11.

(d) If the indemnification provided for in paragraph (a) or (b) of this Section 11 is unavailable to an indemnified party or is insufficient in respect of any losses, claims, damages, or liabilities referred to therein, then each indemnifying party under such paragraph, in lieu of indemnifying the indemnified party thereunder, will contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Banks, on the other, from the offering of Securities as to which the Banks were named agents or underwriters, or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and the Banks, on the other, in connection with the statements or omissions that resulted in such losses, claims, damages, or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand, and the Banks, on the other, in connection with the offering of Securities as to which the Banks were named agents or underwriters will be deemed to be in the same proportion as the total net proceeds received by the Company from the offering of such Securities bears to the total discounts and commissions received by the Banks from the Company in respect thereof. The relative fault of the Company, on the one hand, and of the Banks, on the other, will be determined by reference to, among other things, whether the untrue or allegedly untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied or to be supplied by the Company or by the Banks and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

(e) The Company and the Banks agree that it would not be just or equitable if contribution pursuant to paragraph (d) above were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to therein. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, and liabilities referred to in paragraph (d) above will be deemed to include, subject to the limitations set forth above, any reasonable legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Any other provisions of this Section 11 to the contrary notwithstanding, (i) the Banks will not be required to contribute to the Company

any amount in excess of the amount by which the aggregate public offering price of all Securities as to which the Banks were named agents or underwriters exceeds the amount of losses, claims, damages, and liabilities sustained or incurred by any Bank arising out of, based upon, or caused by any untrue statement or omission or allegedly untrue statement or omission included in or omitted from the Registration Statement, the Prospectus or the Time of Sale Prospectus (other than in reliance upon and in conformity with information furnished to the Company by the Banks in writing expressly for use in the Registration Statement, the Prospectus or the Time of Sale Prospectus or any amendment or supplement thereto), (ii) any amount payable by the Company or any Bank, as the case may be (the "**Contributing Party**"), pursuant to the provisions of this paragraph or paragraph (d) of this Section 11 shall be offset by the amount of any losses, claims, damages, and liabilities sustained or incurred by the other party arising out of or in connection with a violation (x) by any Bank of the provisions of paragraph (c) of Section 7 hereof (if the Company is the Contributing Party) or (y) by the Company of its obligations under paragraphs (b) or (c) of Section 8 hereof (if such Bank is the Contributing Party), in each case as such amounts are finally determined by a court of competent jurisdiction, and (iii) no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(f) The remedies provided for in this Section 11 are not exclusive and will not limit any rights or remedies that may otherwise be available to any indemnified party at law or in equity.

Section 12. *Termination.* This Agreement will automatically terminate upon the expiration of the offering to which the Prospectus relates and may be earlier terminated by the Company or the Banks upon the giving of written notice of such termination to the other party hereto in accordance with the provisions of Section 14 hereof, provided, however, that if the Company and the Banks shall have executed a Terms Agreement for the purchase of Securities by the Banks in their capacity as underwriters, this Agreement may not be terminated by the Banks prior to delivery of and payment for such Securities except upon the failure of any of the conditions precedent described in Section 5(a) hereof, and provided, further, that if the Company and the Banks shall have executed a Terms Agreement for the purchase of Securities through the Banks as agent, this Agreement may not be terminated by the Banks prior to delivery of and payment for such Securities unless and until the Banks shall have exercised best efforts consistent with standard industry practice to assist the Company in obtaining performance by each purchaser whose offer to purchase such Securities is reflected in such Terms Agreement.

Section 13. *Representations and Indemnities to Survive.* The respective agreements of the Company and each Bank set forth in Section 2(e), 4, 8(b),

9, 11, and 17 hereof, the representations and warranties of the Company set forth in Section 6 hereof, the representations and warranties of each Bank set forth in Section 7 hereof, and the statements and opinions of the Company and its officers set forth in the documents to be delivered by the Company to the Banks as provided in Section 5(c) hereof, will survive delivery of and payment for any Securities as contemplated hereunder and will survive termination of this Agreement in accordance with the provisions of Section 12 above.

Section 14. *Notices.* Except as otherwise specifically provided herein, all communications hereunder will be in writing and will be effective one business day after having been delivered by hand, mailed via Express Mail, deposited with Federal Express or any nationally recognized commercial courier service for "next day" delivery, or telecopied and confirmed in writing (by telecopied facsimile or otherwise) to the respective addresses or telecopier numbers set forth on the signature page hereto, or to such other address or telecopier number as either party may hereafter designate to the other in writing. The foregoing notwithstanding, copies of any Terms Agreement and of any certificate or opinion to be delivered by the Company to the Banks under Section 5(c) hereof will be deemed delivered if executed by all required signatories and telecopied to the Company and/or the Banks, as the case may be, with receipt confirmed in writing (by telecopied facsimile or otherwise). In the event that any Terms Agreement or any such certificate or opinion is delivered via telecopier as contemplated in the preceding sentence, the parties will use best efforts to ensure that "original" copies of such documents will be distributed promptly thereafter.

Section 15. *Successors; Non-Transferability.* This Agreement will inure to the benefit of and be binding upon the parties hereto, their respective successors, and the officers, directors, and controlling persons referred to in Section 11 hereof. No other person will have any right or obligation hereunder. Neither party to this Agreement may assign its rights hereunder without the written consent of the other party.

Section 16. *Counterparts.* This Agreement may be signed in any number of counterparts, each of which will be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 17. *Applicable Law.* This Agreement will be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law.

Section 18. *Headings.* The headings of the sections of this Agreement have been inserted for convenience of reference only and will not affect the construction of any of the terms or provisions hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Distribution Agreement as of the ____ day of _____.

PEPSICO, INC.

By: _____
Name:
Title:

Notice Information:
PepsiCo, Inc.
700 Anderson Hill Road
Purchase, New York 10577
Telephone No.: _____
Facsimile No.: _____
Attention: _____

[NAME OF BANK]

By: _____
Name:
Title:

Notice Information:
[NAME OF BANK]
[ADDRESS]
Telephone No.: _____
Facsimile No.: _____
Attention: _____

Participating Banks:

PEPSICO, INC.

Debt Securities, Warrants and Units

TERMS AGREEMENT

Under
the Distribution Agreement, dated _____, 2006,
Among PepsiCo, Inc. and [Name of Bank(s)]
(The "**Distribution Agreement**")

_____, 20__

PepsiCo, Inc.
Purchase, N.Y. 10577

Attention:

In accordance with the provisions of the above-referenced Distribution Agreement, the undersigned [the "**Bank**"][(individually, the "**Bank**" and collectively, the "**Banks**")], in [its][their] capacity as [Agent(s)][Underwriter(s)] under the Distribution Agreement, hereby [deliver(s) on behalf of one or more third-party investors an offer][agree(s)] to purchase $_____ in aggregate initial offering price of the Securities identified below on the terms hereinafter set forth.

All capitalized terms used in this Terms Agreement and not otherwise defined herein have the meanings ascribed to such terms by the Prospectus (as such term is defined in the Distribution Agreement); *provided, however*, that in the event of a conflict between the Prospectus and the Pricing Supplement or Prospectus Supplement applicable to the Securities to which this Terms Agreement relates, the definition set forth in the applicable Supplement will govern.

Designation or Title of Securities:

Issue Price [i.e., Price to Public]:

[Agent(s)' Commission][Underwriter(s)' Discount]:

Currency:

Interest Rate [or, if a Floating Rate Debt Security, Initial Interest Rate]:

Date of Issue:

Interest accrual date [if other than Date of Issue]:

Interest Payment Dates:

Principal Payment Dates [if other than at maturity]:

Scheduled Maturity Date:

Calculation Agent:

[Total amount of OID:]

[Optional redemption dates:]

[Option to elect repayment:]

[Sinking fund:]

[Acceleration provisions:]

[Exchange Rate Agent:]

[Other terms, if any:]

Settlement Date [and scheduled time and place]:

Possible additional terms for Floating Rate Debt Securities

[Base Rate:]

[Index Maturity:]

[Spread:]

[Spread Multiplier:]

[Spread Divisor:]

[Interest Period:]

[Interest Reset Dates:]

[Maximum Interest Rate:]

[Minimum Interest Rate:]

The provisions of Sections [2 (if the Bank(s) [is][are] acting as agent(s))][3 (if the Bank(s) [is][are] acting as underwriter(s))] and 4 through 14 of the Distribution Agreement are incorporated by reference herein with the same force and effect as if set forth in full herein.

[In the event that two or more banks are signing this Terms Agreement: The Company represents that the respective Distribution Agreements executed and delivered by the Company and each of the Banks prior to or together with the execution and delivery of this Terms Agreement are identical in all material respects.]

This Terms Agreement will be (i) governed by and construed in accordance with the internal laws of the State of New York without regard to principles of conflicts of law, (ii) inure to the benefit of and be binding upon the parties hereto, their respective successors, and the officers, directors, and controlling persons referred to in Section 11 of the Distribution Agreement, and no other person will have any right or obligation hereunder. No party to this Terms Agreement may assign its rights hereunder without the written consent of the other parties. This Terms Agreement may be signed in any number of counterparts, each of which will be an original, with the same effect as if the signatures thereto and hereto were upon one and the same instrument.

[NAME OF BANK(S)]

By: _____
Name:
Title:

Accepted this __ day of
_____, 20__.

PEPSICO, INC.

By: _____
Name:
Title:

Time of Sale Prospectus:

1. Preliminary Prospectus issued [date]
2. Identify all free writing prospectuses filed by the Company under Rule 433(d) of the Securities Act
3. [free writing prospectus containing a description of terms that does not reflect final terms, if the Time of Sale Prospectus does not include a final term sheet]

PEPSICO, INC.

ADMINISTRATIVE PROCEDURES

Explained below are the administrative procedures applicable to the offering of the notes, debentures, and other evidences of unsecured indebtedness (the "**securities**") of PepsiCo, Inc. (the "**Company**"), that have been registered by the Company with the Securities and Exchange Commission (the "**Commission**") under the Company's registration statement on Form S-3, File No. 333-_____ such securities hereinafter the "**Debt Securities**" and such registration statement hereinafter the "**Registration Statement**"). The Debt Securities will be offered pursuant to one or more agreements in substantially the form of Distribution Agreement filed as an exhibit to the Registration Statement (the "**Distribution Agreement**").

The Debt Securities will be issued pursuant to the provisions of the Indenture, dated as of _____, 20__ (as it may be supplemented or amended from time to time, the "**Indenture**"), between the Company and JPMorgan Chase Bank, N.A. ("**JPMorgan**"), as trustee. JPMorgan will be the Registrar, Authentication Agent, and Paying Agent for the Debt Securities and will perform the duties specified below. The Debt Securities may bear interest at a fixed rate (the "**Fixed Rate Debt Securities**") or a floating rate (the "**Floating Rate Debt Securities**"). Each Debt Security will be issued either (a) in book-entry form, as a beneficial interest in a single global Debt Security (a "**Global Debt Security**") to be delivered to JPMorgan, as agent for The Depository Trust Company ("**DTC**"), and registered in the name of Cede & Co. or such other nominee of DTC as may be designated by DTC, or (b) in certificated form (a "**Certificated Debt Security**") to be delivered to the holder thereof or to a person designated by such holder. Except in limited circumstances, Book-Entry Debt Securities will not be exchangeable for Certificated Debt Securities.

Book-Entry Debt Securities will be issued in accordance with the administrative procedures set forth in Part I hereof, as such procedures may from time to time be amended as a result of changes in DTC's operating procedures. Certificated Debt Securities will be issued in accordance with the administrative procedures set forth in Part II hereof.

All capitalized terms used herein and not otherwise defined have the meanings ascribed to such terms by the Prospectus filed as part of the Registration Statement (the "**Prospectus**"). In the event of a conflict between the terms hereof and the terms of the Prospectus or any amendment or supplement thereto, the terms of the Prospectus, as so amended or supplemented, shall govern.

PART I

ADMINISTRATIVE PROCEDURES RE: BOOK-ENTRY DEBT SECURITIES

In connection with the qualification of the Book-Entry Debt Securities for eligibility in the book-entry system maintained by DTC, JPMorgan will perform certain custodial, document control, and administrative functions as described below and in accordance with its obligations as a participant in DTC's book-entry system, including DTC's Same-Day Funds Settlement System ("**SDFS**").

Issuance:

On any Settlement Date (as defined in the Distribution Agreement) for one or more Book-Entry Debt Securities of the same series, the Company will issue one or more Global Debt Securities, in fully registered form, without coupons, each representing up to $500,000,000 in aggregate principal amount of such Debt Securities. Each Global Debt Security will be dated and issued as of the date of its authentication by JPMorgan. The Interest accrual date for any Global Debt Security will be as follows: (i) with respect to an original Global Debt Security (or any portion thereof), its date of issue, and (ii) with respect to any Global Debt Security (or any portion thereof) issued upon exchange of a Global Debt Security or in lieu of a destroyed, lost, or stolen Global Debt Security, the most recent preceding Interest Payment Date under the predecessor Global Debt Security or Securities (or, if no interest has been paid or provided for as of the date of issuance of such succeeding Global Debt Security, the date of issuance of the predecessor Global Debt Security), regardless of the date of authentication of such subsequently issued Global Debt Security. No Global Debt Security will represent any Certificated Debt Security.

Identification Numbers:

Prior to each Settlement Date, the Company will obtain from the CUSIP Service Bureau of Standard & Poor's (the "**CUSIP Service Bureau**") new CUSIP numbers (including tranche numbers) for the Debt Securities to be issued on such Settlement Date and shall deliver such CUSIP numbers to JPMorgan and DTC.

Registration:

Each Global Debt Security will be registered in the name of Cede & Co., as nominee for DTC, on the Security register maintained under the Indenture. The beneficial owner of a Book-Entry Debt Security (or one or more indirect participants in DTC, as designated by such owner) will designate one or more participants in DTC (with respect to such Debt Security, the "**Participants**") to act as agent or agents for such owner in connection with the book-entry system maintained by DTC, and DTC will record in book-entry form, in accordance with instructions provided by such Participants, a credit balance with respect to such

beneficial owner in such Debt Security in the account of such Participants. The ownership interest of such beneficial owner in such Debt Security will be recorded through the records of such Participants or through the separate records of such Participants and one or more indirect participants in DTC.

Transfers:

Transfers of a Book-Entry Debt Security will be accompanied by book entries made by DTC and, in turn, by Participants (and in certain cases, one or more indirect participants in DTC) acting on behalf of beneficial transferors and transferees of such Debt Security.

Exchanges:

JPMorgan may, upon notice to the Company, deliver to DTC and the CUSIP Service Bureau at any time a written notice of consolidation (a copy of which shall be attached to the Global Debt Security resulting from such consolidation) specifying: (i) the CUSIP numbers of two or more outstanding Global Debt Securities that represent Book- Entry Debt Securities of the same series and for which interest has been paid to the same date, (ii) a date, occurring at least 30 days after such written notice is delivered and at least 30 days before the next Interest Payment Date for such Book-Entry Debt Securities, on which such Global Debt Securities shall be exchanged for a single replacement Global Debt Security, and (iii) a new CUSIP number to be assigned by the Company to such replacement Global Debt Security. Upon receipt of such a notice, DTC will send to its Participants (including JPMorgan) a written reorganization notice to the effect that such exchange will occur on such date. Prior to the specified exchange date, JPMorgan will deliver to the CUSIP Service Bureau a written notice setting forth such exchange date and the new CUSIP number and stating that, as of such exchange date, the CUSIP numbers of the Global Debt Securities to be exchanged will no longer be valid. On the specified exchange date, JPMorgan will exchange such Global Debt Securities for a single Global Debt Security bearing the new CUSIP number and a new Interest accrual date, and the CUSIP numbers of the exchanged Global Debt Securities will, in accordance with CUSIP Service Bureau procedures, be canceled and not immediately reassigned. Notwithstanding the foregoing, if the Global Debt Securities to be exchanged exceed $500,000,000 in aggregate principal amount, one Global Debt Security will be authenticated and issued to represent each $500,000,000 principal amount of the exchanged Global Debt Security and an additional Global Debt Security will be authenticated and issued to represent any remaining principal amount of such Global Debt Securities (see “**Denominations**” below).

Maturities:

Each Book-Entry Debt Security will mature on a date not less than nine months after the Settlement Date for such Debt Security. The date on which all outstanding principal of and interest on any Debt Security will be due and payable is referred to herein as the "**Maturity Date**" for such Debt Security.

Notice of Redemption

Notice of Redemption Dates: JPMorgan will give notice to DTC prior to each Redemption Date as specified in the Debt Security.

Denominations:

Unless otherwise set forth in the form of the applicable Global Debt Security, Book-Entry Debt Securities will be issued in principal amounts of $100,000,000 or any amount in excess thereof that is an integral multiple of $1,000. Global Debt Securities will be denominated in principal amounts not in excess of $500,000,000. If one or more Book-Entry Debt Securities having an aggregate principal amount in excess of $500,000,000 would, but for the preceding sentence, be represented by a single Global Debt Security, then one Global Debt Security will be issued to represent each $500,000,000 principal amount of such Book- Entry Debt Security or Securities and an additional Global Debt Security will be issued to represent any remaining principal amount of such Book-Entry Debt Security or Securities subject, to the minimum denomination requirement set forth above. In such a case, each of the Global Debt Securities representing such Book-Entry Debt Security or Securities shall be assigned the same CUSIP number. (References in this paragraph to U.S. dollars shall refer instead to any Specified Currency, as may be applicable.)

Interest:

General. Interest on each Book-Entry Debt Security will accrue from the Interest accrual date of the Global Debt Security representing such Book- Entry Debt Security. Each payment of interest on a Book-Entry Debt Security will include interest from and including the Interest accrual date or the most recent date for which interest has been paid or provided for, as the case may be, to but excluding the next succeeding Interest Payment Date or the Maturity Date, as the case may be. Interest payable on any Interest Payment Date will be paid to the Holder of Record as of the applicable Record Date (see below), provided that interest, if any, payable at the maturity or upon redemption of a Book-Entry Debt Security will be payable to the person to whom the principal of such Debt Security is payable.

Record Dates.

The Record Date with respect to any Interest Payment Date shall be the date fifteen calendar days immediately preceding such Interest Payment Date.

Fixed Rate Book-Entry Debt Securities. Interest Payment Dates for Fixed Rate Book-Entry Debt Securities will be as set forth in the applicable form of Fixed Rate Global Debt Security.

Floating Rate Book-Entry Debt Securities. Interest Payment Dates for Floating Rate Book-Entry Debt Securities will be as set forth in the applicable form of Floating Rate Global Debt Security. Unless otherwise set forth in the applicable form of Global Debt Security, interest on Floating Rate Book-Entry Debt Securities will be payable monthly, quarterly, semi-annually, or annually and (a) in the case of Floating Rate Book-Entry Debt Securities with a daily, weekly, or monthly Interest Reset Date, on the third Wednesday of each month or on the third Wednesday of each March, June, September, and December during the term of such Security, as specified pursuant to Settlement Procedure "**A**" below; (b) in the case of Floating Rate Debt Securities with a quarterly Interest Reset Date, on the third Wednesday of each March, June, September, and December during the term of such Security; (c) in the case of Floating Rate Debt Securities with a semi-annual Interest Reset Date, on the third Wednesday of the two months specified pursuant to Settlement Procedure "**A**" below; and (d) in the case of Floating Rate Debt Securities with an annual Interest Reset Date, on the third Wednesday of the month specified pursuant to Settlement Procedure "**A**" below; provided, however, that if an Interest Payment Date (other than the Maturity Date or a redemption date or a repayment date) for any Floating Rate Book-Entry Debt Security would otherwise be a day that is not a New York Business Day, such Interest Payment Date will be the next succeeding New York Business Day, except that in the case of a LIBOR-indexed Debt Security, if such New York Business Day is in the next succeeding calendar month, such Interest Payment Date will be the immediately preceding New York Business Day.

Notice of Interest Payment and Record Dates. On the first New York Business Day of each January, April, July, and October during the period that the Registration Statement is in effect, JPMorgan will deliver to the Company and DTC a written list of Record Dates and Interest Payment Dates that will occur with respect to then outstanding Book-Entry Debt Securities during the six-month period beginning on such first New York Business Day.

Calculation of Interest:

Fixed Rate Book-Entry Debt Securities. Unless otherwise set forth in the applicable form of Fixed Rate Global Debt Security and in the applicable Pricing Supplement, the amount of interest payable on any Interest Payment Date for Fixed Rate Book-Entry Debt Securities shall be computed on the basis of a 360-day year of twelve 30-day months and the amount of interest payable for any

partial period shall be computed on the basis of the actual number of days elapsed in a 360-day year of twelve 30-day months.

Floating Rate Book-Entry Debt Securities. Unless otherwise set forth in the applicable form of Floating Rate Global Debt Security and in the applicable Pricing Supplement, interest on Floating Rate Book-Entry Debt Securities will be calculated on the basis of actual days elapsed and a year of 360 days.

Payments of Principal and Interest:

Payments of Interest. Promptly after each Record Date, JPMorgan will deliver to the Company and DTC a written notice specifying by CUSIP number the amount of interest (to the extent then ascertainable) to be paid on each Global Debt Security (other than an amortizing Debt Security) on the following Interest Payment Date (other than an Interest Payment Date coinciding with maturity) and the total of such amounts. In the case of amortizing Debt Securities, JPMorgan will provide separate written notice to DTC prior to each Interest Payment Date at the times and in the manner set forth in DTC's operational arrangements. The Company will pay to JPMorgan, as paying agent, the total amount of interest due on such Interest Payment Date (and, in the case of an amortizing Debt Security, principal and interest) (other than at maturity), and JPMorgan will pay such amount to DTC at the times and in the manner set forth below under "**Manner of Payment.**" If any Interest Payment Date for a Fixed Rate Book-Entry Debt Security is not a New York Business Day, the payment due on such day shall be made on the next succeeding New York Business Day and no interest shall accrue on such payment for the period from and after such Interest Payment Date.

Payments at Maturity or Upon Redemption. On or about the first New York Business Day of each month during the period that the Registration Statement is in effect, JPMorgan will deliver to the Company and DTC a written list of principal and interest (to the extent then ascertainable) to be paid on each then outstanding Global Debt Security (other than an amortizing Debt Security) maturing either at maturity or on a redemption date in the following month. The Company and DTC will confirm the amounts of such principal and interest payments with respect to each such Global Debt Security on or about the fifth New York Business day preceding the Maturity Date or redemption date of such Global Debt Security. In the case of amortizing Debt Securities, JPMorgan will provide separate written notice to DTC prior to each Interest Payment Date at the times and in the manner set forth in DTC's operational arrangements. The Company will pay to JPMorgan, as the paying agent, the principal amount of such Global Debt Security, together with interest due at such Maturity Date or redemption date. JPMorgan will pay such amounts to DTC at the times and in the manner set forth below under "**Manner of Payment.**" If any Maturity Date or redemption date or repayment date of a Global Debt Security representing Book-Entry Debt Securities is not a New York Business Day, the payment due on such

day shall be made on the next succeeding New York Business Day and no interest shall accrue on such payment for the period from and after such Maturity Date or redemption date or repayment date. Promptly after payment to DTC of the principal and interest due on the Maturity Date or redemption date of such Global Debt Security, JPMorgan will cancel such Global Debt Security in accordance with the terms of the Indenture and deliver it to the Company with a certificate of cancellation.

Manner of Payment. The total amount of any principal and interest due on Global Debt Securities on any Interest Payment Date or at maturity or upon redemption shall be paid by the Company to JPMorgan in funds available for immediate use by JPMorgan as of 9:30 A.M. (New York City time) on such date. The Company will make such payment on such Global Securities by instructing JPMorgan to withdraw funds from an account maintained by the Company at JPMorgan. The Company will confirm such instructions in writing to JPMorgan. Prior to 10 A.M. (New York City time) on each Maturity Date or redemption date or as soon as possible thereafter, JPMorgan will pay by separate wire transfer (using Fedwire message entry instructions in a form previously specified by DTC) to an account at the Federal Reserve Bank of New York previously specified by DTC, in funds available for immediate use by DTC, each payment of interest or principal (together with interest thereon) due on Global Debt Securities on any Maturity Date or redemption date. On each Interest Payment Date, interest payments (and, in the case of amortizing Debt Securities, interest and principal payments) shall be made to DTC in same day funds in accordance with existing arrangements between JPMorgan and DTC. Thereafter on each such date, DTC will pay, in accordance with its SDFS operating procedures then in effect, such amounts in funds available for immediate use to the respective Participants in whose names the Book- Entry Debt Securities represented by such Global Debt Securities are recorded in the book-entry system maintained by DTC. NEITHER THE COMPANY NOR JPMORGAN SHALL HAVE ANY RESPONSIBILITY OR LIABILITY FOR THE PAYMENT BY DTC TO SUCH PARTICIPANTS OF THE PRINCIPAL OF AND INTEREST ON THE BOOK-ENTRY DEBT SECURITIES.

Withholding Taxes. The amount of any taxes required under applicable law to be withheld from any interest payment on a Book-Entry Debt Security will be determined and withheld by the Participant, indirect participant in DTC, or other person responsible for forwarding payments directly to the beneficial owner of such Debt Security.

Preparation of Pricing Supplement:

If any order to purchase one or more Book-Entry Debt Securities is accepted by or on behalf of the Company, the Company will prepare an applicable Pricing Supplement to the Prospectus, reflecting the terms of such Debt Security.

The Company will arrange to file such Pricing Supplement with the Commission in accordance with the provisions of paragraph (b) or (c) of Rule 424 promulgated under the Securities Act and will deliver the number of copies of such Pricing Supplement to each Bank as such Bank shall have reasonably requested by the close of business on the preceding New York Business Day. The Banks will cause such Pricing Supplement to be delivered to each purchaser of such Book-Entry Debt Securities in accordance with the applicable provisions of the Securities Act. In each instance that a Pricing Supplement is prepared, the Banks will affix the Pricing Supplement to the Prospectus (as amended or supplemented) prior to use of either such Pricing Supplement or the Prospectus (as amended or supplemented). Outdated Pricing Supplements, and the copies of the Prospectus to which they are attached (other than those retained files), will be destroyed.

Settlement:

The receipt by the Company of immediately available funds in payment for a Book-Entry Debt Security and the authentication and issuance of the Global Debt Security representing such Debt Security shall constitute "settlement" with respect to such Debt Security. All orders accepted by the Company will be settled on the fifth New York Business Day next succeeding the date of acceptance pursuant to the timetable for settlement set forth below, unless the Company and the purchaser agree to settlement on another day (which day shall be no earlier than the next succeeding New York Business Day).

Settlement Procedures with regard to each Book-Entry Debt Security sold by the Company to or through any Bank shall be as follows:

A. The Banks will advise the Company by telephone that such Debt Security is a Book-Entry Debt Security and of the following settlement information:

Order number

Principal amount.

Maturity Date.

CUSIP number.

In the case of a Fixed Rate Book-Entry Debt Security, the interest rate and whether such Debt Security is an amortizing Debt Security, or in the case of a Floating Rate Book-Entry Debt Security, the Initial Interest Rate (if known at such time), Base Rate, Index Maturity, Interest Reset Periods, Interest Periods, Spread or Spread Multiplier (if any), Maximum and Minimum Interest Rates (if

any), alternate rate event spread (if any), and the applicability of the Business Day Convention.

Interest Payment Dates.

Record dates.

Redemption and/or repayment provisions, if any.

Trade date.

Settlement Date.

Issue Price.

Banks' commission or discount, if any, determined as provided in the applicable Terms Agreement.

Whether the Debt Security is an OID Debt Security and, if it is, the total amount of OID, the yield to maturity, the initial accrual period OID, and the applicability of Modified Payment upon Acceleration.

Net proceeds to Company.

Each Bank's Name and whether such Bank is acting as agent, underwriter, or principal for its own account.

Any other applicable terms.

B. The Company will advise JPMorgan by telephone or electronic transmission (confirmed in writing at any time on the same date) of the information set forth in Settlement Procedure "**A**" above. The Company will provide to JPMorgan a CUSIP number to be assigned to the Global Debt Security representing such Book-Entry Debt Security and will notify the Banks of such CUSIP number by telephone as soon as practicable.

C. JPMorgan will enter a pending deposit message through DTC's Participant Terminal System, providing the following settlement information to DTC and the Agent:

The information set forth in Settlement Procedure "**A**".

The Initial Interest Payment Date for such Debt Security, the number of days by which such date succeeds the related DTC Record Date (which in the case of Floating Rate Debt Securities that reset daily or weekly shall be the date 5 calendar days immediately preceding the applicable Interest Payment Date and, in

the case of all other Book-Entry Debt Securities, shall be the Record Date as defined in the Debt Security) ant the amount of interest payable on such Initial Interest Payment Date.

The CUSIP number of the Global Debt Security representing such Book-Entry Debt Security.

Whether such Global Debt Security will represent any other Book-Entry Debt Security (to the extent known at such time).

Whether such Debt Security is an amortizing Debt Security (by appropriate notation in the comments field of DTC's Participant Terminal System).

D. JPMorgan will complete and authenticate the Global Debt Security representing such Debt Security.

E. DTC will credit such Debt Security to JPMorgan's participant account at DTC.

F. JPMorgan will enter a Same Day Funds Settlement ("**SDFS**") delivery order through DTC's Participant Terminal System instructing DTC to (i) debit such Debt Security to JPMorgan's participant account and credit such Debt Security to each Bank's participant account, and (ii) debit such Bank's settlement account and credit JPMorgan's settlement account for an amount equal to the price of such Debt Security less such Bank's commission or discount, if any. The entry of such a delivery order shall constitute a representation and warranty by JPMorgan to DTC that (a) the Global Debt Security representing such Book-Entry Debt Security has been issued and authenticated and (b) JPMorgan is holding such Global Debt Security as custodian for DTC.

G. Unless such Bank purchased such debt Security as principal for its own account, each Bank will enter an SDFS delivery order through DTC's Participant Terminal System instructing DTC (i) to debit such Debt Security to such Bank's participant account and credit such Debt Security to the participant accounts of the Participants with respect to such Debt Security, and (ii) to debit the settlement accounts of such Participants and credit the settlement account of such Bank for an amount equal to the price of such Debt Security.

H. Transfers of funds in accordance with SDFS delivery orders described in Settlement Procedures "**F**" and "**G**" will be settled in accordance with SDFS operating procedures in effect on the Settlement Date.

I. JPMorgan will credit to the account of the Company maintained at JPMorgan, New York, New York, in funds available for immediate use, in the amount transferred to JPMorgan in accordance with Settlement Procedure "**F**".

J. Unless such Bank purchased such Debt Security as underwriter or as principal for its own account, each Bank will confirm the purchase of such Debt Security to the purchaser either by transmitting to the Participants with respect to such Debt Security a confirmation order or orders through DTC's institutional delivery system or by mailing a written confirmation to such purchaser.

K. Monthly, JPMorgan will send to the Company a statement setting forth the principal amount of Debt Securities outstanding under the Indenture as of such date and setting forth a brief description of any sales of which the Company has advised JPMorgan but which have not yet been settled.

For sales by the Company of Book-Entry Securities to or through the Banks for settlement on the first New York Business Day after the sale date, Settlement Procedures "**A**" through "**J**" set forth above shall be completed as soon as possible but not later than the respective times (New York City time) set forth below:

Procedure A:	11:00 a.m. on Sale Date
Procedure B:	12:00 p.m. on Sale Date
Procedure C:	2:00 p.m. on Sale Date
Procedure D:	9:00 a.m. on Settlement Date
Procedure E:	10:00 a.m. on Settlement Date
Procedure F:	2:00 p.m. on Settlement Date
Procedure G:	2:00 p.m. on Settlement Date
Procedure H:	4:45 p.m. on Settlement Date
Procedure I:	5:00 p.m. on Settlement Date
Procedure J:	5:00 p.m. on Settlement Date

If a sale is to be settled more than one New York Business Day after the sale date, Settlement Procedures "**A**", "**B**", and "**C**" shall be completed as soon as practicable but not later than 11:00 A.M., 12:00 P.M., and 2:00 P.M., respectively, on the first New York Business Day after the sale date. If the initial interest rate for a Floating Rate Book-Entry Debt Security has not been determined at the time that Settlement Procedure "**A**" is completed, Settlement Procedures "**B**" and "**C**" shall be completed as soon as such rate has been determined but no later than 12:00 P.M. and 2:00 P.M., respectively, on the second New York Business Day before the Settlement Date. Settlement Procedure "**H**" is subject to extension in accordance with any extension of Fedwire closing deadlines and in the other events specified in the SDFS operating procedures in effect on the Settlement Date. If settlement of a Book-Entry Debt Security is

rescheduled or canceled, JPMorgan, after receiving notice from the company or the Banks, will deliver to DTC, through DTC's Participant Terminal System, a cancellation message to such effect by no later than 2:00 P.M. on the New York Business Day immediately preceding the scheduled Settlement Date.

Failure to Settle:

If JPMorgan fails to enter an SDFS delivery order with respect to a Book-Entry Debt Security pursuant to Settlement Procedure "**F**", JPMorgan may deliver to DTC, through DTC's Participant Terminal System, as soon as practicable, a withdrawal message instructing DTC to debit such Debt Security to JPMorgan's participant account, provided that JPMorgan's participant account contains a principal amount of the Global Debt Security representing such Debt Security that is at least equal to the principal amount to be debited. If a withdrawal message is processed with respect to all the Book-Entry Debt Securities represented by a Global Debt Security, JPMorgan will mark such Global Debt Security "**canceled,**" make appropriate entries in JPMorgan's records and send such canceled Global Debt Security to the Company. The CUSIP number assigned to such Global Debt Security shall, in accordance with CUSIP Service Bureau procedures, be canceled and not immediately reassigned. If a withdrawal message is processed with respect to one or more, but not all, of the Book-Entry Debt Securities represented by a Global Debt Security, JPMorgan will exchange such Global Debt Security for two Global Debt Securities, one of which shall represent such Book-Entry Debt Security or Securities and shall be canceled immediately after issuance, and the other of which shall represent the remaining Book-Entry Debt Securities previously represented by the surrendered Global Debt Security and shall bear the CUSIP number of the surrendered Global Debt Security.

If the purchase price for any Book-Entry Debt Security is not timely paid to the Participants with respect to such Debt Security by the beneficial purchaser thereof (or a person, including an indirect participant in DTC, acting on behalf of such purchaser), such Participants and, in turn, each Bank may enter SDFS deliver orders through DTC's Participant Terminal System reversing the orders entered pursuant to Settlement Procedures "**F**" and "**G**", respectively. Thereafter, JPMorgan will deliver the withdrawal message and take the related actions described in the preceding paragraph. Notwithstanding the foregoing, upon any failure to settle with respect to a Book-Entry Debt Security, DTC may take any actions in accordance with its SDFS operating procedures then in effect. In the event of a failure to settle with respect to one or more, but not all, of the Book-Entry Debt Securities to have been represented by a Global Debt Security, JPMorgan will provide, in accordance with Settlement Procedures "**D**" and "**F**", for the authentication and issuance of a Global Debt Security representing the Book-Entry Debt Securities to be represented by such Global Debt Security and will make appropriate entries in its records.

PART II

ADMINISTRATIVE PROCEDURES RE:
CERTIFICATED DEBT SECURITIES

JPMorgan will serve as registrar in connection with the Debt Securities.

Issuance:

Each Certificated Debt Security will be dated and issued as of the date of its authentication by JPMorgan. The Interest accrual date for any Certificated Debt Security will be as follows: (i) with respect to an original Certificated Debt Security (or any portion thereof), its original issuance date and (ii) with respect to any Certificated Debt Security (or portion thereof) issued subsequently upon transfer or exchange of a Certificated Debt Security or in lieu of a destroyed, lost, or stolen Certificated Debt Security, the original issuance date of the predecessor Certificated Debt Security, regardless of the date of authentication of such subsequently issued Certificated Debt Security.

Registration:

Certificated Debt Securities will be issued only in fully registered form without coupons.

Transfers and Exchanges:

A Certificated Debt Security may be presented for transfer or exchange at the corporate trust office of JPMorgan or as set forth in the form of Certificated Debt Security. Certificated Debt Securities will be exchangeable for other Certificated Debt Securities having identical terms but different denominations without service charge. Certificated Debt Securities will not be exchangeable for Book-Entry Debt Securities.

Maturities:

Each Certificated Debt Security will mature on a date not less than nine months from the Settlement Date for such Debt Security.

Currency:

The currency denomination with respect to any Certificated Debt Security and the payment of interest and the repayment of principal with respect thereto shall be as set forth therein and in the applicable Pricing Supplement.

Except as otherwise specified in the form of Certificated Debt Security, the minimum denomination of any Certificated Debt Security will be U.S.

$100,000,000 or any amount in excess thereof that is an integral multiple of U.S. $1,000. (References in this paragraph to U.S. dollars shall refer instead to any Specified Currency, as may be applicable.)

Interest:

General: Interest on each Certificated Debt Security shall accrue from the Interest accrual date. Each payment of interest on a Certificated Debt Security will include interest from and including the Interest accrual date or the most recent date for which interest has been paid or provided for, as the case may be, to but excluding the next succeeding Interest Payment Date or the Maturity Date, as the case may be. Interest payable on any Interest Payment Date will be paid to the Holder of Record as of the applicable Record Date, provided that interest, if any, payable at the maturity or upon redemption of such Debt Security will be payable to the person to whom the principal of such Debt Security is payable.

Fixed Rate Certificate Debt Securities. Interest Payment Dates for Fixed Rate Debt Securities will be as set forth in the applicable form of Certificated Debt Security.

Floating Rate Certificated Debt Securities:

Interest Payment Dates for Floating Rate Certificated Debt Securities will be as set forth in the form of Certificated Debt Security and in the applicable Pricing Supplement. Unless otherwise set forth in such form of Certificated Debt Security and in the applicable Pricing Supplement, interest on Floating Rate Certificated Debt Securities will be payable monthly, quarterly, semi-annually, or annually and (a) in the case of Floating Rate Certificated Debt Securities with a daily, weekly or monthly Interest Reset Date, on the third Wednesday of each month or on the third Wednesday of each March, June, September, and December during the term of such Debt Security, as specified pursuant to Settlement Procedure "**A**" below; (b) in the case of Floating Rate Certificated Debt Securities with a quarterly interest Payment Reset Date, on the third Wednesday of each March, June, September, and December during the term of such Debt Security; (c) in the case of Debt Securities with a semi-annual Interest Reset Date, on the third Wednesday of the two months specified pursuant to Settlement Procedure "**A**" below; and (d) in the case of Floating Rate Certificated Debt Securities with an annual Interest Reset Date, on the third Wednesday of the month specified pursuant to Settlement Procedure "**A**" below; provided, however, that if an Interest Payment Date (other than the Maturity Date or a redemption date or a repayment date) for Floating Rate Certificated Debt Securities would otherwise be a day that is not a New York Business Day, such Interest Payment Date will be the next succeeding New York Business Day, except that in the case of a LIBOR-indexed Debt Security if such succeeding New York Business Day is in the next

succeeding calendar month, such Interest Payment Date will be the immediately preceding New York Business Day.

Calculation of Interest:

Fixed Rate Certificated Debt Securities. Unless otherwise set forth in the applicable form of Certificated Debt Security and in the applicable Pricing Supplement, the amount of interest payable on any Interest Payment Date for Fixed Rate Book-Entry Debt Securities shall be computed on the basis of a 360-day year of twelve 30-day months and the amount of interest payable for any partial period shall be computed on the basis of the actual number of days elapsed in a 360-day year of twelve 30-day months.

Floating Rate Certificated Debt Securities. Interest rates on Floating Rate Certificated Debt Securities will be determined as set forth in the form of such Debt Securities and in the applicable Pricing Supplement. Unless otherwise set forth in the applicable form of Debt Security and in the applicable Pricing Supplement, interest on Floating Rate Certificated Debt Securities will be calculated on the basis of actual days elapsed and a year of 360 days.

Payments of Principal and Interest:

JPMorgan will pay the principal amount of each Certificated Debt Security at maturity or upon redemption upon presentation and surrender of such Debt Security to JPMorgan. Such payment, together with payment of interest due at maturity or upon redemption of such Debt Security, will be made in funds available for immediate use by JPMorgan and in turn by the holder of such Debt Security. Certificated Debt Securities presented to JPMorgan at maturity or upon redemption for payment will be canceled by JPMorgan and delivered to the Company with a certificate of cancellation. All interest payments on a Certificated U.S. dollar Debt Security (other than interest due at maturity or upon redemption) will be made by U.S. dollar check drawn on JPMorgan (or another person appointed by JPMorgan) and mailed by JPMorgan to the person entitled thereto as provided in such Debt Security and the Indenture; provided, however, that the holder of $10,000,000 or more of Certificated Debt Securities having the same Interest Payment Date will be entitled to receive payment by wire transfer of immediately available funds; provided, that such holder shall have given JPMorgan notice of the account to which such transfer shall be made at least 15 calendar days prior to the applicable payment date. Following each Record Date during the period that the Registration Statement is in effect, JPMorgan will furnish the Company with a list of interest payments (to the extent then ascertainable) to be made on the following Interest Payment Date for each then outstanding Certificated Debt Security and in total for all such Certificated Debt Securities. Interest at maturity or upon redemption will be payable to the person to whom the payment of principal is payable. JPMorgan will provide monthly to

the Company lists of principal and interest, to the extent ascertainable, to be paid on Certificated Debt Securities maturing or to be redeemed in the next month. JPMorgan will be responsible for withholding taxes on interest paid on Certificated Debt Securities as required by applicable law.

If any Interest Payment Date or the Maturity Date or redemption date of a Fixed-Rate Certificated Debt Security is not a New York Business Day, the payment due on such day shall be made on the next succeeding New York Business Day and no interest shall accrue on such payment for the period from and after such Interest Payment Date, Maturity Date or redemption date, as the case may be. If the Maturity Date or any redemption date or repayment date for any Certificated Floating Rate Debt Security would fall on a day that is not a New York Business Day, the payment of principal and interest due on such day shall be made on the next succeeding New York Business Day and no interest shall accrue on such payment for the period from and after the Maturity Date or such redemption date or repayment date, as the case may be.

Preparation of Pricing Supplement:

If any order to purchase a Certificated Debt Security is accepted by or on behalf of the Company, the Company will prepare an applicable Pricing Supplement to the Prospectus (as amended or supplemented), reflecting the terms of such Debt Security. The Company will file such Pricing Supplement with the Commission in accordance with the provisions of paragraph (b) or (c) of Rule 424 promulgated under the Securities Act and will deliver the number of copies of such Pricing Supplement to each Bank as such Bank shall have requested by the close of business on the preceding New York Business Day. The Banks will cause such Pricing Supplement to be delivered to the purchaser of the Certificated Debt Security in accordance with the applicable provisions of the Securities Act. In each instance that a Pricing Supplement is prepared, the Banks will affix the Pricing Supplement to the Prospectus (as amended or supplemented) prior to use of either such Pricing Supplement or the Prospectus (as amended or supplemented). Outdated Pricing Supplements, and the copies of the Prospectus to which they are attached (other than those retained for files), will be destroyed.

Settlement:

The receipt by the Company of immediately available funds in exchange for an authenticated Certificated Debt Security delivered to the Banks and the Banks' delivery of such Debt Security against receipt of immediately available funds shall constitute "**settlement**" with respect thereto. All orders accepted by the Company will be settled on or before the third New York Business Day next succeeding the date of acceptance pursuant to the timetable for settlement set forth below, unless the Company and the purchaser agree to settlement on another date.

Settlement Procedures:

Settlement Procedures with regard to each Certificated Debt Security sold by the Company to or through the Banks shall be as follows:

A. The Banks will advise the Company by telephone that such Debt Security is a Certificated Debt Security and of the following settlement information:

Order number.

Principal amount.

Maturity Date.

Name in which Certificated Debt Security is to be registered (the "**Registered Owner**").

Address of the Registered Owner and address for payment of principal and interest.

Taxpayer identification number of the Registered Owner (if available).

In the case of a Fixed Rate Certificated Debt Security, the interest rate and whether such Debt Security is an amortizing Debt Security, or in the case of a Floating Rate Certificated Debt Security, the Initial Interest Rate (if known at such time), Base Rate, Index Maturity, Interest Reset Periods, Interest Periods, Spread or Spread Multiplier (if any), Maximum and Minimum Interest Rates (if any), alternate rate event spread (if any), and the applicability of the Business Day Convention.

Interest Payment Dates.

Record dates.

Redemption and/or repayment provisions, if any.

Trade date.

Settlement Date.

Issue Price.

Banks' commission or discount, if any, determined as provided in the applicable Terms Agreement.

Whether the Certificated Debt Security is an OID Debt Security and, if it is, the total amount of OID, the yield to maturity, the initial accrual period OID, and the applicability of Modified Payment upon Acceleration.

Net proceeds to Company.

Each Bank's Name and whether such Bank is acting as agent, underwriter, or as principal for its own account.

Any other applicable terms.

B. The Company will advise JPMorgan by telephone or electronic transmission (confirmed in writing at any time on the same date) of the information set forth in Settlement Procedure "**A**" above.

C. The Company will have delivered to JPMorgan a pre-printed 4-ply packet for such Certificated Debt Security, which packet will contain the following documents in forms that have been approved by the Company, the Banks, and the Trustee: (a) Certificate with customer confirmation, (b) Stub One (for JPMorgan), (c) Stub Two (for the Banks), and (d) Stub Three (for the Company).

The information set forth in Settlement Procedure "**A**".

D. JPMorgan will complete and authenticate such Certificated Debt Security and deliver it (with the confirmation) and Stubs One and Two to the Banks, and the Banks will acknowledge receipt of such Debt Security by stamping or otherwise marking Stub One and returning it to JPMorgan. Such delivery will be made only against such acknowledgment of receipt and evidence that instructions have been given by the Banks for payment to the account of the Company at the JPMorgan Chase Bank, N.A., New York, New York, in funds available for immediate use, of an amount equal to the price of such Debt Security less the Banks' commission or discount, if any. In the event that the instructions given by the Banks for payment to the account of the Company are revoked, the Company will as promptly as possible wire transfer to the account of each Bank an amount of immediately available funds equal to the amount of such payment made.

E. Unless such Bank purchased such Debt Security as principal for its own account, each Bank will deliver such Debt Security (with the confirmation) to the customer against payment in immediately available funds. The Banks will obtain the acknowledgment of receipt of such Debt Security by retaining Stub Two.

F. JPMorgan will send Stub Three to the Company by first-class mail. Periodically during the period that the Registration Statement is in effect, JPMorgan will also send to the Company a statement setting forth the principal amount of the Certificated Debt Securities then outstanding under the Indenture and setting forth a brief description of any sales of which the Company has advised JPMorgan but which have not yet been settled.

Timetable: For sales by the Company of Certificated Debt Securities to or through the Banks, Settlement Procedures "**A**" through "**F**" set forth above shall be completed as soon as possible but not later than the respective times (New York City Time) set forth below:

Procedure A:	2:00 p.m. on day before Settlement Date
Procedure B:	2:15 p.m. on day before Settlement Date
Procedure C:	2:15 p.m. on day before Settlement Date
Procedure D:	2:15 p.m. on Settlement Date
Procedure E:	3:00 p.m. on Settlement Date
Procedure F:	5:00 p.m. on Settlement Date

Failure to Settle:

If a purchaser (other than a Bank acting as underwriter or as principal for its own account) fails to accept delivery of and make payment for any Certificated Debt Security, the Banks will notify the Company and JPMorgan by telephone and will return such Debt Security to JPMorgan. Upon receipt of such notice, the Company will immediately wire transfer to the account of such Bank an amount equal to the amount previously credited thereto in respect of such Debt Security. Such wire transfer will be made on the Settlement Date, if possible, and in any event not later than the New York Business Day following such Settlement Date. If the failure shall have occurred for any reason other than a default by any Bank of its obligations hereunder or under the Distribution Agreement or the applicable Terms Agreement, then the Company will reimburse such Bank on an equitable basis, for its loss of the use of the funds during the period when they were credited to the account of the Company. Immediately upon receipt of the Certificated Debt Security in respect of which such failure occurred, JPMorgan will mark such Debt Security "**canceled**", make appropriate entries in its records, and send such Debt Security to the Company.

EXHIBIT A

1. The Company is a corporation in existence under the laws of the State of North Carolina, has the corporate power to conduct its business as described in the Prospectus and the Time of Sale Prospectus, and is duly qualified to do business as a foreign corporation in each jurisdiction where the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified would not have a material adverse effect on the financial condition of the Company and its subsidiaries taken as a whole.

2. The Distribution Agreement has been duly authorized by the Company by all necessary corporate action and has been duly executed and delivered by the Company.

3. The Company has authorized the execution, delivery and performance of the Indenture by all necessary corporate action and the Indenture has been duly executed and delivered by the Company and is qualified under the Trust Indenture Act of 1939, as amended, and, assuming due authorization, execution and delivery thereof by the Trustee, is a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as such enforcement may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, if applicable, by general principles of equity.

4. The Company has authorized the execution, delivery and performance of each of the form of Warrant Agreement included as Exhibit 4.4 to the Registration Statement (the "**Debt Warrant Agreement**") and the form of Unit Agreement included as Exhibit 4.5 to the Registration Statement (the "**Unit Agreement**") by all necessary corporate action and, assuming valid execution and delivery by the Company and due authorization, valid execution, and delivery by

the Warrant Agent and the Unit Agreement, respectively, will be a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, if applicable, by general principles of equity.

5. The Company has authorized the execution, delivery and performance of Debt Securities, Debt Warrants and Units by all necessary corporate action and, when issued by the Company and (i) authenticated by the Trustee in accordance with the applicable provisions of the Indenture (with respect to Debt Securities) or (ii) countersigned by the Warrant Agent or Unit Agent in accordance with the applicable provisions of the Debt Warrant Agreement or the Unit Agreement, as the case may be, and (iii) delivered to and duly paid for by the purchasers thereof in accordance with the applicable provisions of the Prospectus, any applicable Supplement, and the Distribution Agreement, will be valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, if applicable, by general principles of equity.

6. The Registration Statement, including any Rule 462(b) Registration Statement, has been declared effective under the Securities Act; any required filing of the Prospectus pursuant to Rule 424(b) has been made in the manner and within the time period required by Rule 424(b); and, to my knowledge, no stop order suspending the effectiveness of the Registration Statement or any Rule 462(b) Registration Statement has been issued under the Securities Act and no proceedings for that purpose have been instituted or are pending or threatened by the Commission.

7. The execution and delivery of and performance by the Company of its obligations under the Distribution Agreement, the Indenture, the Debt Warrant Agreement, the Unit Agreement, the Debt Securities, the Debt Warrants and the Units will not contravene any provision of the Restated Charter or By-Laws of the Company, or of any agreement or other instrument binding upon the Company or any of its subsidiaries that is material to the Company and its subsidiaries taken as a whole, or, to my knowledge, of any judgment, order, or decree of any governmental body, agency, or court having jurisdiction over the Company or any of its subsidiaries, in each of the foregoing cases except as would be reasonably be expected to have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole. No consent, approval, authorization, or order of or qualification with any governmental body or agency is required to be obtained or made by the Company for the execution and delivery by the Company of the Distribution Agreement, the Indenture, the Debt Warrant Agreement, the Unit Agreement, the Debt Securities,

the Debt Warrants, or the Units and for consummation by the Company of the transactions provided for therein, except as may be required by the Blue Sky laws or other securities laws of the various states in which the Debt Securities, Warrants and Units may be offered and sold and except for consents, approvals, authorizations, actions, filings and registrations which, if not obtained or made, are not reasonably likely to have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole.

8. I have considered the statements relating to legal matters or documents included in the Prospectus under the captions ["Description of Debt Securities", "Description of Warrants-Debt Warrants" and "Description of Units"]. In my opinion, such statements fairly summarize in all material respects such matters or documents.

9. To my knowledge, there is no legal or governmental proceeding pending or threatened to which the Company or any of its significant subsidiaries is a party, or by which any of the properties of the Company or its significant subsidiaries is bound, which would reasonably be expected to have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole; and to my knowledge, there is no agreement or other document that is required to be described in the Registration Statement, the Prospectus, any applicable Pricing Supplement or Prospectus Supplement, or any Time of Sale Prospectus, or that is required to be filed as an exhibit to the Registration Statement, that is not so described or filed.

10. I have not myself checked the accuracy, completeness or fairness of, or otherwise verified, the information furnished with respect to matters in the Registration Statement, the Time of Sale Prospectus or the Prospectus (except to the extent stated in paragraph 4 above). I have generally reviewed and discussed with the representatives of the underwriters and with certain officers and employees of, and counsel for, the Company, and with independent registered public accountants for the Company, the information furnished, whether or not subject to my check and verification. On the basis of such consideration, review and discussion, but without independent check or verification except as stated above, (i) in my opinion, the Registration Statement and the Prospectus appear on their face to be appropriately responsive in all material respects to the

requirements of the Act and the applicable rules and regulations of the Commission thereunder, and (ii) nothing has come to my attention that causes me to believe that, insofar as relevant to the offering of the Securities, (a) the Registration Statement at the time such Registration Statement became effective contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (b) the Time of Sale Prospectus, at the time of each sale of the Underwritten Securities in connection with the offering when the Prospectus is not yet available to prospective purchasers, contained an untrue statement of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, or (c) the Prospectus, as of its date or as of the date hereof, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. In expressing the foregoing opinion and belief, we have not been called to pass upon, and we express no opinion or belief as to, the financial statements or financial schedules or other financial or statistical data included in the Registration Statement, the Time of Sale Prospectus or the Prospectus or the Statement of Eligibility of the Trustee on Form T-1.

The opinions and belief expressed in paragraph 5 above (except as to due authorization of the Debt Securities, Debt Warrants and Units), in paragraph 8 above as to the statements in the Prospectus under the captions [“Description of Debt Securities”, “Description of Warrants—Debt Warrants” and “Description of Units”], and in paragraph 10 above do not, in any case, address any provision of the Commodity Exchange Act, as amended, or the rules, regulations, or interpretations of the Commodity Futures Trading Commission, as may be applicable to any Debt Securities whose principal and/or interest payments will be determined by reference to one or more currency exchange rates, commodity prices, equity indices, or other variable factors, or as may be applicable to any Debt Warrants or Units relating to any such Debt Securities.

In rendering such opinion, I may rely, as to matters of fact (but not as to legal conclusions), to the extent I deem proper, on certificates of responsible officers of the Company and public officials. Such opinion will be limited to the laws of the State of New York and the federal laws of the United States of America. Insofar as such opinion involves matters governed by the laws of North Carolina, I may rely, without independent investigation, on the opinion of North Carolina counsel for the Company.

1. each of the Debt Warrant Agreement and the Unit Agreement, when duly authorized, executed and delivered by the Company (assuming the due authorization, valid execution and delivery thereof by the other parties thereto) will be a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, if applicable, by general principles of equity;

2. the Indenture has been duly qualified under the Trust Indenture Act of 1939, as amended, and has been duly authorized, executed and delivered by the Company and (assuming due authorization, valid execution and delivery thereof by the Trustee) is a valid and binding agreement of the Company, enforceable in accordance with its terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, if applicable, by general principles of equity;

3. the Securities have been duly authorized and when issued and delivered by the Company and authenticated by the Trustee or the Warrant Agent or the Unit Agent, as the case may be, in accordance with the provisions of the Indenture or the Debt Warrant Agreement or the Unit Agreement, as the case may, and duly paid for by the purchasers thereof, will be entitled to the benefits of the Indenture or the Debt Warrant Agreement or the Unit Agreement, as the case may be, and will be valid and binding obligations of the Company, enforceable in accordance with their respective terms, except as such enforceability may be limited by the laws of bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or similar laws relating to creditors' rights generally, by any other federal or state laws, by rights of acceleration, if applicable, by general principles of equity;

4. we have considered the statements relating to legal matters or documents included in the Prospectus under the captions ["Description of Debt Securities", "Description of Warrants-Debt Warrants", "Description of Units"]. In our opinion, such statements fairly summarize in all material respects such matters or documents;

5. the Registration Statement has been declared effective under the Securities Act; any required filing of the Prospectus pursuant to Rule 424(b) has been made in the manner and within the time period required by Rule 424(b); and,

to our knowledge, no stop order suspending the effectiveness of the Registration Statement or any Rule 462(b) Registration Statement has been issued under the Securities Act and no proceedings for that purpose have been instituted or are pending or threatened by the Commission.

6. we have not ourselves checked the accuracy, completeness or fairness of, or otherwise verified, the information furnished with respect to matters in the Registration Statement, the Time of Sale Prospectus or the Prospectus (except to the extent stated in paragraph 4 above). We have generally reviewed and discussed with your representatives and with certain officers and employees of, and counsel for, the Company, and with independent registered public accountants for the Company, the information furnished, whether or not subject to our check and verification. On the basis of such consideration, review and discussion, but without independent check or verification except as stated above, (i) in our opinion, the Registration Statement and the Prospectus appear on their face to be appropriately responsive in all material respects to the requirements of the Act and the applicable rules and regulations of the Commission thereunder, and (ii) nothing has come to our attention that causes us to believe that, insofar as relevant to the offering of the Securities, (a) the Registration Statement at the time such Registration Statement became effective contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (b) the Time of Sale Prospectus, as of the Time of Sale, contained an untrue statement of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, or (c) the Prospectus, as of its date or as of the date hereof, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. In expressing the foregoing opinion and belief, we have not been called to pass upon, and we express no opinion or belief as to, the financial statements or financial schedules or other financial or statistical data included in the Registration Statement, the Time of Sale Prospectus or the Prospectus or the Statement of Eligibility of the Trustee on Form T-1.

The opinions and belief expressed in paragraph (3) above (except as to due authorization of the Securities), in paragraph (4) above as to the statements in the Prospectus under the captions [“Description of Debt Securities”, “Description of Debt Warrants” and “Description of Units”] and in paragraph (6) above do not, in any case, address any provision of the Commodity Exchange Act, as amended, or the rules, regulations, or interpretations of the Commodity Futures Trading Commission, as may be applicable to any Debt Securities whose principal and/or interest payments will be determined by reference to one or more currency exchange rates, commodity prices, equity indices, or other variable factors, or as may be applicable to any Debt Warrants or Units relating to any such Debt Securities.

EXHIBIT C

ASSISTANT SECRETARY'S CERTIFICATE

I, _____, the duly qualified, elected, and acting Assistant Secretary of PepsiCo, Inc., a company organized under the laws of the State of North Carolina (the "**Company**"), hereby certify as follows:

1. Attached hereto as Exhibit A is a true and complete copy of the Restated Articles of Incorporation of the Company, certified as of _____ by the Secretary of State of the State of North Carolina. No further amendments or supplements to the Restated Articles of Incorporation have been proposed to or approved by the Board of Directors or shareholders of the Company.

2. Attached hereto as Exhibit B is a true, correct, and complete copy of the By-Laws of the Company. Such By-Laws have been in effect at all times since _____.

3. Attached hereto as Exhibits C-1 and C-2 are copies of resolutions duly adopted by the Board of Directors of the Company on _____-__ relating to the issuance of short-term and long-term debt securities, which resolutions are in full force and effect as of the date hereof.

4. The documents described below have been duly authorized, executed (except as otherwise indicated below), and filed by the Company with the Securities and Exchange Commission:

(a) the Registration Statement on Form S-3, File No. 333-_____, filed by the Company on May 2, 2006 (the "**Registration Statement**"), relating to the Company's securities, a copy of which is attached hereto as Exhibit D;

(b) the Indenture, dated as of _____, between the Company and JPMorgan Chase Bank, N.A., as trustee, which is incorporated by reference from Exhibit 4.2 to PepsiCo's Registration Statement on Form S-3 (File No. 333-_____);

(c) the form of Debt Warrant Agreement or Unit Agreement that may be entered into by the Company and JPMorgan Chase Bank, N.A., as warrant agent or unit agent, as the case may be, a copy of which is incorporated by reference from Exhibit 4.4 or 4.5 to PepsiCo's Registration Statement on Form S-3 (File No. 333- _____); and

(d) the form of Distribution Agreement that may be entered into by the Company and one or more agents and underwriters in connection with the offer

and sale of the Debt Securities, Warrants and Units, a copy of which is attached as Exhibit 1.2 to the Registration Statement.

5. The Debt Securities may be issued from time to time, in substantially the forms attached hereto as Exhibit E (with respect to Fixed Rate Debt Securities) and Exhibit F (with respect to Floating Rate Debt Securities), on such terms as shall be determined by any two of the following officers of the Company: (i) the Chairman of the Board and Chief Executive Officer (the "**Chairman**"), (ii) Chief Financial Officer (the "**Executive Vice President**"), (iii) the Senior Vice President and Treasurer (the "**Treasurer**"), and (iv) such other officer of the Company as may be designated by the Chairman, the Executive Vice President, or the Treasurer pursuant to the Delegation of Authority attached hereto as Exhibit G (any two of the Chairman, the Executive Vice President, the Treasurer, and such other officer hereinafter referred to as the "**Authorized Persons**"), provided, that such terms will in no event violate or conflict with the terms and provisions set forth in the Indenture or the Prospectus or (to the extent that the terms of an applicable Pricing Supplement supersede the terms and provisions of the Prospectus) the applicable Pricing Supplement.

6. The Debt Warrants and Units may be issued from time to time, alone or together with one or more series of Debt Securities, in substantially the form attached hereto as Exhibit H and I, respectively, on such terms as shall be determined by any two Authorized Persons, provided that such terms will in no event violate or conflict with the terms and provisions of the Debt Warrant Agreement or the Unit Agreement, as the case may be, or the Prospectus or (to the extent that the terms of an applicable Prospectus Supplement supersede the terms and provisions of the Prospectus) the applicable Prospectus Supplement.

7. The persons named below are duly qualified, elected, and acting officers of the Company, have been duly elected or appointed to the offices set forth opposite their respective names, have held such offices at all times since _____, and hold such offices as of the date hereof. The signatures set forth below opposite the names of such persons are the genuine signatures of such persons.

	[Title]	
_____		_____

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company as of the ____ day of _____, 20__.

_____

_____

Assistant Secretary

I,_____, a Vice President of the Company, hereby certify that _____ is the duly qualified, elected, and acting Assistant Secretary of the Company, has been duly elected or appointed to such office, has held such office at all times since _____, holds such office as of the date hereof, and that the signature set forth below is his genuine signature.

_____ Assistant Secretary _____

IN WITNESS WHEREOF, I have hereunto set my hand as of the ____ day of _____, 20__.

_____

_____
Vice President

EXHIBIT D

OFFICERS' CERTIFICATE

_____, Chief Financial Officer, and _____, Senior Vice President or Treasurer, of PepsiCo, Inc., a corporation organized under the laws of the State of North Carolina (the "**Company**"), each hereby certifies as follows:

1. I have examined the Company's Registration Statement on Form S-3, File No. 333-_____ (the "**Registration Statement**"), as filed by the Company with the Securities and Exchange Commission (the "**Commission**") on May 2, 2006, including all of the documents filed as exhibits thereto. Capitalized terms used herein and not otherwise defined have the meanings ascribed to such terms by the prospectus filed as part of the Registration Statement (such prospectus hereinafter the "**Prospectus**").

2. To my knowledge, no proceedings for the merger, consolidation, liquidation, or dissolution of the Company or the sale of all or substantially all of its assets are pending or contemplated.

3. To my knowledge, the Registration Statement as supplemented by the Time of Sale Prospectus (i) contains no untrue statement of a material fact regarding the Company or any of its consolidated subsidiaries and (ii) does not omit to state any material fact necessary to make any such statement, in the light of the circumstances under which it was made, not misleading.

IN WITNESS WHEREOF, I have hereunto set my hand as of the ____ of _____, 20__.

_____
Name:
Title:

_____
Name:
Title:

PEPSICO, INC.

and

JPMORGAN CHASE BANK, N.A., as Trustee

Indenture

Dated as of [_____], 2006

Providing for Issuance of Debt Securities

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THIS INDENTURE, between PepsiCo, Inc., a North Carolina corporation (hereinafter called the "**Company**") having its principal office at 700 Anderson Hill Road, Purchase, N.Y. 10577, and JPMorgan Chase Bank, N.A., a national banking association, as trustee (hereinafter called the "**Trustee**"), is made and entered into as of this [_____] day of [_____], 2006.

Recitals of the Company

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of its unsecured debentures, notes, bonds, and other evidences of indebtedness, to be issued in one or more fully registered series.

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

Agreements of the Parties

To set forth or to provide for the establishment of the terms and conditions upon which the Securities (as hereinafter defined) are and are to be authenticated, issued, and delivered, and in consideration of the premises thereof, and the purchase of Securities by the Holders (as hereinafter defined) thereof, it is mutually covenanted and agreed as follows, for the equal and proportionate benefit of all Holders from time to time of the Securities or of any series thereof, as the case may be:

ARTICLE 1
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01. *Definitions.* For all purposes of this Indenture and of any indenture supplemental hereto, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms defined in this Article have the meanings assigned to them in this Article, and include the plural as well as the singular;

(b) all other terms used herein which are defined in the Trust Indenture Act (as hereinafter defined), either directly or by reference therein, have the meanings assigned to them therein;

(c) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles and, except as otherwise herein expressly provided, the term "generally accepted accounting principles" with respect to any computation required or permitted

hereunder shall mean such accounting principles as are generally accepted in the United States of America at the date of such computation; and

(d) all references in this instrument to designated "**Articles**", "**Sections**" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein", "hereof", and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section, or other subdivision.

"**Act**", when used with respect to any Securityholder (as hereinafter defined), has the meaning specified in Section 1.04.

"**Affiliate**" of any specified Person (as hereinafter defined) 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.

"**Authenticating Agent**" means any Person authorized by the Trustee to authenticate Securities of one or more series under Section 6.14.

"**Authentication Order**" has the meaning specified in Section 3.03.

"**Board of Directors**" means (i) the board of directors of the Company, (ii) any duly authorized committee of that board, or (iii) any officer, director, or authorized representative of the Company, in each case duly authorized by such Board to act hereunder.

"**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, and delivered to the Trustee.

"**Chairman**" means the Company's Chairman of the Board and Chief Executive Officer.

"**Commission**" means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties on such date.

"**Company**" means PepsiCo, Inc., unless and 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**", "**Company Order**", and "**Company Consent**" mean, respectively, a written request, order, or consent signed in the name of the Company by its Chairman, Vice Chairman, Chief Financial Officer, Senior Vice President, or any Vice President (as hereinafter defined), or by any other officer or officers of the Company pursuant to an applicable Board Resolution, and delivered to the Trustee.

"**Consolidated Net Tangible Assets**" means the total amount of assets (less applicable depreciation, amortization, and other valuation reserves) of the Company and its Restricted Subsidiaries, after deducting therefrom (i) all current liabilities of the Company and its Restricted Subsidiaries (excluding any such liabilities that are intercompany items) and (ii) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangibles, all as set forth on the latest consolidated balance sheet of the Company and its Restricted Subsidiaries prepared in accordance with generally accepted accounting principles.

"**Corporate Trust Office**" means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date hereof is located at 4 New York Plaza, 15th Floor, New York, New York 10004.

"**corporation**" means a corporation, association, company, joint-stock company, limited liability company or business trust.

"**Covenant Defeasance**" has the meaning specified in Section 4.03.

"**Debt**" has the meaning specified in Section 10.06.

"**Defaulted Interest**" has the meaning specified in Section 3.07.

"**Defeasance**" has the meaning specified in Section 4.02.

"**Depositary**" means with respect to the Securities of any series issuable or issued in whole or in part in global form, the Person designated as Depositary by the Company pursuant to Section 3.01, unless and until a successor Depositary shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "**Depositary**" shall mean or include each Person who is then a Depositary hereunder, and if at any time there is more than one such Person, "**Depositary**" as used with respect to the Securities of any such series shall mean the "**Depositary**" with respect to the Securities of that series.

"**Equivalent Government Securities**" means, in relation to Securities denominated in a currency other than U.S. dollars, securities of the government that issued the currency in which such Securities are denominated or securities of government agencies backed by the full faith and credit of such government.

"**Event of Default**" has the meaning specified in Article 5.

"**Holder**", "**Securityholder**" and "**Holder of Securities**" means a Person in whose name a Security is registered in the Security Register (as hereinafter defined).

"**Indenture**" or "**this Indenture**" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof and shall include the terms of any particular series of Securities established as contemplated by Section 3.01.

"**Interest Payment Date**", when used with respect to any series of Securities, means any date on which an installment of interest on those Securities is scheduled to be paid.

"**Maturity**", when used with respect to any Security, means the date on which the principal amount outstanding under such Security or an installment of principal amount outstanding under such Security becomes due and payable, as therein or herein provided, whether on the Scheduled Maturity Date (as hereinafter defined), by declaration of acceleration, call for redemption, or otherwise.

"**Mortgage**" is defined in Section 10.06.

"**New York Business Day**" means (except, with respect to any particular series of Securities, as may be otherwise provided in the form of such Securities) any day other than a Saturday or Sunday that is neither a legal holiday nor a day on which banking institutions are authorized or required by law, regulation, or executive order to be closed.

"**Officers' Certificate**" means a certificate signed by any two of the Chairman, Vice Chairman, Chief Financial Officer, Senior Vice President, any Vice President, the Treasurer, and any Assistant Treasurer of the Company, or by any other officer or officers of the Company pursuant to an applicable Board Resolution, and delivered to the Trustee.

"**Opinion of Counsel**" means a written opinion of counsel to the Company, which counsel may be an employee of the Company or other counsel who shall be reasonably acceptable to the Trustee.

"**Original Issue Discount Security**" means any Security which is initially sold at a discount from the principal amount thereof and the terms of which provide that upon redemption or acceleration of the Maturity thereof, an amount less than the principal amount thereof would become due and payable.

"**Outstanding**", when used with respect to any particular Securities or to the Securities of any particular series means, as of the date of determination, all such Securities theretofore authenticated and delivered under this Indenture, except:

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

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

(iii) such Securities in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, or which shall have been paid, in each case, pursuant to the terms of Section 3.06 (except with respect to any such Security as to which proof satisfactory to the Trustee is presented that such Security is held by a Person in whose hands such Security is a legal, valid, and binding obligation of the Company).

In determining whether the Holders of the requisite principal amount of such Securities Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder, the principal amount of any Original Issue Discount Security that shall be deemed to be Outstanding shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the Maturity thereof. In determining whether the Holders of the requisite principal amount of such Securities Outstanding have given a direction concerning the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or concerning the exercise of any trust or power conferred upon the Trustee under this Indenture, or concerning a consent on behalf of the Holders of any series of Securities to the waiver of any past default and its consequences, Securities owned by the Company, 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. In determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, or

waiver, only Securities which a Responsible Officer assigned to the corporate trust department of the Trustee knows to be owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to act as owner 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.

"**Paying Agent**" means, with respect to any Securities, any Person appointed by the Company to distribute amounts payable by the Company on such Securities. If at any time there shall be more than one such Person, "Paying Agent" as used with respect to the Securities of any particular series shall mean the Paying Agent with respect to Securities of that series. As of the date of this Indenture, the Company has appointed JPMorgan Chase Bank, N.A. as Paying Agent with respect to all Securities issuable hereunder.

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

"**Place of Payment**" means with respect to any series of Securities issued hereunder the city or political subdivision so designated with respect to the series of Securities in question in accordance with the provisions of Section 3.01.

"**Predecessor Securities**" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.06 in lieu of a lost, destroyed, mutilated, or stolen Security shall be deemed to evidence the same debt as the lost, destroyed, mutilated, or stolen Security.

"**Principal Property**" means any single manufacturing or processing plant, office building, or warehouse owned or leased by the Company or a Restricted Subsidiary other than a plant, warehouse, office building, or portion thereof which, in the opinion of the Company's Board of Directors, is not of material importance to the business conducted by the Company and its Restricted Subsidiaries as an entirety.

"**Record Date**" means any date as of which the Holder of a Security will be determined for any purpose described herein, such determination to be made as of the close of business on such date by reference to the Security Register.

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

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

"**Repayment Date**", when used with respect to any Security to be repaid, means the date fixed for such repayment pursuant to such Security.

"**Repayment Price**", when used with respect to any Security to be repaid, means the price at which it is to be repaid pursuant to such Security.

"**Responsible Officer**", when used with respect to the Trustee, shall mean an officer of the Trustee in the Corporate Trust Office, having direct responsibility for the administration of this Indenture, and also, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject.

"**Restricted Subsidiary**" means at any time any Subsidiary of the Company except a Subsidiary which is at the time an Unrestricted Subsidiary.

"**Scheduled Maturity Date**", when used with respect to any Security, means the date specified in such Security as the date on which all outstanding principal and interest will be due and payable.

"**Security**" or "**Securities**" means any note or notes, bond or bonds, debenture or debentures, or any other evidences of indebtedness, as the case may be, of any series authenticated and delivered from time to time under this Indenture.

"**Security Register**" shall have the meaning specified in Section 3.05.

"**Security Registrar**" means the Person who maintains the Security Register, which Person shall be the Trustee unless and until a successor Security Registrar is appointed by the Company.

"**Senior Indebtedness**" means all obligations or indebtedness of, or guaranteed or assumed by, the Company, whether or not represented by bonds, debentures notes or similar instruments, for borrowed money, and any amendments, renewals, extensions, modifications and refundings of any such obligations or indebtedness, unless in the instrument creating or evidencing any such indebtedness or obligations or pursuant to which the same is outstanding it is specifically stated, at or prior to the time the Company becomes liable in respect

thereof, that any such obligation or indebtedness or such amendment, renewal, extension, modification and refunding thereof is not Senior Indebtedness.

"**Special Record Date**" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.07.

"**Specified Currency**" has the meaning specified in Section 3.01.

"**Subordinated Security**" means any security issued under this Indenture which is designated as a Subordinated Security.

"**Subsidiary**" of any specified corporation means any entity at least a majority of whose outstanding Voting Stock shall at the time be owned, directly or indirectly, by the specified corporation or by one or more of its Subsidiaries, or both.

"**Trust Indenture Act**" or "**TIA**" means the Trust Indenture Act of 1939, as in force as of the date hereof, except as provided in Section 9.05.

"**Trustee**" means the party named as such above until a successor becomes such pursuant to this Indenture and thereafter means or includes each party who is then a trustee hereunder, and if at any time there is more than one such party, "Trustee" as used with respect to the Securities of any series means the Trustee with respect to Securities of that series. If Trustees with respect to different series of Securities are trustees under this Indenture, nothing herein shall constitute the Trustees co-trustees of the same trust, and each Trustee shall be the trustee of a trust separate and apart from any trust administered by any other Trustee with respect to a different series of Securities.

"**Unrestricted Subsidiary**" means any Subsidiary of the Company (not at the time designated a Restricted Subsidiary) (i) the major part of whose business consists of finance, banking, credit, leasing, insurance, financial services, or other similar operations, or any combination thereof, (ii) substantially all the assets of which consist of the capital stock of one or more such Subsidiaries, or (iii) designated as such by the Company's Board of Directors; *provided* that such designation will not constitute a violation of the terms of the Securities. Any Subsidiary designated as a Restricted Subsidiary may be designated as an Unrestricted Subsidiary unless such designation will constitute a violation of the terms of the Securities.

"**U.S. Government Obligations**" means (i) securities that are direct obligations of the United States of America, the payment of which is unconditionally guaranteed by the full faith and credit of the United States of America and (ii) securities that are obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of

America, the payment of which is unconditionally guaranteed by the full faith and credit of the United States of America, and also includes depository receipts issued by a bank or trust company as custodian with respect to any of the securities described in the preceding clauses (i) and (ii), and any payment of interest or principal payable under any of the securities described in the preceding clauses (i) and (ii) that is held by such custodian for the account of the holder of a depository receipt, *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 depository receipt, or from any amount received by the custodian in respect of such securities, or from any specific payment of interest or principal payable under the securities evidenced by such depository receipt.

"**Vice President**", when used with respect to the Company or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title "vice president".

"**Voting Stock**", as applied to the stock of any corporation, means stock of any class or classes (however designated), the outstanding shares of which have, by the terms thereof, ordinary voting power to elect a majority of the members of the board of directors (or other governing body) of such corporation, other than stock having such power only by reason of the happening of a contingency.

Section 1.02. *Officers' Certificates and Opinions.* Every Officers' Certificate, Opinion of Counsel, and other certificate or opinion to be delivered to the Trustee under this Indenture with respect to any action to be taken by the Trustee (except for the Officers' Certificate required by Section 10.04) shall include the following:

(a) a statement that each individual signing such certificate or opinion has read all covenants and conditions of this Indenture relating to such proposed action, including the definitions herein relating thereto;

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

(c) a statement that, in the opinion of each 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

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

Section 1.03. *Form of Documents Delivered to Trustee.* In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to the other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, legal counsel, unless such officer knows that any such certificate, opinion, or representation is erroneous. Any opinion of counsel for the Company 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, unless such counsel knows that any such certificate, opinion, or representation is erroneous.

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

Section 1.04. *Acts of Securityholders.* (a) Any request, demand, authorization, direction, notice, consent, waiver, or other action provided by this Indenture to be given or taken by Securityholders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Securityholders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and (if expressly required by the applicable terms of this Indenture) to the Company. If any Securities are denominated in coin or currency other than that of the United States, then for the purposes of determining whether the Holders of the requisite principal amount of Securities have taken any action as herein described, the principal amount of such Securities shall be deemed to be that amount of United States dollars that could be obtained for such principal amount on the basis of the spot rate of exchange into United States dollars for the currency in which such Securities are denominated (as evidenced to the Trustee by a certificate provided by a financial institution, selected by the Company, that maintains an active trade in the currency in question, acting as conversion agent) as of the date the taking of such action by the Holders of such requisite principal amount is evidenced to the Trustee as provided in the immediately preceding sentence. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "**Act**" of the Securityholders signing such instrument or instruments. Proof of execution of any such instrument or of a writing

appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 6.01) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(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 to such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or a member of a partnership, on behalf of such corporation or partnership, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of Securities shall for all purposes be determined by reference to the Security Register, as such register shall exist as of the applicable date.

(d) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other action, the Company may, at its option, by Board Resolution, fix in advance a Record Date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other action, but the Company shall have no obligation to do so. If such Record Date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other action may be given before or after such Record Date, but only the Holders of record at the close of business on such Record Date shall be deemed to be Holders for the purpose of determining whether Holders of the requisite proportion of Securities Outstanding have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other action, and for that purpose the Securities Outstanding shall be computed as of such Record Date; *provided* that no such authorization, agreement or consent by the Holders on such Record Date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after such Record Date.

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

Section 1.05. *Notices, etc., to Trustee and Company.* Any request, order, authorization, direction, consent, waiver, or other action to be taken by the Trustee, the Company, or the Securityholders hereunder (including any Authentication Order), and any notice to be given to the Trustee or the Company with respect to any action taken or to be taken by the Trustee, the Company, or the Securityholders hereunder, shall be sufficient if made in writing and

(a) (if to be furnished or delivered to or filed with the Trustee by the Company or any Securityholder) delivered to the Trustee at its Corporate Trust Office, Attention: Worldwide Securities Services, or

(b) (if to be furnished or delivered to the Company by the Trustee or any Securityholder, and except as otherwise provided in Section 5.01(d) and, in the case of a request for repayment, except as specified in the Security carrying the right to repayment) mailed to the Company, first-class postage prepaid, at its principal office (as specified in the first paragraph of this instrument), Attention: Treasurer, or at any other address hereafter furnished in writing by the Company to the Trustee.

Section 1.06. *Notice To Securityholders; Waiver.* Where this Indenture or any Security provides for notice to Securityholders of any event, such notice shall be sufficiently given (unless otherwise expressly provided herein or in such Security) if in writing and mailed, first-class postage prepaid, to each Securityholder affected by such event, at his or her address as it appears in the Security Register as of the applicable Record Date, not later than the latest date or earlier than the earliest date prescribed by this Indenture or such Security for the giving of such notice. In any case where notice to Securityholders is given by mail, neither the failure to mail such notice nor any defect in any notice so mailed to any particular Securityholder shall affect the sufficiency of such notice with respect to other Securityholders. Where this Indenture or any Security 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 Securityholders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of regular mail service as a result of a strike, work stoppage or otherwise, it shall be impractical to mail notice of any event to any Securityholder when such notice is required to be given pursuant to any provision of this Indenture or the applicable Security, then any method of notification as shall be satisfactory to the Trustee and the Company shall be deemed to be sufficient for the giving of such notice.

Section 1.07. *Conflict with Trust Indenture Act.* If any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be

included in this Indenture by any of the provisions of the TIA, such required provision shall control.

Section 1.08. *Effect of Headings and Table of Contents.* The Article and Section headings herein and the Table of Contents hereof are for convenience only and shall not affect the construction of any provision of this Indenture.

Section 1.09. *Successors and Assigns.* All covenants and agreements in this Indenture by the Company shall bind its successors and assigns, whether so expressed or not.

Section 1.10. *Separability Clause.* In case 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.

Section 1.11. *Benefits Of Indenture.* Nothing in this Indenture or in any Securities, express or implied, shall give to any Person, other than the parties hereto, their successors hereunder, the Authenticating Agent, the Security Registrar, any Paying Agent, and the Holders of Securities (or such of them as may be affected thereby), any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1.12. *Governing Law.* This Indenture shall be governed by and construed in accordance with the laws of the State of New York.

Section 1.13. *Counterparts.* This instrument may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, but all of which shall together constitute but one and the same instrument.

Section 1.14. *Judgment Currency.* The Company agrees, to the fullest extent that it may effectively do so under applicable law, that (a) if for the purpose of obtaining judgment in any court with respect to the Securities of any series it is necessary to convert the sum due in respect of the principal, premium, if any, or interest, if any, payable with respect to such Securities into a currency in which a judgment can be rendered (the "**Judgment Currency**"), the rate of exchange from the currency in which payments under such Securities is payable (the "**Required Currency**") into the Judgment Currency shall be the highest bid quotation (assuming European-style quotation — *i.e.*, Required Currency per Judgment Currency) received by the Company from three recognized foreign exchange dealers in the City of New York for the purchase of the aggregate amount of the judgment (as denominated in the Judgment Currency) on the New York Business Day preceding the date on which a final unappealable judgment is rendered, for settlement on such payment date, and at which the applicable dealer

timely commits to execute a contract, and (b) the Company's obligations under this Indenture to make payments in the Required Currency (i) shall not be discharged or satisfied by any tender, or by any recovery pursuant to any judgment (whether or not entered in accordance with the preceding clause (a)), in any currency other than the Required Currency, except to the extent that such tender or recovery shall result in the actual receipt by the judgment creditor of the full amount of the Required Currency expressed to be payable in respect of such payments, (ii) shall be enforceable as an alternative or additional cause of action for the purpose of recovering in the Required Currency the amount, if any, by which such actual receipt shall fall short of the full amount of the Required Currency so expressed to be payable, and (iii) shall not be affected by judgment being obtained for any other sum due under this Indenture.

Section 1.15. *Legal Holidays.*

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

ARTICLE 2
SECURITY FORMS

Section 2.01. *Forms Generally.* The Securities of each series shall have such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon, as may be required to comply with the rules of any securities exchange, or as may, consistently herewith, be determined by the officers executing such Securities, as evidenced by their execution of the Securities. Any portion of the text of any Security may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Security.

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

Section 2.02. *Forms of Securities.* Each Security shall be in one of the forms approved from time to time by or pursuant to any Board Resolution, or established in one or more indentures supplemental hereto. Prior to the delivery to the Trustee for authentication of any Security in any form approved by or pursuant to a Board Resolution, the Company shall deliver to the Trustee a copy of such Board Resolution, together with a true and correct copy of the form of Security which has been approved thereby, or, if a Board Resolution authorizes a specific officer or officers to approve a form of Security, together with a certificate of such officer or officers approving the form of Security attached thereto, *provided, however*, that with respect to all Securities issued pursuant to the same Board Resolution, the required copy of such Board Resolution, together with the appropriate attachment, need be delivered only once. Any form of Security approved by or pursuant to a Board Resolution must be acceptable as to form to the Trustee, such acceptance to be evidenced by the Trustee's authentication of Securities in that form or by a certificate signed by a Responsible Officer of the Trustee and delivered to the Company.

Section 2.03. *Securities in Global Form.* If Securities of a series are issuable in whole or in part in global form, the global security representing such Securities may provide that it shall represent the aggregate amount of Outstanding Securities from time to time endorsed thereon and may also provide that the aggregate amount of Outstanding Securities represented thereby may from time to time be reduced to reflect exchanges or increased to reflect the issuance of additional Securities. Any endorsement of a Security in global form to reflect the amount (or any increase or decrease in the amount) of Outstanding Securities represented thereby shall be made in such manner and by such Person or Persons as shall be specified therein or in the Authentication Order delivered to the Trustee pursuant to Section 3.03 hereof.

Section 2.04. *Form of Trustee's Certificate of Authentication.* The form of Trustee's Certificate of Authentication for any Security issued pursuant to this Indenture shall be substantially as follows:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

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

JPMorgan Chase Bank, N.A., as Trustee,

By: _____
Authorized Officer:

ARTICLE 3
THE SECURITIES

Section 3.01. *General Title; General Limitations; Issuable in Series; Terms of Particular Series.* The aggregate principal amount of Securities that may be authenticated, delivered, and Outstanding at any time under this Indenture is not limited.

The Securities may be issued in one or more series in such aggregate principal amount as may from time to time be authorized by the Board of Directors. All Securities of a series issued under this Indenture shall in all respects be equally and ratably entitled to the benefits hereof, without preference, priority, or distinction on account of the actual time of the authentication and delivery or Scheduled Maturity Date thereof.

Each series of Securities shall be created either by or pursuant to one or more Board Resolutions or by one or more indentures supplemental hereto. Any such Board Resolution or supplemental indenture (or, in the case of a series of Securities created pursuant to a Board Resolution, any officer or officers authorized by such Board Resolution) shall establish the terms of any such series of Securities, including the following (as and to such extent as may be applicable):

(1) the title of such series;

(2) the limit, if any, upon the aggregate principal amount or issue price of the Securities of such series;

(3) the issue date or issue dates of the Securities of such series;

(4) the Scheduled Maturity Date of the Securities of such series;

(5) the place or places where the principal, premium, if any, interest, if any, and additional amounts, if any, payable with respect to the Securities of such series shall be payable;

(6) whether the Securities of such series will be issued at par or at a premium over or a discount from their face amount;

(7) the rate or rates (which may be fixed or variable)at which the Securities of such series shall bear interest, if any, and, if applicable, the method by which such rate or rates may be determined;

(8) the date or dates (or the method by which such date or dates may be determined) from which interest, if any, shall accrue, and the Interest Payment Dates on which such interest shall be payable;

(9) the rights, if any, to defer payments of interest on the Securities by extending the interest payment periods and the duration of such extension;

(10) the period or periods within which, the Redemption Price(s)or Repayment Price(s) at which, and any other terms and conditions upon which the Securities of such series may be redeemed or repaid, in whole or in part, by the Company;

(11) the obligation, if any, of the Company to redeem, repay, or purchase any of the Securities of such series pursuant to any sinking fund, mandatory redemption, purchase obligation, or analogous provision at the option of a Holder thereof, and the period or periods within which, the Redemption Price(s) or Repayment Price(s) or other price or prices at which, and any other terms and conditions upon which the Securities of such series shall be redeemed, repaid, or purchased, in whole or in part, pursuant to such obligation;

(12) the issuance of the Securities of such series in whole or in part in global form and, if so, the identity of the Depositary for such global security and the terms and conditions, if any, upon which interests in the Securities represented by such global security may be exchanged, in whole or in part, for the individual Securities represented thereby (if other than as provided in Section 3.05);

(13) whether such securities are Subordinated Securities and if so, the provisions for such subordination if other than the provisions set forth in Article 13;

(14) the denominations in which the Securities of such series will be issued (which may be any denomination as set forth in the terms of such Securities) if other than U.S.$1,000 or an integral multiple thereof;

(15) whether and under what circumstances additional amounts on the Securities of such series shall be payable in respect of any taxes, assessments, or other governmental charges withheld or deducted and, if so, whether the Company will have the option to redeem such Securities rather than pay such additional amounts;

(16) the basis upon which interest shall be calculated;

(17) if the Securities of such series are to be issuable in definitive form (whether upon original issue or upon exchange of a temporary Security for a definitive Security of such series) only upon receipt of certain certificates or other documents or upon satisfaction of other conditions, then the form and terms of such certificates, documents, and/or conditions;

(18) the exchange or conversion of the Securities of that series, whether or not at the option of the Holders thereof, for or into new Securities of a different series or for or into any other securities which may include shares of Capital Stock of the Company or any Subsidiary of the Company or securities directly or indirectly convertible into or exchangeable for any such shares or securities of entities unaffiliated with the Company or any Subsidiary of the Company;

(19) if other than U.S. dollars, the foreign or composite currency or currencies (each such currency a "**Specified Currency**") in which the Securities of such series shall be denominated and in which payments of principal, premium, if any, interest, if any, or additional amounts, if any, payable with respect to such Securities shall or may be payable;

(20) if the principal, premium, if any, interest, if any, or additional amounts, if any, payable with respect to the Securities of such series are to be payable in any currency other than that in which the Securities are stated to be payable, whether at the election of the Company or of a Holder thereof, the period or periods within which, and the terms and conditions upon which, such election may be made;

(21) if the amount of any payment of principal, premium, if any, interest, if any, or other sum payable with respect to the Securities of such series may be determined by reference to the relative value of one or more Specified Currencies, commodities, securities, or instruments, the level of one or more financial or non- financial indices, or any other designated factors or formulas, the manner in which such amounts shall be determined;

(22) the exchange of Securities of such series, at the option of the Holders thereof, for other Securities of the same series of the same aggregate principal amount of a different authorized kind or different authorized denomination or denominations, or both;

(23) the appointment by the Trustee of an Authenticating Agent in one or more places other than the Corporate Trust Office of the Trustee, with power to act on behalf of the Trustee, and subject to its direction, in the authentication and delivery of the Securities of such series;

(24) any trustees, depositaries, paying agents, transfer agents, exchange agents, conversion agents, registrars, or other agents with respect to the Securities of such series if other than the Trustee, Paying Agent and Security Registrar named herein;

(25) the portion of the principal amount of Securities of such series, if other than the principal amount thereof, that shall be payable upon declaration of

acceleration of the Maturity thereof pursuant to Section 5.02 or provable in bankruptcy pursuant to Section 5.04;

(26) any Event of Default with respect to the Securities of such series, if not set forth herein, or any modification of any Event of Default set forth herein with respect to such series;

(27) any covenant solely for the benefit of the Securities of such series;

(28) the inapplicability of Section 4.02 and Section 4.03 of this Indenture to the Securities of such series and if Section 4.03 is applicable, the covenants subject to Covenant Defeasance under Section 4.03; and

(29) any other terms not inconsistent with the provisions of this Indenture.

If all of the Securities issuable by or pursuant to any Board Resolution are not to be issued at one time, it shall not be necessary to deliver the Officers' Certificate and Opinion of Counsel required by Section 3.03 hereof at the time of issuance of each such Security, but such Officers' Certificate and Opinion of Counsel shall be delivered at or before the time of issuance of the first such Security.

If any series of Securities shall be established by action taken pursuant to any Board Resolution, the execution by the officer or officers authorized by such Board Resolution of an Authentication Order (as defined in Section 3.03 below) with respect to the first Security of such series to be issued, and the delivery of such Authentication Order to the Trustee at or before the time of issuance of the first Security of such series, shall constitute a sufficient record of such action. Except as otherwise permitted by Section 3.03, if all of the Securities of any such series are not to be issued at one time, the Company shall deliver an Authentication Order with respect to each subsequent issuance of Securities of such series, but such Authentication Orders may be executed by any authorized officer or officers of the Company, whether or not such officer or officers would have been authorized to establish such series pursuant to the aforementioned Board Resolution.

Unless otherwise provided by or pursuant to the Board Resolution or supplemental indenture creating such series (i) a series may be reopened for issuances of additional Securities of such series, and (ii) all Securities of the same series shall be substantially identical, except for the initial Interest Payment Date, issue price, initial interest accrual date and the amount of the first interest payment.

The form of the Securities of each series shall be established in a supplemental indenture or by or pursuant to the Board Resolution creating such series. The Securities of each series shall be distinguished from the Securities of each other series in such manner as the Board of Directors or its authorized representative or representatives may determine.

Unless otherwise provided with respect to Securities of a particular series, the Securities of any series may only be issuable in registered form, without coupons.

Section 3.02. *Denominations and Currency.* The Securities of each series shall be issuable in such denominations and currency as shall be provided in the provisions of this Indenture or by or pursuant to the Board Resolution or supplemental indenture creating such series. In the absence of any such provisions with respect to the Securities of any series, the Securities of that series shall be issuable only in fully registered form in denominations of U.S. $1,000 and any integral multiple thereof.

Section 3.03. *Execution, Authentication and Delivery, and Dating.* The Securities shall be executed on behalf of the Company by any two of the Chairman, Vice Chairman, Chief Financial Officer, Senior Vice President and any Vice President of the Company under its corporate seal reproduced thereon and attested by its Secretary or any one of its Assistant Secretaries. The signature of any of these officers on the Securities may be manual or facsimile. The seal of the Company may be in the form of a facsimile thereof and may be impressed, affixed, imprinted, or otherwise reproduced on the Securities. Typographical and other minor errors or defects in any such reproduction of the seal or any such signature shall not affect the validity or enforceability of any Security that has been duly authenticated and delivered by the Trustee.

Unless otherwise provided in the form of Security for any series, all Securities shall be dated the date of their authentication.

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.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities to the Trustee for authentication, together with a Company Order for authentication and delivery (such Order an “Authentication Order”) with respect to such Securities, and the Trustee shall, upon receipt of such Authentication Order, in accordance with procedures acceptable to the Trustee set forth in the Authentication Order, and subject to the

provisions hereof, authenticate and deliver such Securities to such recipients as may be specified from time to time pursuant to such Authentication Order. The material terms of such Securities shall be determinable by reference to such Authentication Order and procedures. If provided for in such procedures, such Authentication Order may authorize authentication and delivery of such Securities pursuant to oral instructions from the Company or its duly authorized agent, which instructions shall be promptly confirmed in writing. 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 (subject to the provisions of Section 6.01 hereof) shall be fully protected in relying upon:

(1) an executed supplemental indenture, if any;

(2) an Officers' Certificate, certifying as to the authorized form or forms and terms of such Securities; and

(3) an Opinion of Counsel, stating that:

(a) the form or forms and terms of such Securities have been established by and in conformity with the provisions of this Indenture; *provided* that if all such Securities are not to be issued at the same time, such Opinion of Counsel may state that such terms will be established in conformity with the provisions of this Indenture, subject to any conditions specified in such Opinion of Counsel; and

(b) 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 valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to bankruptcy, insolvency, moratorium, reorganization, and other laws of general applicability relating to or affecting the enforcement of creditors' rights and to general principles of equity;

provided, *however*, that if all Securities issuable by or pursuant to a Board Resolution or supplemental indenture are not to be originally issued at one time, it shall not be necessary to deliver the Officers' Certificate or Opinion of Counsel otherwise required pursuant to this paragraph at or prior to the time of authentication of each such Security if such documents are delivered at or prior to the time of authentication upon original issuance of the first such Security to be issued. After the original issuance of the first such Security to be issued, any separate request by the Company that the Trustee authenticate such Securities for original issuance will be deemed to be a certification by the Company that it is in compliance with all conditions precedent provided for in this Indenture relating to the authentication and delivery of such Securities.

The Trustee shall not be required to authenticate such Securities if the issue thereof will adversely affect the Trustee's own rights, duties, or immunities under the Securities and this Indenture.

If the Company shall establish pursuant to Section 3.01 that Securities of a series may be issued in whole or in part in global form, then the Company shall execute, and the Trustee shall (in accordance with this Section 3.03 and the Authentication Order with respect to such series) authenticate and deliver, one or more Securities in global form that (i) shall represent and shall be denominated in an aggregate amount equal to the aggregate principal amount of the Outstanding Securities of such series to be represented by such one or more Securities in global form, (ii) shall be registered, in the name of the Depositary for such Security or Securities in global form, or in the name of a nominee of such Depositary, (iii) shall be delivered to such Depositary or pursuant to such Depositary's instruction, and (iv) shall bear a legend substantially as follows: "Unless and until it is exchanged in whole or in part for Securities in certificated form, this Security may not be transferred except as a whole by the Depositary to a nominee of the Depositary, or by a nominee of the Depositary to the Depositary or another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary." Each Depositary designated pursuant to Section 3.01 for a Security in global form must, at the time of its designation and at all times while it serves as Depositary, be a clearing agency registered under the Securities Exchange Act of 1934 and any other applicable statute or regulation.

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 manual signature of an authorized officer, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

Section 3.04. *Temporary Securities.* Pending the preparation of definitive Securities of any series, the Company may execute, and, upon receipt of the documents required by Sections 2.02, 3.01 and 3.03 hereof, together with an Authentication Order, the Trustee shall authenticate and deliver, temporary Securities of such series that are printed, lithographed, typewritten, mimeographed, or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued in registered form, without coupons, 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. In the case of Securities of any series for which a temporary Security may be issued in global form, such temporary global security shall represent all of the Outstanding Securities of such series and tenor.

Except in the case of temporary Securities in global form, which shall be exchanged in accordance with the provisions thereof, if temporary Securities of any series are issued, the Company will cause definitive Securities of such series to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities of such series shall be exchangeable, at the Corporate Trust Office of the Trustee, or at such other office or agency as may be maintained by the Company in a Place of Payment pursuant to Section 10.02 hereof, for definitive Securities of such series having identical terms and provisions, upon surrender of the temporary Securities of such series, at the Company's own expense and without charge to the Holder; and upon surrender for cancellation of any one or more temporary Securities of any series, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of such series in authorized denominations containing identical terms and provisions. Unless otherwise specified as contemplated by Section 3.01 with respect to a temporary Security in global form, until so exchanged, the temporary Securities of such series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series.

Section 3.05. *Registration, Transfer and Exchange.* With respect to the Securities of each series, the Trustee shall keep a register (herein sometimes referred to as the "Security Register") which shall provide for the registration of Securities of such series, and for transfers of Securities of such series, in accordance with information to be provided to the Trustee by the Company, subject to such reasonable regulations as the Trustee may prescribe. Such register shall be in written form or in any other form capable of being converted into written form within a reasonable time. At all reasonable times the information contained in such register or registers shall be available for inspection at the Corporate Trust Office of the Trustee or at such other office or agency to be maintained by the Company pursuant to Section 10.02 hereof.

Upon due presentation for registration of transfer of any Security of any series at the Corporate Trust Office of the Trustee or at any other office or agency maintained by the Company with respect to that series pursuant to Section 10.02 hereof, 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 such series of any authorized denominations, of like aggregate principal amount, tenor, terms and Scheduled Maturity Date.

Any other provision of this Section 3.05 notwithstanding, unless and until it is exchanged in whole or in part for the individual Securities represented thereby, in definitive form, a Security in global form representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depositary for such series to a nominee of such Depositary, or by a nominee of such Depositary to such Depositary or another nominee of such Depositary, or by

such Depositary or any such nominee to a successor Depositary for such series or a nominee of such successor Depositary.

At the option of the Holder, Securities of any series may be exchanged for other Securities of such series of any authorized denominations, of like aggregate principal amount, tenor, terms and Scheduled Maturity Date, 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 which the Securityholder making the exchange is entitled to receive.

If at any time the Depositary for the Securities of a series represented by one or more Securities in global form notifies the Company that it is unwilling or unable to continue as Depositary for the Securities of such series, or if at any time the Depositary for the Securities of such series shall no longer be eligible under Section 3.03 hereof, the Company, by Company Order, shall appoint a successor Depositary with respect to the Securities of such series. If a successor Depositary for the Securities of such series is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such ineligibility, the Company's election pursuant to Section 3.01 that such Securities be represented by one or more Securities in global form shall no longer be effective with respect to the Securities of such series and the Company will execute, and the Trustee, upon receipt of an Authentication Order for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form, in authorized denominations, in an aggregate principal amount, and of like terms and tenor, equal to the principal amount of the Security or Securities in global form representing such series, in exchange for such Security or Securities in global form.

The Company may at any time and in its sole discretion and subject to the procedures of the Depositary determine that individual Securities of any series issued in global form shall no longer be represented by such Security or Securities in global form. In such event the Company will execute, and the Trustee, upon receipt of an Authentication Order for the authentication and delivery of definitive Securities of such series and of the same terms and tenor, will authenticate and deliver Securities of such series in definitive form, in authorized denominations, and in aggregate principal amount equal to the principal amount of the Security or Securities in global form representing such series in exchange for such Security or Securities in global form.

If specified by the Company pursuant to Section 3.01 with respect to a series of Securities issued in global form, the Depositary for such series of Securities may surrender a Security in global form for such series of Securities in exchange in whole or in part for Securities of such series in definitive form and of like terms and tenor on such terms as are acceptable to the Company and such

Depositary. Thereupon, the Company shall execute, and the Trustee upon receipt of an Authentication Order for the authentication and delivery of definitive Securities of such series, shall authenticate and deliver, without service charge:

(a) to each Person specified by such Depositary, a new definitive Security or Securities of the same series and of the same tenor and terms, in authorized denominations, in aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Security in global form; and

(b) to such Depositary, a new Security in global form in a denomination equal to the difference, if any, between the principal amount of the surrendered Security in global form and the aggregate principal amount of the definitive Securities delivered to Holders pursuant to clause (a) above.

Upon the exchange of a Security in global form for Securities in definitive form, such Security in global form shall be canceled by the Trustee or an agent of the Company or the Trustee. Securities issued in definitive form in exchange for a Security in global form pursuant to this Section 3.05 shall be registered in such names and in such authorized denominations as the Depositary for such Security in global form, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee or an agent of the Company or the Trustee in writing. The Trustee or such agent shall deliver such Securities to or as directed by the Persons in whose names such Securities are so registered or to the Depositary.

Whenever any securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of 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.

Every Security presented or surrendered for registration of transfer, exchange, redemption or payment 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 Security Registrar duly executed by the Holder thereof or his attorney duly authorized in writing.

Unless otherwise provided in the Security to be transferred or exchanged, no service charge shall be imposed for any registration of transfer or exchange of Securities, but the Company may (unless otherwise provided in such Security) 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,

other than exchanges pursuant to Section 3.04, 3.06, 9.06 and 11.07 hereof not involving any transfer.

The Company shall not be required to (i) issue, register the transfer of, or exchange any Security of any series during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Securities of such series selected for redemption under Section 11.03 and ending at the close of business on the date of such mailing, or (ii) register the transfer of or exchange any Security so selected for redemption in whole or in part, except in the case of any Security to be redeemed in part, the portion thereof not to be redeemed.

Section 3.06. *Mutilated, Destroyed, Lost and Stolen Securities.* If (i) any mutilated Security is surrendered to the Trustee, or the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and (ii) there is delivered to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company may in its discretion execute and upon request of the Company the Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Security, a new Security of like tenor, terms, series, Scheduled Maturity Date, and principal amount, bearing a number not contemporaneously outstanding.

In case 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.

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

Every new Security issued pursuant to this Section in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the 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 of the same series duly issued hereunder.

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

Section 3.07 . *Payment of Interest; Interest Rights Preserved.* Interest on any Security which is payable and is punctually paid or duly provided for on any Interest Payment Date shall, if so provided in such Security, 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 applicable Record Date, notwithstanding any transfer or exchange of such Security subsequent to such Record Date and prior to such Interest Payment Date. (unless such Interest Payment Date is also the date of Maturity of such Security).

Any interest on any Security which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered Holder on the applicable Record Date by virtue of his having been such Holder; and, except as hereinafter provided, such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (a) or clause (b) below:

(a) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names any such 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, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to the Holder of each such Security at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Securities (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (b).

(b) 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 such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Interest on Securities of any series that bear interest may be paid by mailing a check to the address of the Person entitled thereto at such address as shall appear in the Securities Register for such series or by such other means as may be specified in the form of such Security.

Subject to the foregoing provisions of this Section 3.07 and the provisions of Section 3.05 hereof, each Security delivered under this Indenture upon registration of 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, which were carried by such other Security.

Section 3.08. *Persons Deemed Owners.* Prior to due presentment of a Security for registration of transfer, the Company, the Trustee, and any agent of the Company or the Trustee may treat the Person in whose name any Security is registered on the applicable Record Date(s) as the owner of such Security for the purpose of receiving payment of principal, premium, if any, interest, if any (subject to Sections 3.05 and 3.07 hereof), and any additional amounts payable with respect to such Security, and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee, nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

None of the Company, the Trustee, any Authenticating Agent, any Paying Agent, the Security Registrar, or any Co-Security Registrar 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 Security in global form or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests and each of them may act or refrain from acting without liability on any information relating to such records provided by the Depositary.

Section 3.09. *Cancellation.* All Securities surrendered for payment, redemption, registration of transfer, exchange, or credit against a sinking or analogous fund shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and, if not already canceled, 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 which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly canceled by the Trustee. Acquisition of such Securities by the Company shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the same are delivered to the Trustee for cancellation. No Security shall be authenticated in lieu of or in

exchange for any Securities canceled as provided in this Section, except as expressly permitted by this Indenture. The Trustee shall dispose of all canceled Securities in accordance with its customary procedures and deliver a certificate of such disposition to the Company.

Section 3.10. *Computation of Interest.* Unless otherwise provided as contemplated in Section 3.01, interest on the Securities shall be calculated on the basis of a 360-day year of twelve 30-day months.

ARTICLE 4
SATISFACTION AND DISCHARGE

Section 4.01. *Satisfaction and Discharge of Indenture.* This Indenture shall cease to be of further effect with respect to any series of Securities (except as to any surviving rights of conversion or transfer or exchange of Securities of such series expressly provided for herein or in the form of Security for such series), and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture as to such series, when

(a) either

(i) all Securities of that series theretofore authenticated and delivered (other than (A) Securities of such series which have been destroyed, lost, or stolen and which have been replaced or paid as provided in Section 3.06, and (B) Securities of such series 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 4.07) have been delivered to the Trustee canceled or for cancellation; or

(ii) all such Securities of that series not theretofore delivered to the Trustee canceled or for cancellation

(A) have become due and payable, or

(B) will, in accordance with their Scheduled Maturity Date, become due and payable within one year, 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, in any of the cases described in subparagraphs (A), (B), or(C) above, the Company has irrevocably deposited or caused to be deposited with the Trustee, as trust funds in trust for the purpose, (x) an amount in money sufficient, (y) U.S. Government Obligations or Equivalent Government Securities which through the payment of interest and principal in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, money sufficient, or (z) a combination of (x) and (y) sufficient, in the opinion with respect to (y) and (z) 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 with respect to principal, premium, if any, and interest, if any, to the date of such deposit (in the case of Securities which have become due and payable), or to the Scheduled Maturity Date or Redemption Date, as the case may be; *provided, however*, that if such U.S. Government Obligations or Equivalent Government Securities are callable or redeemable at the option of the issuer thereof, the amount of such money, U.S. Government Obligations, and Equivalent Government Securities deposited with the Trustee must be sufficient to pay and discharge the entire indebtedness referred to above if such issuer elects to exercise such call or redemption provisions at any time prior to the Scheduled Maturity Date or Redemption Date, as the case may be. The Company, but not the Trustee, shall be responsible for monitoring any such call or redemption provision; and

(b) the Company has paid or caused to be paid all other sums payable hereunder by the Company with respect to the Securities of such series; 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 with respect to the Securities of such series have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture with respect to any series of Securities, the obligations of the Company under paragraph (a) of this Section 4.01 and its obligations to the Trustee with respect to that series under Section 6.07 shall survive, and the obligations of the Trustee under Sections 4.05, 4.07 and 10.03 shall survive.

Section 4.02. *Discharge and Defeasance.*

The provisions of this Section and Section 4.04 (insofar as relating to this Section) shall apply to the Securities of each series unless specifically otherwise provided in a Board Resolution or indenture supplemental hereto provided pursuant to Section 3.01. In addition to discharge of this Indenture pursuant to Section 4.01, in the case of any series of Securities with respect to which the exact amount described in subparagraph (a) of Section 4.04 can be determined at the time of making the deposit referred to in such subparagraph (a), the Company

shall be deemed to have paid and discharged the entire indebtedness on all the Securities of such a series as provided in this Section on and after the date the conditions set forth in Section 4.04 are satisfied, and the provisions of this Indenture with respect to the Securities of such series shall no longer be in effect (except as to (i) rights of registration of transfer and exchange of Securities of such series, (ii) substitution of mutilated, destroyed, lost or stolen Securities of such series, (iii) rights of Holders of Securities of such series to receive, solely from the trust fund described in subparagraph (a) of Section 4.04, payments of principal thereof, premium, if any, and interest, if any, thereon upon the original stated due dates or upon the Redemption Dates therefor (but not upon acceleration), and remaining rights of the Holders of Securities of such series to receive mandatory sinking fund payments, if any, (iv) the rights, obligations, duties and immunities of the Trustee hereunder, (v) this Section 4.02, Section 4.07, Section 10.02 and Section 10.03 and (vi) the rights of the Holders of Securities of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them) (hereinafter called "**Defeasance**"), and the Trustee at the cost and expense of the Company, shall execute proper instruments acknowledging the same.

Section 4.03. *Covenant Defeasance.*

The provisions of this Section and Section 4.04 (insofar as relating to this Section) shall apply to the Securities of each series unless specifically otherwise provided in a Board Resolution or indenture supplemental hereto provided pursuant to Section 3.01. In the case of any series of Securities with respect to which the exact amount described in subparagraph (a) of Section 4.04 can be determined at the time of making the deposit referred to in such subparagraph (a), (i) the Company shall be released from its obligations under any covenants specified in or pursuant to Section 3.01 as being subject to Covenant Defeasance with respect to such series (except as to (a) rights of registration of transfer and exchange of Securities of such series and rights under Section 4.07, Section 10.02 and Section 10.03, (b) substitution of mutilated, destroyed, lost or stolen Securities of such series, (c) rights of Holders of Securities of such series to receive, from the Company pursuant to Section 10.01, payments of principal thereof and interest, if any, thereon upon the original stated due dates or upon the Redemption Dates therefor (but not upon acceleration), and remaining rights of the Holders of Securities of such series to receive mandatory sinking fund payments, if any, (d) the rights, obligations, duties and immunities of the Trustee hereunder and (e) the rights of the Holders of Securities of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them), and (ii) the occurrence of any event specified in Section 5.01(d) (with respect to any of the covenants specified in or pursuant to Section 3.01 as being subject to Covenant Defeasance with respect to such series) shall be deemed not to be or result in a default or an Event of Default, in each

case with respect to the Outstanding Securities of such series as provided in this Section on and after the date the conditions set forth in Section 4.04 are satisfied (hereinafter called "**Covenant Defeasance**"), and the Trustee at the cost and expense of the Company, shall execute proper instruments acknowledging the same. For this purpose, such Covenant Defeasance means that the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant (to the extent so specified in the case of Section 5.01(d)), whether directly or indirectly by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document, but the remainder of this Indenture and the Securities of such series shall be unaffected thereby.

Section 4.04. *Conditions To Defeasance Or Covenant Defeasance.*

The following shall be the conditions to application of either Section 4.02 or Section 4.03 to the Outstanding Securities:

(a) with reference to Section 4.02 or Section 4.03, the Company has irrevocably deposited or caused to be irrevocably deposited with the Trustee as funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of Securities of such series (i) money in an amount, or (ii) U.S. Government Obligations or Equivalent Government Securities which through the payment of interest and principal in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, money in an amount, or (iii) a combination of (i) and (ii), sufficient, in the opinion (with respect to (ii) and (iii)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge each installment of principal (including mandatory sinking fund payments) of, premium, if any, and interest on, the Outstanding Securities of such series on the dates such installments of interest, premium or principal are due, including upon redemption; *provided*, *however*, that if such U.S. Government Obligations and Equivalent Government Securities are callable or redeemable at the option of the issuer thereof, the amount of such money, U.S. Government Obligations, and/or Equivalent Government Securities deposited with the Trustee must be sufficient to pay and discharge the entire indebtedness referred to above if the issuer of any such U.S. Government Obligations or Equivalent Government Securities elects to exercise such call or redemption provisions at any time prior to the Scheduled Maturity Date or Redemption Date of such Securities, as the case may be. The Company, but not the Trustee, shall be responsible for monitoring any such call or redemption provision.

(b) in the case of Defeasance under Section 4.02, the Company has delivered to the Trustee an Opinion of Counsel based on the fact that (x) the

Company has received from, or there has been published by, the Internal Revenue Service a ruling or (y) since the date hereof, there has been a change in the applicable United States federal income tax law, in either case to the effect that, and such opinion shall confirm that, the Holders of the Securities of such series will not recognize income, gain or loss for federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit, Defeasance and discharge had not occurred;

(c) in the case of Covenant Defeasance under Section 4.03, the Company has delivered to the Trustee an Opinion of Counsel to the effect that, and such opinion shall confirm that, the Holders of the Securities of such series will not recognize income, gain or loss for federal income tax purposes as a result of such deposit and Covenant Defeasance and will be subject to federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit and Covenant Defeasance had not occurred;

(d) no Event of Default or event which, with notice or lapse of time or both, would become an Event of Default with respect to the Securities of such series shall have occurred and be continuing on the date of such deposit, after giving effect to such deposit or, in the case of a Defeasance under Section 4.02, no Event of Default specified in Section 5.01(e) or Section 5.01(f) shall have occurred, at any time during the period ending on the 91st day after the date of such deposit or, if longer, ending on the day following the expiration of the longest preference period applicable to the Company in respect of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period);

(e) such Defeasance or Covenant Defeasance will not cause the Trustee to have a conflicting interest within the meaning of the TIA, assuming all Securities of a series were in default within the meaning of the TIA;

(f) such Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which the Company is a party or by which it is bound;

(g) such Defeasance or Covenant Defeasance will not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act of 1940, as amended, unless the trust is registered under such Act or exempt from registration;

(h) If the Securities of such series are to be redeemed prior to their Stated Maturity Date (other than from mandatory sinking fund payments or analogous payments), notice of such redemption shall have been duly given

pursuant to this Indenture or provision therefor satisfactory to the Trustee shall have been made; and

(i) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for herein relating to such Defeasance or Covenant Defeasance, as the case may be, have been complied with.

Section 4.05. *Application of Trust Money; Excess Funds.* All money and U.S. Government Obligations or Equivalent Government Securities (including the proceeds thereof) deposited with the Trustee pursuant to Section 4.01 or Section 4.04 hereof shall be held in trust and applied by it, in accordance with the provisions of this Indenture and of the series of Securities in respect of which it was deposited, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent), as the Trustee may determine, to the Persons entitled thereto, of the principal, premium, if any, and interest, if any, for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

The Company will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or U.S. Government Obligations or Equivalent Government Securities deposited pursuant to Section 4.01 or Section 4.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the Outstanding Securities.

Anything in this Article 4 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon Company Request any money or U.S. Governmental Obligations or Equivalent Government Securities held by it as provided in Section 4.01 or Section 4.04 which, in the opinion of a nationally recognized investment bank, appraisal firm or firm of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, (which may be the opinion delivered under Section 4.01 or Section 4.04, as applicable), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent satisfaction and discharge, Covenant Defeasance or Defeasance of the applicable series.

Section 4.06. *Paying Agent to Repay Moneys Held.* Upon the satisfaction and discharge of this Indenture, all moneys then held by any Paying Agent of the Securities (other than the Trustee) shall, upon demand of the Company, be repaid to it or paid to the Trustee, and thereupon such Paying Agent shall be released from all further liability with respect to such moneys.

Section 4.07. *Return of Unclaimed Amounts.* Any amounts deposited with or paid to the Trustee or any Paying Agent or then held by the Company, in trust for payment of the principal of, premium, if any, or interest, if any, on the Securities and not applied but remaining unclaimed by the Holders of such Securities for two years after the date upon which the principal of, premium, if any, or interest, if any, on such Securities, as the case may be, shall have become due and payable, shall be repaid to the Company by the Trustee on Company Request or (if then held by the Company) shall be discharged from such trust; and the Holder of any of such Securities shall thereafter look only to the Company for any payment which such Holder may be entitled to collect (until such time as such unclaimed amounts shall escheat, if at all, to the State of New York) 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. Notwithstanding the foregoing, the Trustee or Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once a week for two successive weeks (in each case on any day of the week) in a newspaper printed in the English language and customarily published at least once a day at least five days in each calendar week and of general circulation in the Borough of Manhattan, in the City and State of New York, a notice that said amounts have not been so applied and that after a date named therein any unclaimed balance of said amounts then remaining will be promptly returned to the Company.

ARTICLE 5
REMEDIES

Section 5.01. *Events of Default.* "**Event of Default**", wherever used herein, means with respect to any series of 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), unless such event is either inapplicable to a particular series or it is specifically deleted or modified in the manner contemplated by Section 3.01:

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

(b) default in the payment of the principal amount of (or premium, if any, on) any Security of such series as and when the same shall become due, either at Maturity, upon redemption, by declaration, or otherwise; or

(c) default in the payment of any sinking or purchase fund or analogous obligation when the same becomes due by the terms of the Securities of such series and continuance of such default for a period of 30 days; or

(d) default in the performance or breach of any covenant or warranty of the Company in this Indenture in respect of the Securities of such series (other than a covenant or warranty in respect of the Securities of such series a default in the performance of which or the breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 90 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 51% in the principal amount of the Outstanding Securities of such series, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(e) the entry of an order for relief against the Company under the Federal Bankruptcy Act by a court having jurisdiction in the premises or a decree or order by a court having jurisdiction in the premises adjudging the Company a bankrupt or insolvent under any other applicable Federal or State law, or the entry of a decree or order approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under the Federal Bankruptcy Code or any other applicable Federal or State law, or appointing a 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 unstayed and in effect for a period of 90 consecutive days; or

(f) the consent by the Company to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the Federal Bankruptcy Code or any other applicable Federal or State law, or the consent by it to the filing of any such petition or to the appointment of a 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, or the taking of corporate action by the Company in furtherance of any such action; or

(g) any other Event of Default provided for with respect to the Securities of such series in accordance with Section 3.01.

A default under any indebtedness of the Company other than the Securities will not constitute an Event of Default under this Indenture, and a default under one series of Securities will not constitute a default under any other series of Securities.

Section 5.02. *Acceleration of Maturity; Rescission, and Annulment.* If any Event of Default described in Section 5.01 above (other than Event of Default described in Section 5.01(e) and Section 5.01(f)) shall have occurred and be continuing with respect to any series, then and in each and every such case, unless the principal of all the Securities of such series shall have already become due and payable, either the Trustee or the Holders of not less than 51% in aggregate principal amount of the Securities of such series then Outstanding hereunder, by notice in writing to the Company (and to the Trustee if given by Holders), may declare the principal amount (or, if the Securities of such series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of that series) of all the Securities of such series and any and all accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, any provision of this Indenture or the Securities of such series to the contrary notwithstanding. If an Event of Default specified in Section 5.01(e) or Section 5.01(f) occurs, the principal amount of the Securities of such series and any and all accrued interest thereon shall immediately become and be due and payable without any declaration or other act on the party of the Trustee or any Holder. No declaration of acceleration by the Trustee with respect to any series of Securities shall constitute a declaration of acceleration by the Trustee with respect to any other series of Securities, and no declaration of acceleration by the Holders of at least 51% in aggregate principal amount of the Outstanding Securities of any series shall constitute a declaration of acceleration or other action by any of the Holders of any other series of Securities, in each case whether or not the Event of Default on which such declaration is based shall have occurred and be continuing with respect to more than one series of Securities, and whether or not any Holders of the Securities of any such affected series shall also be Holders of Securities of any other such affected series.

At any time after such a declaration of acceleration has been made with respect to the Securities of any series and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Holders of not less than 51% in aggregate principal amount of the Outstanding Securities of such series, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if all Events of Default with respect to such series of Securities, other than the nonpayment of the principal of the Securities of such series which have become due solely by such acceleration, have been cured or waived as provided in Section 5.13, if such cure or waiver does not conflict with any judgment or decree set forth in Section 5.01(e) and Section 5.01(f) and if all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel have been paid.

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

Section 5.03. Collection of Indebtedness and Suits for Enforcement by Trustee. The Company covenants that if:

(a) default is made in the payment of any installment of interest on any Security of any series when such interest becomes due and payable, or

(b) default is made in the payment of the principal of (or premium, if any, on) any Security at the Maturity thereof, or

(c) default is made in the payment of any sinking or purchase fund or analogous obligation when the same becomes due by the terms of the Securities of any series, and

(d) any such default continues for any period of grace provided in relation to such default pursuant to Section 5.01,

then, with respect to the Securities of such series, the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holder of any such Security (or the Holders of any such series in the case of clause (c) above), the whole amount then due and payable on any such Security (or on the Securities of any such series in the case of clause (c) above) for principal (and premium, if any) and interest, if any, with interest (to the extent that payment of such interest shall be legally enforceable) upon the overdue principal (and premium, if any) and upon overdue installments of interest, if any, at such rate or rates as may be prescribed therefor by the terms of any such Security (or of Securities of any such series in the case of clause (c) above); and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and all other amounts due the Trustee under Section 6.07.

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

If an Event of Default with respect to any series of 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 of such series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any

covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 5.04. *Trustee May File Proofs of Claim.* In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition, or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal or interest) shall be entitled and empowered, by intervention in such proceedings or otherwise,

(a) to file and prove a claim for the whole amount of principal (or, with respect to Original Discount Securities, such portion of the principal amount as may be specified in the terms of such Securities), premium, if any, and interest, if any, owing and unpaid in respect of the Securities, and to file such other papers or documents as may be necessary and advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements, and advances of the Trustee, its agents and counsel, and all other amounts due the Trustee under Section 6.07) and of the Securityholders allowed in such judicial proceedings, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any receiver, assignee, trustee, liquidator, sequestrator (or other similar official) in any such judicial proceeding is hereby authorized by each Securityholder 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 Securityholders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee and its agent and counsel, and any other amounts due the Trustee under Section 6.07 hereof.

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

Section 5.05. *Trustee May Enforce Claims Without Possession of Securities.* All rights of action and claims under this Indenture or the Securities of any series may be prosecuted and enforced by the Trustee without the possession of any of the Securities of such series or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be

brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee and its agents and counsel, be for the ratable benefit of the Holders of the Securities, of the series in respect of which such judgment has been recovered.

Section 5.06. *Application of Money Collected.* Any money collected by the Trustee with respect to a series of Securities pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal, premium, if any, or interest, if any, upon presentation of the Securities of such series and the notation thereon of the payment, if only partially paid, and upon surrender thereof, if fully paid:

First: To the payment of all amounts due the Trustee under Section 6.07 hereof.

Second: To the payment of the amounts then due and unpaid upon the Securities of that series for principal, premium, if any, interest, if any, and additional amounts, if any, in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind.

Section 5.07. *Limitation on Suits.* No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

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

(b) the Holders of not less than 51% in principal amount of the Outstanding Securities of such series 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 for 60 days after its receipt of such notice, request, and offer of indemnity has failed to institute any such proceeding; and

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

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

Section 5.08. *Unconditional Right of Securityholders to Receive Principal, Premium, and Interest.* 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, premium, if any, and (subject to Section 3.07) interest, if any, (and additional amounts, if any) on such Security on or after the respective payment dates expressed in such Security (or, in the case of redemption or repayment, on the Redemption Date or Repayment Date, as the case may be) and to institute suit for the enforcement of any such payment on or after such respective date, and such right shall not be impaired or affected without the consent of such Holder.

Section 5.09. *Restoration of Rights and Remedies.* If the Trustee or any Securityholder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, then and in every such case the Company, the Trustee and the Securityholders 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 and the Securityholders shall continue as though no such proceeding had been instituted.

Section 5.10. *Rights and Remedies Cumulative.* No right or remedy herein conferred upon or reserved to the Trustee or to the Securityholders is intended to be exclusive of any other right or remedy, and every right or 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 or of any Holder of any Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Securityholders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Securityholders, as the case may be.

Section 5.12. *Control by Securityholders.* The Holders of a majority in principal amount of the Outstanding Securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee with respect to the Securities of such series, *provided* that

(a) the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, determines that the action so directed may not lawfully be taken or would conflict with this Indenture or if the Trustee in good faith shall, by a Responsible Officer, determine that the proceedings so directed would involve it in personal liability or be unjustly prejudicial to the Holders not taking part in such direction, and

(b) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

Section 5.13. *Waiver of Past Defaults.* The Holders of not less than a majority in principal amount of the Outstanding Securities of any series may, on behalf of the Holders of all the Securities of such series, waive any past default hereunder with respect to such series and its consequences, except a default not theretofore cured:

(a) in the payment of principal, premium, if any, or interest, if any, on any Security of such series, or in the payment of any sinking or purchase fund or analogous obligation with respect to the Securities of such series, or

(b) in respect of a covenant or provision in this Indenture which, under Article Nine hereof, cannot be modified or amended without the consent of the Holder of each Outstanding Security of such series.

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

Section 5.14. *Undertaking for Costs.* All parties to this Indenture agree, and each Holder of any Security by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken 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, 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 shall not apply to any suit instituted by the Trustee, to

any suit instituted by any Securityholder or group of Securityholders holding in the aggregate more than 10% in principal amount of the Outstanding Securities of any series to which the suit relates, or to any suit instituted by any Securityholder for the enforcement of the payment of principal, premium, if any, or interest, if any, on any Security on or after the respective payment dates expressed in such Security (or, in the case of redemption or repayment, on or after the Redemption Date or Repayment Date).

Section 5.15. *Waiver of Stay or Extension Laws.* The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law (other than any bankruptcy 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 6
THE TRUSTEE

Section 6.01. *Certain Duties and Responsibilities of Trustee.* (a) Except during the continuance of an Event of Default with respect to any series of Securities,

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture with respect to the Securities of such series, 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, with respect to Securities of such series, conclusively rely upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(b) In case an Event of Default with respect to any series of Securities has occurred and is continuing, the Trustee shall exercise, with respect to the Securities of such series, such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent

man would exercise or use under the circumstances in the conduct of his own affairs.

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

(i) this Subsection shall not be construed to limit the effect of Subsection (a) of this Section;

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

(iii) 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 not less than a majority in principal amount of the Outstanding Securities of any series relating to the time, method, and place of conducting any proceeding for any remedy available to the Trustee with respect to the Securities of such series, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of such series; and

(iv) 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.

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

Section 6.02. *Notice of Defaults.* Within 90 days after the occurrence of any default hereunder with respect to Securities of any series, the Trustee shall transmit by mail to all Securityholders of such series, as their names and addresses appear in the Security Register, notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived; *provided, however*, that, except in the case of a default in the payment of the principal, premium, if any, or interest, if any, on any Security of such series or in the payment of any sinking or purchase fund installment or analogous obligation with respect to Securities of such series, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good

faith determine that the withholding of such notice is in the interests of the Securityholders of such series and; *provided*, *further*, that, in the case of any default of the character specified in Section 5.01(d) with respect to Securities of such series, no such notice to Securityholders of such series shall be given until at least 60 days after the occurrence thereof. For the purpose of this Section, the term "default", with respect to Securities of any series, means any event which is, or after notice or lapse of time or both would become, an Event of Default with respect to Securities of such series.

Section 6.03. *Certain Rights of Trustee.* Except as otherwise provided in Section 6.01 above:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture 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) any request, direction or order of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

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

(d) the Trustee may consult with counsel and 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 Securityholders pursuant to this Indenture, unless such Securityholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(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, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the

Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney; and

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

Section 6.04. *Not Responsible for Recitals or Issuance of Securities.* The recitals contained herein and in the Securities, except the certificates of authentication, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be accountable for the use or application by the Company of Securities or the proceeds thereof.

Section 6.05. *May Hold Securities.* The Trustee or any Paying Agent, Security Registrar, or other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 6.08 and 6.13 hereof, may otherwise deal with the Company with the same rights it would have if it were not Trustee, Paying Agent, Security Registrar, or such other agent.

Section 6.06. *Money Held in Trust.* Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company.

Section 6.07. *Compensation and Reimbursement*. The Company covenants and agrees

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

(b) except as otherwise expressly *provided herein*, 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 reasonable expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and

(c) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust, including the reasonable 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.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 5.01(e) and Section 5.01(f) above, such expenses (including the reasonable charges and expenses of its counsel) and compensation for such services are intended to constitute expenses of administration under any applicable Federal or State bankruptcy, insolvency, reorganization, or other similar law.

The Trustee shall have a lien prior to the Securities upon all property and funds held or collected by it as such for any amount owing to it or any predecessor Trustee pursuant to this Section 6.07, except with respect to funds held in trust for the benefit of the Holders of particular Securities.

The provisions of this Section shall survive the satisfaction and discharge of this Indenture.

Section 6.08. *Disqualification; Conflicting Interests.* If the Trustee has or shall acquire any conflicting interest within the meaning of the Trust Indenture Act, it shall either eliminate such interest or resign as Trustee with respect to one or more series of Securities, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and this Indenture. To the extent permitted by such Act, the Trustee shall not be deemed to have a conflicting interest by virtue of being a trustee under this Indenture with respect to Securities of more than one series or by virtue of being a trustee under: (i) the Indenture dated as of November 15, 2002, among Bottling Group, LLC, as issuer, the Company, as guarantor, and the Trustee relating to certain debt securities, (ii) the Indenture dated as of February 8, 1999, among Pepsi Bottling Holdings, Inc., as obligor, the Company, as guarantor, and the Trustee relating to certain debt securities, (iii) the Indenture dated as of December 14, 1994, between the Company and the Trustee relating to certain debt securities, (iv) the Indenture dated as of December 2, 1993, between the Company and the Trustee relating to certain debt securities, (v) the Indenture dated as of September 28, 1990, between the Company and the Trustee relating to certain debt securities, (vi) the Indenture dated as of February 25, 1990, between the Company and the Trustee relating to certain debt securities, (vii) the Indenture dated as of October 15, 1986, between the Company and the Trustee relating to certain debt securities, (viii) the Indenture dated as of October 1, 1986, between the Company and the Trustee relating to the Company’s Euro-Medium-Term Notes, (ix) the Trust Agreement

with Puerto Rico Industrial, Medical and Environmental Pollution Control Facilities Financing Authority (the "**Authority**") dated as of November 15, 1983, under which the Authority assigned certain rights under a Loan Agreement dated November 15, 1983, between the Authority and the Company, including the right to payment from the Company of amounts sufficient to enable the Authority to pay principal and interest and redemption payments (including redemption premium, if any) on the bonds issued under said Trust Agreement, (x) the Indenture dated as of March 2, 1982, among PepsiCo Capital Corporation N.V., the Company, as guarantor, and the Trustee relating to the PepsiCo Capital Corporation N.V. Zero Coupon Guaranteed Notes due 1994, and (xi) the Indenture dated as of April 1, 1982, among PepsiCo Capital Resources, Inc., the Company, as guarantor, and the Trustee relating to the PepsiCo Capital Resources, Inc. Zero Coupon Serial Guaranteed Debentures Due 1988-2012.

Section 6.09. *Corporate Trustee Required; Eligibility.* There shall at all times be a Trustee hereunder with respect to each series of Securities that shall be a corporation organized and doing business under the laws of the United States of America or of any State or Territory thereof or of the District of Columbia, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least $50,000,000, and subject to supervision or examination by Federal or State authority and having its principal office and place of business in the City of New York, if there be such a corporation having its principal office and place of business in said City and willing to act as Trustee on customary and usual terms. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation 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 with respect to any series of Securities shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 6.10. *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 shall become effective until the acceptance of appointment by the successor Trustee under Section 6.11.

(b) The Trustee may resign with respect to any one or more series of Securities at any time by giving at least 60 days' written notice thereof to the Company. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed with respect to any series of Securities at any time by Act of the Holders of 66 2/3% in principal amount of the Outstanding Securities of that series, delivered to the Trustee and to the Company.

(d) If at any time:

(i) the Trustee shall fail to comply with Section 6.08 above with respect to any series of Securities after written request therefor by the Company or by any Securityholder who has been a bona fide Holder of a Security of that series for at least 6 months, or

(ii) the Trustee shall cease to be eligible under Section 6.09 above with respect to any series of Securities and shall fail to resign after written request therefor by the Company or by any such Securityholder, or

(iii) the Trustee shall become incapable of acting with respect to any series of Securities, or

(iv) the Trustee shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case (A) the Company may remove the Trustee, with respect to the series or, in the case of clause (iv), with respect to all series, or (B) subject to Section 5.14, any Securityholder who has been a bona fide Holder of a Security of such series for at least 6 months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee with respect to the series or, in the case of clause (iv), with respect to all series.

(e) If the Trustee shall resign, be removed or become incapable of acting with respect to any series of Securities, or if a vacancy shall occur in the office of Trustee with respect to any series of Securities for any cause, the Company shall promptly appoint a successor Trustee for that series of Securities. If, within one year after such resignation, removal or incapacity, or the occurrence of such vacancy, a successor Trustee with respect to such series of Securities shall be appointed by Act of the Holders of 66 2/3% in principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee with respect to such series and supersede the successor Trustee appointed by the Company with respect to such series. If no successor Trustee with respect to such series shall have been so appointed by the Company or the Securityholders of such series and accepted appointment in the manner hereinafter provided, any Securityholder who has been

bona fide Holder of a Security of that series for at least 6 months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to such series.

(f) The Company shall give notice of each resignation and each removal of the Trustee with respect to any series and each appointment of a successor Trustee with respect to any series by mailing written notice of such event by first-class mail, postage prepaid, to the Holders of Securities of that series as their names and addresses appear in the Security Register. Each notice shall include the name of the successor Trustee and the address of its principal Corporate Trust Office.

Section 6.11. *Acceptance of Appointment by Successor.* Every successor Trustee appointed hereunder with respect to all series of Securities shall execute, acknowledge and deliver to the Company and to the predecessor Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the predecessor 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 predecessor Trustee with respect to any such series; but, on request of the Company or the successor Trustee, such predecessor Trustee shall, upon payment of its reasonable charges, if any, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the predecessor Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such predecessor Trustee hereunder.

In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the predecessor Trustee and each successor Trustee with respect to the Securities of any applicable series shall execute and deliver an indenture supplemental hereto which (1) shall contain such provisions as shall be deemed necessary or desirable to transfer and to conform to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the predecessor Trustee with respect to the Securities of any series as to which the appointment of such successor Trustee relates and (2) if the predecessor Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor Trustee with respect to the Securities of any series as to which the predecessor Trustee is not being succeeded shall continue to be vested in the predecessor Trustee, and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be Trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee; and upon the

execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; and, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates.

Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in the first or second preceding paragraph, as the case may be.

No successor Trustee with respect to any series of Securities shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible with respect to that series under this Article.

Section 6.12. *Merger, Conversion, Consolidation or Succession to Business.* Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, *provided* that such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor Trustee by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

Section 6.13. *Preferential Collection of Claims Against Company.* If and when the Trustee shall be or shall become a creditor, of the Company (or of any other obligor upon the Securities), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or against any such other obligor, as the case may be).

Section 6.14. *Appointment of Authenticating Agent.* At any time when any of the Securities remain Outstanding the Trustee, with the approval of the Company, may appoint an Authenticating Agent or Agents with respect to one or more series of Securities which shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon exchange, registration of

transfer or partial redemption thereof or pursuant to Section 3.06, 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 and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as an Authenticating Agent, having a combined capital and surplus of not less than $50,000,000 and, if other than the Company itself, 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, 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, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

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

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and, if other than the Company, 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, if other than the Company, 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, the Trustee, with the approval of the Company, may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall mail written notice of such appointment by first-class mail, postage prepaid, to all Holders of Securities of the series with respect to which such Authenticating Agent will serve, as their names and addresses appear in the Security Register. 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. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section.

If an appointment with respect to one or more series is made pursuant to this Section, the Securities of such series may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternate certificate of authentication in the following form:

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

JPMorgan Chase Bank, N.A., as Trustee

By:
As Authenticating Agent:

By:
Authorized Officer:

ARTICLE 7
SECURITYHOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

Section 7.01. *Company to Furnish Trustee Names and Addresses of Securityholders.* The Company will furnish or cause to be furnished to the Trustee:

(a) semiannually, not more than 15 days after January 1 and July 1 in each year, in such form as the Trustee may reasonably require, a list of the names and addresses of the Holders of Securities of each series as of such date, and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished, *provided* that if the Trustee shall be the Security Registrar for such series, such list shall not be required to be furnished.

Section 7.02. *Preservation of Information; Communications to Securityholders.* (a) The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders of Securities contained in the most recent list furnished to the Trustee as provided in Section 7.01 and the names and addresses of Holders of Securities received by the Trustee

in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 7.01 upon receipt of a new list so furnished.

(b) If three or more Holders of Securities of any series (hereinafter referred to as "**applicants**") apply in writing to the Trustee, and furnish to the Trustee reasonable proof that each such applicant has owned a Security of such series for a period of at least six months preceding the date of such application, and such application states that the applicants desire to communicate with other Holders of Securities of such series or with the Holders of all Securities with respect to their rights under this Indenture or under such Securities and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall, within five Business Days after the receipt of such application, at its election, either:

(i) afford such applicants access to the information preserved at the time by the Trustee in accordance with Section 7.02(a), or

(ii) inform such applicants as to the approximate number of Holders of Securities of such series or all Securities, as the case may be, whose names and addresses appear in the information preserved at the time by the Trustee in accordance with Section 7.02(a), and as to the approximate cost of mailing to such Securityholders the form of proxy or other communication, if any, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each Holder of a Security of such series or to all Securityholders, as the case may be, whose names and addresses appear in the information preserved at the time by the Trustee in accordance with Section 7.02(a), a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless within five days after such tender, the Trustee shall mail to such applicants and file with the Commission, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the Holders of Securities of such series or all Securityholders, as the case may be, or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If the Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all Securityholders of such series or all Securityholders, as the case may be, with reasonable promptness

after the entry of such order and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

(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 shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders of Securities in accordance with Section 7.02(b), regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under Section 7.02(b).

Section 7.03. *Reports by Trustee.* (a) The Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant thereto. If required by Section 313(a) of the Trust Indenture Act, the Trustee shall, within 60 days after each May 15 following the date of this Indenture, deliver to each Holder, as provided in Trust Indenture Act Section 313(c), a brief report dated as of such May 15, which complies with the provisions of such Section 313(a).

(b) A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange upon which any Securities are listed, with the Commission and with the Company as required by Trust Indenture Act Section 313(d). The Company will promptly notify the Trustee when any Securities are listed on any stock exchange.

Section 7.04. *Reports by Company*. The Company will:

(a) file with the Trustee, within 15 days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934; or, if the Company is not required to file information, documents or reports pursuant to either of said Sections, then it will file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(b) file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants of this Indenture as may be required from time to time by such rules and regulations; and

(c) transmit by mail to all Securityholders, as their names and addresses appear in the Security Register, within 30 days after the filing thereof with the Trustee, such summaries of any information, documents and reports required to be filed by the Company pursuant to paragraphs (a) and (b) of this Section as may be required by rules and regulations prescribed from time to time by the Commission.

ARTICLE 8
CONSOLIDATION, MERGER, CONVEYANCE OR TRANSFER

Section 8.01. *Company May Consolidate, etc., Only on Certain Terms.* The Company shall not consolidate with or merge into any other corporation or convey or transfer all or substantially all of its properties and assets to any Person, unless;

(a) either the Company shall be the continuing corporation, or the corporation formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance or transfer all or substantially all of the properties and assets of the Company shall be a corporation organized and existing under the laws of the United States of America or any State or the District of Columbia, and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal, premium, if any, and interest, if any, 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, or event which, after notice or lapse of time, or both, would become an Event of Default, shall have happened and be continuing; and

(c) the Company has delivered to the Trustee an Opinion of Counsel as conclusive evidence that any such consolidation, merger, conveyance or transfer and any assumption permitted or required by this Article complies with the provisions of this Article.

Section 8.02. *Successor Corporation Substituted.* Upon any consolidation or merger, or any conveyance or transfer of all or substantially all of the properties and assets of the Company in accordance with Section 8.01, the

successor corporation formed by such consolidation or into which the Company is merged or the Person to which such conveyance or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor corporation had been named as the Company herein and the Company shall thereupon be released from all obligations hereunder and under the Securities. Such successor corporation thereupon may cause to be signed and may issue any or all of the Securities issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such successor corporation, 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 which previously shall have been signed and delivered by the officers of the Company to the Trustee for authentication, and any Securities which such successor corporation thereafter shall cause to be signed and delivered to the Trustee for that purpose. All of 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 as though all of such Securities had been issued at the date of the execution hereof.

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

ARTICLE 9
SUPPLEMENTAL INDENTURES

Section 9.01. *Supplemental Indentures Without Consent of Securityholders.* Without the consent of the Holders of any Securities, the Company and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto (which shall conform to the provisions of the TIA as in force at the date of execution thereof), in form satisfactory to the Trustee, for any of the following purposes:

(a) to evidence the succession of another corporation to the Company, or successive successions, and the assumption by any such successor of the covenants, agreements and obligations of the Company pursuant to Article 8 hereof; or

(b) to add to the covenants of the Company such further covenants, restrictions or conditions for the protection of the Holders of the Securities of any or all series as the Company and the Trustee shall consider to be for the protection of the Holders of the Securities of any or all series or to surrender any right or power herein conferred upon the Company (and if such covenants or the surrender

of such right or power are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included or such surrenders are expressly being made solely for the benefit of one or more specified series); or

(c) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein or in any supplemental indenture, or to make any other provisions with respect to matters or questions arising under this Indenture that do not adversely affect the interests of the Holders of Securities of any series in any material respect; or

(d) to add to this Indenture such provisions as may be expressly permitted by the TIA, excluding, however, the provisions referred to in Section 316(a)(2) of the TIA as in effect at the date as of which this instrument is executed or any corresponding provision in any similar federal statute hereafter enacted; or

(e) to add guarantors or co-obligors with respect to any series of Securities; or

(f) to secure any series of Securities; or

(g) to establish any form of Security, as provided in Article 2 hereof, and to provide for the issuance of any series of Securities, as provided in Article 3 hereof, and to set forth the terms thereof, and/or to add to the rights of the Holders of the Securities of any series; or

(h) to evidence and provide for the acceptance of appointment by another corporation as a successor Trustee hereunder with respect to one or more series of Securities and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to Section 6.11 hereof; or

(i) to add any additional Events of Default in respect of the Securities of any or all series (and if such additional Events of Default are to be in respect of less than all series of Securities, stating that such Events of Default are expressly being included solely for the benefit of one or more specified series); or

(j) to comply with the requirements of the Commission in connection with the qualification of this Indenture under the TIA; or

(k) to make any change in any series of Securities that does not adversely affect in any material respect the interests of the Holders of such Securities.

Section 9.02. *Supplemental Indentures With Consent of Securityholders.* With the consent of the Holders of not less than a majority in principal amount of

the Outstanding Securities of each series affected by such supplemental indenture or indentures, by Act of said Holders delivered to the Company and the Trustee, the Company and the Trustee may from time to time and at any time 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 any supplemental indenture or of modifying in any manner the rights of the Holders of the Securities of each such series under this Indenture; *provided, however*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby:

(a) change the Scheduled Maturity Date or the stated payment date of any payment of premium or interest payable on any Security, or reduce the principal amount thereof, or any amount of interest or premium payable thereon, or

(b) change the method of computing the amount of principal of any Security or any interest payable thereon on any date, or change any Place of Payment where, or the coin or currency in which, any Security or any payment of premium or interest thereon is payable, or

(c) impair the right to institute suit for the enforcement of any payment described in clauses (a) or (b) on or after the same shall become due and payable, whether at Maturity or, in the case of redemption or repayment, on or after the Redemption Date or the Repayment Date, as the case may be; or

(d) change or waive the redemption or repayment provisions of any series;

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

(f) modify any of the provisions of this Section, Section 5.13 or Section 10.07, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; *provided, however*, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to “the Trustee” and concomitant changes in this Section and Section 10.07, or the deletion of this proviso, in accordance with the requirements of Sections 6.11 and 9.01(h); or

(g) adversely affect the ranking or priority of any series;

(h) release any guarantor or co-obligor from any of its obligations under its guarantee of the Securities or this Indenture, except in compliance with the terms of this Indenture; or

(i) waive any Event of Default pursuant to Section 5.01(a), Section 5.01(b) or Section 5.01(c) hereof with respect to such Security.

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

It shall not be necessary for any Act of Securityholders under this Section 9.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Section 9.03. *Execution of Supplemental Indentures.* Upon request of the Company and upon filing with the Trustee of evidence of an Act of Securityholders as aforementioned, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, powers, trusts, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture. In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture.

Section 9.04. *Effect of Supplemental Indentures.* Upon the execution of any supplemental indenture under this Article, this Indenture shall be and be deemed to be modified and amended in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and the respective rights, limitation of rights, duties, powers, trusts and immunities under this Indenture of the Trustee, the Company, and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be determined, exercised and enforced thereunder to the extent provided therein.

Section 9.05. *Conformity With Trust Indenture Act.* Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the TIA as then in effect.

Section 9.06. *Reference in Securities to Supplemental Indentures.* Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Company, to any modification of this Indenture contained in 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 10
COVENANTS

Section 10.01. *Payment of Principal, Premium and Interest.* With respect to each series of Securities, the Company will duly and punctually pay or cause to be paid the principal, premium, if any, and interest, if any, on such Securities in accordance with their terms and this Indenture, and will duly comply with all the other terms, agreements and conditions contained in the Indenture for the benefit of the Securities of such series.

Section 10.02. *Maintenance of Office or Agency.* So long as any of the Securities remain outstanding, the Company will maintain an office or agency in each Place of Payment where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer or exchange, and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and of any change in the location, of such office or agency. If at any time the Company shall fail to maintain such office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee its agent to receive all such presentations, surrenders, notices and demands.

Section 10.03. *Money or Security Payments to Be Held in Trust.* If the Company shall at any time act as its own Paying Agent for any series of Securities, it will, on or before each due date of the principal, premium, if any, or interest, if any, on any of the Securities of such series, segregate and hold in trust for the benefit of the Holders of the Securities of such series a sum sufficient to pay such principal, premium, or interest so becoming due until such sums shall be paid to such Holders of such Securities or otherwise disposed of as herein provided, and will promptly notify the Trustee of its action or failure so to act.

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

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

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

(b) give the Trustee notice of any default by the Company (or any other obligor upon the Securities of such series) in the making of any such payment of principal, premium, if any, or interest, if any, on the Securities of such series; and

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

The Company may, at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture with respect to any series of Securities 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 in respect of each and every series of Securities as to which it seeks to discharge this Indenture or, if for any other purpose, all sums so held in trust by the Company in respect of all Securities, 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.

Section 10.04. *Certificate to Trustee.* The Company will deliver to the Trustee, within 120 days after the end of each fiscal year of the Company (beginning in 2006), an Officers' Certificate, one of whose signatories shall be the Company's principal executive, accounting or financial officer, stating that in the course of the performance by the signers of their duties as officers of the Company they would normally have knowledge of any default by the Company in the performance of any of its covenants, conditions or agreements contained herein (without regard to any period of grace or requirement of notice provided

hereunder), stating whether or not they have knowledge of any such default and, if so, specifying each such default of which the signers have knowledge and the nature thereof.

Section 10.05. *Corporate Existence*. Subject to Article 8 the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 10.06. Limitation on Secured Debt.

With respect to any series of Securities, other than Subordinated Securities:

Unless otherwise provided in such series of Securities, so long as any of such Securities shall be Outstanding, neither the Company nor any Restricted Subsidiary will incur, suffer to exist or guarantee any indebtedness for borrowed money ("**Debt**"), secured by a mortgage, pledge, or lien (a "**Mortgage**") on any Principal Property or on any shares of stock of (or other interests in) any Restricted Subsidiary unless the Company or such Restricted Subsidiary secures or causes such Restricted Subsidiary to secure the Securities of such series (other than Subordinated Securities) and any other Debt of the Company or such Restricted Subsidiary, at the option of the Company or such Restricted Subsidiary, not subordinate to the Securities, equally and ratably with (or prior to) such secured Debt, so long as such secured Debt shall be so secured, unless after giving effect thereto the aggregate amount of all such Debt so secured does not exceed 15% of Consolidated Net Tangible Assets. This restriction will not, however, apply to Debt secured by:

(a) Mortgages existing prior to the original issuance of such Securities;

(b) Mortgages on property of, or on shares of stock of (or other interests in) or Debt of, any corporation existing at the time such corporation becomes a Restricted Subsidiary;

(c) Mortgages in favor of the Company or any Restricted Subsidiary;

(d) Mortgages in favor of, or required by contracts with, any governmental bodies;

(e) Mortgages on property, shares of stock (or other interests) or Debt existing at the time of acquisition thereof (including acquisition through merger or consolidation) or to secure the payment of all or any part of the purchase price thereof or construction or improvement thereon or to secure any Debt incurred prior to, at the time of, or within 365 days after the later of the acquisition, the completion of construction, or the commencement of full operation of such property or within 365 days after the acquisition of such shares or Debt for the

purpose of financing all or any part of the purchase price thereof or construction thereon; and

(f) any extension, renewal or refunding referred to in the foregoing clauses (a) to (e), inclusive.

The transfer of a Principal Property to an Unrestricted Subsidiary or the change in designation from Restricted Subsidiary to Unrestricted Subsidiary which owns a Principal Property shall not be restricted.

Section 10.07. *Waiver of Certain Covenants.* The Company may omit in respect of any series of Securities, in any particular instance, to comply with any covenant or condition set forth in Section 10.06, if before or after the time for such compliance the Holders of at least a majority in principal amount of the Securities at the time Outstanding of such series shall, by Act of such Securityholders, either waive such compliance in such instance or generally waive compliance with such covenant or condition, *provided* that no waiver by the Holders of the Securities of such series shall extend to or affect such covenant or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such covenant or condition shall remain in full force and effect.

ARTICLE 11
REDEMPTION OF SECURITIES

Section 11.01. *Applicability of Article.* The Company may reserve the right to redeem and pay before the Scheduled Maturity Date all or any part of the Securities of any series, either by optional redemption, sinking or purchase fund or analogous obligation or otherwise, by provision therefor in the form of Security for such series established and approved pursuant to Section 2.02 and 2.03 or as otherwise provided in Section 3.01, and on such terms as are specified in such form or in the indenture supplemental hereto with respect to Securities of such series as provided in Section 3.01. Redemption of Securities of any series shall be made in accordance with the terms of such Securities and, to the extent that this Article does not conflict with such terms, the succeeding Sections of this Article.

Section 11.02. *Election to Redeem; Notice to Trustee.* In case of any redemption at the election of the Company, the Company shall, at least 60 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee) notify the Trustee of such Redemption Date and of the principal amount of Securities of such series to be redeemed. In the case of any redemption of Securities (a) prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, or (b) pursuant to an election of the Company which is subject to a

condition specified in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with such restriction or condition.

Section 11.03. *Selection by Trustee of Securities to be Redeemed.* If fewer than all the Securities of any series are to be redeemed, the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of such series not previously called for redemption, by such method as the Trustee shall deem fair and appropriate, which may include provision for the selection for redemption of portions of the principal of Securities of such series of a denomination larger than the minimum authorized denomination for Securities of that series. Unless otherwise provided in the terms of a particular series of Securities, the portions of the principal of Securities so selected for partial redemption shall be equal to the minimum authorized denomination of the Securities of such series, or an integral multiple thereof, and the principal amount which remains outstanding shall not be less than the minimum authorized denomination for Securities of such series.

The Trustee shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Security 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 of such Security which has been or is to be redeemed.

Section 11.04. *Notice of Redemption.* Notice of redemption shall be given by first-class mail, postage prepaid, mailed not fewer than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, at his or her address appearing in the Security Register on the applicable Record Date.

All notices of redemption shall state:

(1) the Redemption Date;

(2) the Redemption Price, or if not then ascertainable, the manner of calculation thereof;

(3) if fewer than all Outstanding Securities of any series are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Securities to be redeemed, from the Holder to whom the notice is given and that on and after the date fixed for redemption, upon surrender of such Security, a new Security or Securities of the same series in the aggregate

principal amount equal to the unredeemed portion thereof will be issued in accordance with Section 11.07;

(4) that on the Redemption Date the Redemption Price will become due and payable upon each such Security, and that interest, if any, thereon shall cease to accrue from and after said date;

(5) the place where such Securities are to be surrendered for payment of the Redemption Price, which shall be the office or agency maintained by the Company in the Place of Payment pursuant to Section 10.02 hereof; and

(6) that the redemption is on account of a sinking or purchase fund, or other analogous obligation, if that be the case.

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

Section 11.05. *Deposit of Redemption Price.* On or prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.03) an amount of money sufficient to pay the Redemption Price of all the Securities which are to be redeemed on that date.

Section 11.06. *Securities Payable on Redemption Date.* Notice of Redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified and from and after such date (unless the Company shall default in the payment of the Redemption Price) such Securities shall cease to bear interest. Upon surrender of such Securities for redemption in accordance with the notice, such Securities shall be paid by the Company at the Redemption Price. Any installment of interest due and payable on or prior to the Redemption Date shall be payable to the Holders of such Securities registered as such on the relevant Record Date according to the terms and the provisions of Section 3.07 above; unless, with respect to an Interest Payment Date that falls on a Redemption Date, such Securities provide that interest due on such date is to be paid to the Person to whom principal is payable.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid, bear interest from the Redemption Date at the rate borne by the Security, or as otherwise provided in such Security.

Section 11.07. *Securities Redeemed in Part.* Any Security that is to be redeemed only in part shall be surrendered at the office or agency maintained by

the Company in the Place of Payment pursuant to Section 10.02 hereof with respect to that series (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Security without service charge and at the expense of the Company, a new Security or Securities of the same series, tenor, terms and Scheduled Maturity Date, of any authorized denomination as requested by such Holders in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

Section 11.08. *Provisions with Respect to any Sinking Funds.* Unless the form or terms of any series of Securities shall provide otherwise, in lieu of making all or any part of any mandatory sinking fund payment with respect to such series of Securities in cash, the Company may at its option (a) deliver to the Trustee for cancellation any Securities of such series theretofore acquired by the Company, or (b) receive credit for any Securities of such series (not previously so credited) acquired or redeemed by the Company (other than through operation of a mandatory sinking fund) and theretofore delivered to the Trustee for cancellation, and if it does so then (i) Securities so delivered or credited shall be credited at the applicable sinking fund Redemption Price with respect to Securities of such series, and (ii) on or before the 60th day next preceding each sinking fund Redemption Date with respect to such series of Securities, the Company will deliver to the Trustee (A) an Officers' Certificate specifying the portions of such sinking fund payment to be satisfied by payment of cash and by the delivery or credit of Securities of such series acquired or redeemed by the Company, and (B) such Securities, to the extent not previously surrendered. Such Officers' Certificate shall also state the basis for any such credit and that the Securities for which the Company elects to receive credit have not been previously so credited and were not acquired by the Company through operation of the mandatory sinking fund, if any, provided with respect to such Securities and shall also state that no Event of Default with respect to Securities of such series has occurred and is continuing. All Securities so delivered to the Trustee shall be canceled by the Trustee and no Securities shall be authenticated in lieu thereof.

If the sinking fund payment or payments (mandatory or optional) with respect to any series of Securities made in cash plus any unused balance of any preceding sinking fund payments with respect to Securities of such series made in cash shall exceed $50,000 (or a lesser sum if the Company shall so request), unless otherwise provided by the terms of such series of Securities, that cash shall be applied by the Trustee on the sinking fund Redemption Date with respect to Securities of such series next following the date of such payment to the redemption of Securities of such series at the applicable sinking fund Redemption Price with respect to Securities of such series, together with accrued interest, if

any, to the date fixed for redemption, with the effect provided in Section 11.06. The Trustee shall select, in the manner provided in Section 11.03, for redemption on such sinking fund Redemption Date a sufficient principal amount of Securities of such series to utilize that cash and shall thereupon cause notice of redemption of the Securities of such series for the sinking fund to be given in the manner provided in Section 11.04 (and with the effect provided in Section 11.06) for the redemption of Securities in part at the option of the Company. Any sinking fund moneys not so applied or allocated by the Trustee to the redemption of Securities of such series shall be added to the next cash sinking fund payment with respect to Securities of such series received by the Trustee and, together with such payment, shall be applied in accordance with the provisions of this Section 11.08. Any and all sinking fund moneys with respect to Securities of any series held by the Trustee at the Maturity of Securities of such series, and not held for the payment or redemption of particular Securities of such series, shall be applied by the Trustee, together with other moneys, if necessary, to be deposited sufficient for the purpose, to the payment of the principal of the Securities of such series at Maturity.

On or before each sinking fund Redemption Date provided with respect to Securities of any series, the Company shall pay to the Trustee in cash a sum equal to all accrued interest, if any, to the date fixed for redemption on Securities to be redeemed on such sinking fund Redemption Date pursuant to this Section 11.08.

The Trustee shall not redeem any Securities with sinking fund moneys or give any notice of redemption of Securities by operation of the applicable sinking fund during the continuance of a default in payment of interest on Securities of such series or of any Event of Default with respect to such series, except that if the notice of redemption of any Securities shall theretofore have been mailed in accordance with the provisions hereof, the Trustee shall redeem such Securities if cash sufficient for that purpose shall be deposited with the Trustee for that purpose in accordance with the terms of this Article 11. Except as aforesaid, any moneys in the sinking fund with respect to Securities of any series at the time when any such default or Event of Default with respect to such series shall occur, and any moneys thereafter paid into such sinking fund shall, during the continuance of such default or Event of Default with respect to such series, be held as security for the payment of all Securities of such series; *provided*, *however*, that in case such default or Event of Default with respect to such series shall have been cured or waived as provided herein, such moneys shall thereafter be applied on the next sinking fund payment date on which such moneys may be applied pursuant to the provisions of this Section 11.08.

ARTICLE 12
REPAYMENT AT OPTION OF HOLDERS

Section 12.01. *Applicability of Article.* Repayment of Securities of any series before their Scheduled Maturity Date at the option of Holders thereof shall be made in accordance with the terms of such Securities and (except as otherwise specified as contemplated by Section 3.01 for Securities of any series) in accordance with this Article.

Section 12.02. *Repayment of Securities.* Securities of any series subject to repayment in whole or in part at the option of the Holders thereof will, unless otherwise provided in the terms of such Securities, be repaid at a price equal to the principal amount thereof, together with interest thereon accrued to the Repayment Date specified in the terms of such Securities. On or before the Repayment Date, the Company will deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.03) an amount of money sufficient to pay the Repayment Price of all the Securities which are to be repaid on such date.

Section 12.03. *Exercise of Option.* Securities of any series subject to repayment at the option of the Holders thereof will contain an "**Option to Elect Repayment**" form on the reverse of such Securities. To be repaid at the option of the Holder, any Security so providing for such repayment, with the "**Option to Elect Repayment**" form on the reverse of such Security duly completed by the Holder, must be received by the Company at the Place of Payment therefor specified in the terms of such Security (or at such other place or places of which the Company shall from time to time notify the Holders of such Securities) not earlier than 30 days nor later than 15 days prior to the Repayment Date. If less than the entire principal amount of such Security is to be repaid in accordance with the terms of such Security, the principal amount of such Security to be repaid, in increments of $1,000 unless otherwise specified in the terms of such Security, and the denomination or denominations of the Security or Securities to be issued to the Holder for the portion of the principal amount of such Security surrendered that is not to be repaid must be specified. The principal amount of any Security providing for repayment at the option of the Holder thereof may not be repaid in part, if, following such repayment, the unpaid principal amount of such Security would be less than the minimum authorized denomination of Securities of the series of which such Security to be repaid is a part. Except as otherwise may be provided by the terms of any Security providing for repayment at the option of the Holder thereof, exercise of the repayment option by the Holder shall be irrevocable unless waived by the Company.

Section 12.04. *When Securities Presented for Repayment Become Due and Payable.* If Securities of any series providing for repayment at the option of the Holders thereof shall have been surrendered as provided in this Article and as

provided by the terms of such Securities, such Securities or the portions thereof, as the case may be, to be repaid shall become due and payable and shall be paid by the Company on the Repayment Date therein specified, and on and after such Repayment Date (unless the Company shall default in the payment of such Securities on such Repayment Date) interest on such Securities or the portions thereof, as the case may be, shall cease to accrue.

Section 12.05. *Securities Repaid in Part.* Upon surrender of any Security which is to be repaid in part only, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Security, without service charge and at the expense of the Company, a new Security or Securities of the same series, tenor, terms and Scheduled Maturity Date, of any authorized denomination specified by the Holder, in an aggregate principal amount equal to and in exchange for the portion of the principal of such Security so surrendered which is not to be repaid.

ARTICLE 13
SUBORDINATION OF SUBORDINATED SECURITIES

Section 13.01. *Agreement To Subordinate.* The Company covenants and agrees, and each Holder of any Subordinated Security issued hereunder by his acceptance thereof, whether upon original issue or upon transfer or assignment, likewise covenants and agrees, that the principal of (and premium, if any) and interest on each and all of the Subordinated Securities issued hereunder are hereby expressly subordinated, to the extent and in the manner hereinafter set forth, in right of payment to the prior payment in full of all Senior Indebtedness.

Section 13.02. *Payment On Dissolution, Liquidation Or Reorganization; Default On Senior Indebtedness.*

Upon any payment or distribution of assets or securities of the Company of any kind or character, whether in cash, property or securities, upon any dissolution or winding up or total or partial liquidation or reorganization of the Company, whether voluntary or involuntary or in bankruptcy, insolvency, receivership or other similar proceedings, or upon any assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Company or otherwise, all principal of (and premium, if any) and interest then due upon all Senior Indebtedness shall first be paid in full, or payment thereof provided for in money or money's worth, before the Holders of the Subordinated Securities or the Trustee on their behalf shall be entitled to receive any assets or securities (other than shares of stock of the Company as reorganized or readjusted or securities of the Company or any other corporation provided for by a plan of reorganization or readjustment, junior to, or the payment of which is subordinated at least to the extent provided in this Article to the payment of, all Senior Indebtedness which

may at the time be outstanding or any securities issued in respect thereof under any such plan of reorganization or readjustment) in respect of the Subordinated Securities (for principal, premium or interest). Upon any such dissolution or winding up or liquidation or reorganization, any payment or distribution of assets or securities of the Company of any kind or character, whether in cash, property or securities (other than as aforesaid), to which the Holders of the Subordinated Securities or the Trustee on their behalf would be entitled, except for the provisions of this Article, shall be made by the Company or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distribution, direct to the holders of Senior Indebtedness or their representatives to the extent necessary to pay all Senior Indebtedness in full, in money or money's worth, after giving effect to any concurrent payment or distribution to or for the holders of Senior Indebtedness. In the event that, notwithstanding the foregoing, the Trustee or the Holder of any Subordinated Security shall, under the circumstances described in the two preceding sentences, have received any payment or distribution of assets or securities of the Company of any kind or character, whether in cash, property or securities (other than as aforesaid) before all Senior Indebtedness is paid in full or payment thereof provided for in money or money's worth, and if such fact shall then have been made known to the Trustee or, as the case may be, such Holder, then such payment or distribution of assets or securities of the Company shall be paid over or delivered forthwith to the receiver, trustee in bankruptcy, liquidating trustee, agent or other person making payment or distribution of assets or securities of the Company for application to the payment of all Senior Indebtedness remaining unpaid, to the extent necessary to pay all Senior Indebtedness in full, in money or money's worth, after giving effect to any concurrent payment or distribution to or for the holders of Senior Indebtedness.

Subject to the payment in full, in money or money's worth, of all Senior Indebtedness, the Holders of the Subordinated Securities (together with the holders of any indebtedness of the Company which is subordinate in right of payment to the payment in full of all Senior Indebtedness and which is not subordinate in right of payment to the Subordinated Securities) shall be subrogated to the rights of the holders of Senior Indebtedness to receive payments or distribution of assets or securities of the Company applicable to Senior Indebtedness until the principal of (and premium, if any) and interest on the Senior Indebtedness shall be paid in full. No such payments or distributions applicable to Senior Indebtedness shall, as between the Company, its creditors other than the holders of Senior Indebtedness, and the Holders of the Subordinated Securities, be deemed to be a payment by the Company to or on account of the Subordinated Securities, it being understood that the provisions of this Article are and are intended solely for the purpose of defining the relative rights of the Holders of the Subordinated Securities, on the one hand, and the holders of Senior Indebtedness, on the other hand. Nothing contained in this

Article or elsewhere in this Indenture or in the Subordinated Securities is intended to or shall impair, as between the Company and the Holders of Subordinated Securities, the obligation of the Company, which is unconditional and absolute, to pay to the Holders of the Subordinated Securities the principal of (and premium, if any) and interest on the Subordinated Securities as and when the same shall become due and payable in accordance with their terms, or to affect (except to the extent specifically provided above in this paragraph) the relative rights of the Holders of the Subordinated Securities and creditors of the Company other than the holders of Senior Indebtedness. Nothing contained herein shall prevent the Trustee or the Holder of any Subordinated Security from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article, of the holders of Senior Indebtedness in respect of assets or securities of the Company of any kind or character, whether cash, property or securities, received upon the exercise of any such remedy.

Upon any payment or distribution of assets or securities of the Company referred to in this Article, the Trustee and the Holders of the Subordinated Securities shall be entitled to rely upon any order or decree of a court of competent jurisdiction in which such dissolution, winding up, liquidation or reorganization proceedings are pending, and upon a certificate of the receiver, trustee in bankruptcy, liquidating trustee, agent or other person making any such payment or distribution, delivered to the Trustee or to the Holders of the Subordinated Securities for the purpose of ascertaining the persons entitled to participate in such distribution, the holders of Senior Indebtedness 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.

If:

(i) there shall have occurred a default in the payment on account of the principal of (or premium, if any) or interest on or other monetary amounts due and payable on any Senior Indebtedness, or

(ii) any other default shall have occurred concerning any Senior Indebtedness which permits the holder or holders thereof to accelerate the maturity of such Senior Indebtedness following notice, the lapse of time, or both, or

(iii) during any time Senior Indebtedness is outstanding, the principal of, and accrued interest on, any series of Subordinated Securities shall have been declared due and payable upon an Event of Default pursuant to Section 5.02 hereof (and such declaration shall not have been rescinded or annulled pursuant to this Indenture);

then, unless and until such default shall have been cured or waived or shall have ceased to exist, or such declaration shall have been waived, rescinded or annulled, no payment shall be made by the Company on account of the principal (or premium, if any) or interest on the Subordinated Securities.

The Trustee shall be entitled to rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior Indebtedness (or a representative of such holder or a trustee under any indenture under which any instruments evidencing any such Senior Indebtedness may have been issued) to establish that such notice has been given by a holder of such Senior Indebtedness or such representative or trustee on behalf of such holder. 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 Indebtedness to participate in any payment or distribution pursuant to this Article 13, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Indebtedness 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 right of such Person under this Article 13, 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 or distribution.

Section 13.03. *Payment Prior To Dissolution Or Default.* Nothing contained in this Article or elsewhere in this Indenture, or in any of the Subordinated Securities, shall prevent (a) the Company, at any time except under the conditions described in Section 13.02 or during the pendency of any dissolution or winding up or total or partial liquidation or reorganization proceedings therein referred to, from making payments at any time of principal of (or premium, if any) or interest on Subordinated Securities or from depositing with the Trustee or any Paying Agent moneys for such payments, or (b) the application by the Trustee or any Paying Agent of any moneys deposited with it under this Indenture to the payment of or on account of the principal of (or premium, if any) or interest on Subordinated Securities to the Holders entitled thereto if such payment would not have been prohibited by the provisions of Section 13.02 on the day such moneys were so deposited.

Notwithstanding the provisions of Section 13.01 or any other provision of this Indenture, the Trustee and any Paying Agent shall not be charged with knowledge of the existence of any Senior Indebtedness, or of the occurrence of any default with respect to Senior Indebtedness of the character described in Section 13.02, or of any other facts which would prohibit the making of any payment of moneys to or by the Trustee or such Paying Agent, unless and until the Trustee shall have received, no later than three Business Days prior to such payment, written notice thereof from the Company or from a holder of such

Senior Indebtedness and the Trustee shall not be affected by any such notice which may be received by it on or after such third Business Day.

Section 13.04. *Securityholders Authorize Trustee To Effectuate Subordination of Securities.* Each Holder of Subordinated Securities by his or her acceptance thereof authorizes and expressly directs the Trustee on his or her behalf to take such action in accordance with the terms of this Indenture as may be necessary or appropriate to effectuate the subordination provisions contained in this Article 13 and to protect the rights of the Holders of Subordinated Securities pursuant to this Indenture, and appoints the Trustee his or her attorney-in-fact for such purpose.

Section 13.05. *Right Of Trustee To Hold Senior Indebtedness.* The Trustee shall be entitled to all of the rights set forth in this Article 13 in respect of any Senior Indebtedness at any time held by it to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture shall be construed to deprive the Trustee of any of its rights as such holder.

Section 13.06. *Article 13 Not To Prevent Events Of Default.* The failure to make a payment on account of principal of, premium, if any, or interest on the Subordinated Securities by reason of any provision of this Article 13 shall not be construed as preventing the occurrence of an Event of Default under Section 6.01 or an event which with the giving of notice or lapse of time, or both, would become an Event of Default or in any way prevent the Holders of Subordinated Securities from exercising any right hereunder other than the right to receive payment on the Subordinated Securities.

Section 13.07. *No Fiduciary Duty Of Trustee To Holders Of Senior Indebtedness.* The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness, and shall not be liable to any such holders (other than for its willful misconduct, bad faith or negligence) if it shall in good faith mistakenly pay over or distribute to the Holders of Subordinated Securities or the Company or any other Person, cash, property or securities to which any holders of Senior Indebtedness shall be entitled by virtue of this Article 13 or otherwise. Nothing in this Section 13.06 shall affect the obligation of any other such Person to hold such payment for the benefit of, and to pay such payment over to, the holders of Senior Indebtedness or their representative.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested; all as of the day and year first above written.

PepsiCo, Inc.,

By: _____
Name:
Title:

Attest:

By: _____
Name:
Title:

JPMorgan Chase Bank, N.A., Trustee

By: _____
Name:
Title:

Attest:

By: _____
Name:
Title:

State of New York

ss.:

County of New York

On the ____ day of _____ before me personally came _____ to me known, who, being by me duly sworn, did depose and say that he resides at _____; that he is _____ of JPMorgan Chase Bank, N.A., one of the parties described in and which executed the above instrument; that he knows the corporate seal of said corporation; that the seal affixed to that instrument is such corporate seal; that it was affixed by authority of the board of directors of said corporation; and that he signed his name thereto by like authority.

Name

_____

Notary Public, State of New York
No. _____
Qualified in _____ County
Commission Expires _____

[Notarial Seal]

State of New York

ss.:

County of Westchester

On the ____ day of _____, _____ before me personally came _____, to me known, who, being by me duly sworn, did depose and say that he resides at 700 Anderson Hill Rd., Purchase, NY; that he is the _____ of PepsiCo, Inc., one of the parties described in and which executed the above instrument; that he knows the corporate seal of said corporation; that the seal affixed to that instrument is such corporate seal; that it was affixed by authority of the board of directors of said corporation; and that he signed his name thereto by like authority.

Name

_____

Notary Public, State of New York
No. _____
Qualified in _____ County
My Commission Expires _____

[Notarial Seal]

Exhibit A

[FORM OF FACE OF NOTE]

No.

PEPSICO, INC.

[SINKING FUND][NON-SINKING FUND] NOTE DUE

PEPSICO, INC., a corporation duly organized and existing under the laws of the State of North Carolina (herein called the "**Company**", which term includes any successor corporation under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to ____ or registered assigns, the principal sum of ___ on ____, 20__, and to pay interest on said principal sum semi-annually on ___ and ___ of each year, commencing, _____ 20 __, at the rate of __% per annum from ____, 20__, or from the most recent date in respect of which interest has been paid or duly provided for, until payment of the principal sum has been made or duly provided for. The interest so payable and punctually paid or duly provided for on any Interest Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more Predecessor Securities) is registered at the close of business on the Record Date for such Interest Payment Date, which shall be the fifteenth day (whether or not a New York Business Day) next preceding such Interest Payment Date. Any such interest that is payable but is not so punctually paid or duly provided for shall forthwith cease to be payable to the registered Holder on such Record Date and may either be paid to the Person in whose name this Note (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 Notes not earlier than 10 days prior to such Special Record Date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed and upon such notice as may be required by such exchange, if such manner of payment shall be deemed practical by the Trustee, all as more fully provided in the Indenture.

Payment of the principal of and interest on this Note will be made at the Place of Payment in such coin or currency of _____ as at the time of payment is legal tender for payment of public and private debts; provided, however, that payments of interest may be made at the option of the Company by checks mailed to the addresses of the Persons entitled thereto as such addresses shall appear in the Security Register.

Reference is made to the further provisions of this Note set forth on the reverse hereof, which shall have the same effect as though fully set forth at this place. Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee by manual signature, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed by manual or facsimile signature under its corporate seal or a facsimile thereof.

Dated:

PEPSICO, INC.

By: _____
Authorized Officer

By: _____
Authorized Officer

[seal]

Attest:

_____

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

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

JPMORGAN CHASE BANK, N.A., as
Trustee

By: _____
Authorized Officer

[FORM OF REVERSE OF NOTE]

PEPSICO, INC.

NOTE DUE

This Note is one of a duly authorized issue of debentures, notes or other evidences of indebtedness of the Company (herein called the "**Securities**"), issued and to be issued in one or more series under an Indenture, dated as of _____, 2006 (herein called the "**Indenture**"), between the Company and JPMorgan Chase Bank, N.A., as Trustee (herein called 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 thereunder of the Company, the Trustee, and the Holders of the Securities, the terms upon which the Securities are, and are to be, authenticated and delivered, and the definition of capitalized terms used herein and not otherwise defined herein. The Securities may be issued in one or more series, which different series may be issued in various aggregate principal amounts, may be denominated in different currencies, may mature at different times, may bear interest (if any) at different rates (which rates may be fixed or variable), may be subject to different redemption provisions (if any), may be subject to different sinking, purchase, or analogous funds (if any), may be subject to different covenants and Events of Default, and may otherwise vary as provided in the Indenture. This Note is one of a series of Securities of the Company designated as set forth on the face hereof (herein called the "**Notes**"), limited in aggregate principal amount to _____.

[The Notes may not be redeemed by the Company prior to maturity except pursuant to the sinking fund.]

[The Notes are subject to redemption upon not less than 30 nor more than 60 days' notice by mail (1) on _____ in any year commencing with the year 20__ and ending with the year 20__ through operation of the sinking fund for the series at a Redemption Price equal to 100% of the principal amount thereof, and (2) at any time, in whole or in part, at the election of the Company, at the following Redemption Prices (expressed as percentages of the principal amount):

If redeemed during the 12-month period beginning each of the years indicated:

Years	Price	Years	Redemption Price

and thereafter at a Redemption Price equal to __ % of the principal amount, together in the case of any such redemption (whether through operation of the

sinking fund or otherwise) with accrued interest to the Redemption Date, but interest installments that are due on or prior to such Redemption Date will be payable to the Holders of record of such Notes or one or more Predecessor Securities at the close of business on the applicable Record Dates referred to on the face hereof.]

[Notwithstanding the foregoing, the Company may not, prior to _____, 20__, redeem any Notes as contemplated by clause (2) of the preceding paragraph as a part of, or in anticipation of, any refunding operation by the application, directly or indirectly, of moneys borrowed having an interest cost to the Company (calculated in accordance with generally accepted accounting practices) of less than ____% per annum.]

[The sinking fund provides for the redemption on _____ in each year beginning with the year _____ and ending with the year _____ of not less than _____ in principal amount of Notes ("**mandatory sinking fund**"). At its option, the Company may make an additional sinking fund payment on or before the due date of any mandatory sinking fund payment to redeem up to an additional principal amount of Notes on any such date. The option to make such sinking fund payments in addition to the mandatory sinking fund is not cumulative and to the extent not availed of in any year will terminate.

At its option, the Company may credit against any mandatory sinking fund payment the principal amount of Notes acquired or redeemed by it (other than with mandatory sinking fund payments) and not previously credited.]

In the event of redemption of this Note in part only, a new Note or Notes for the unredeemed portion hereof will be issued in the name of the Holder hereof upon cancellation hereof.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in aggregate principal amount of the Securities at the time Outstanding of each series to be affected by such amendment or modification. The Indenture also contains provisions permitting the Holders of a majority in aggregate principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of Securities of such series, 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 Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note issued upon 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 Note.

The Indenture contains provisions setting forth certain conditions to the institution of proceedings by Holders of Securities with respect to the Indenture or for any remedy under the Indenture.

If an Event of Default with respect to the Notes shall occur and be continuing, the principal amount hereof may be declared due and payable or may be otherwise accelerated in the manner and with the effect provided in the Indenture.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest on this Note 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 Note is registerable in the Security Register, upon surrender of this Note for registration of transfer at the office or agency of the Company in any Place of Payment duly endorsed, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed, by the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Notes, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Notes are issuable only in registered form without coupons in denominations of _____ and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, this Note is exchangeable for a like aggregate principal amount of Notes of different authorized denominations as requested by the Holder surrendering the same.

No service charge shall be made for any such registration or 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.

Prior to the presentment of this Note for registration of transfer, the Company, the Trustee, and any agent of the Company or the Trustee may treat the Person in whose name this Note is registered as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company, the Trustee, nor any such agent shall be affected by notice to the contrary.

All terms used in this Note which are defined in the Indenture and are not otherwise defined herein shall have the meanings assigned to them in the Indenture.

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto

_____

[PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE]

_____

_____

_____

_____

_____

_____

[PLEASE PRINT OR TYPE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE]

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer such Note on the books of the Issuer, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as written upon the face of the within Note in every particular without alteration or enlargement or any change whatsoever.

Exhibit B

Fixed Rate Note

NOTE DUE

No. $
CUSIP:

Unless this certificate is presented by an authorized representative of The Depository Trust Company (55 Water Street, New York, New York) to the Issuer or its agent for registration of transfer or exchange or for payment, then this certificate shall be registered in the name of Cede & Co. (or such other name as may be requested by an authorized representative of The Depository Trust Company), and ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL.

Unless and until this certificate is exchanged in whole or in part for Notes in certificated form, this certificate may not be transferred except as a whole by The Depository Trust Company to a nominee thereof or by a nominee thereof to The Depository Trust Company or another nominee of The Depository Trust Company or by The Depository Trust Company or any nominee to a successor depository or nominee of such successor depository.

PEPSICO, INC. FIXED RATE NOTE

ORIGINAL ISSUE DATE:

ISSUE PRICE:

INTEREST RATE:

SCHEDULED MATURITY DATE:

INTEREST ACCRUAL DATE:

INTEREST PAYMENT DATES:

REDEEMABLE:
Yes ( ) No ( )

SPECIFIED CURRENCY:

INITIAL REDEMPTION DATE:

APPLICABILITY OF MODIFIED PAYMENT UPON ACCELERATION:

INITIAL REDEMPTION PERCENTAGE:

If yes, state Issue Price:

ANNUAL REDEMPTION PERCENTAGE REDUCTION:

SINKING FUND:

OPTION TO ELECT REPAYMENT: Yes ( ) No ( )

APPLICABILITY OF ANNUAL INTEREST PAYMENTS:

OPTIONAL REPAYMENT DATE(S):

OPTIONAL REPAYMENT PRICE(S):

DENOMINATIONS:

PepsiCo, Inc., a North Carolina corporation (together with its successors and assigns, the "**Issuer**"), for value received, hereby promises to pay to Cede & Co., or the registered assignees thereof, the principal sum of _____ dollars on the Scheduled Maturity Date specified above (except to the extent redeemed or repaid prior to such Scheduled Maturity Date) and to pay interest thereon at the Interest Rate per annum specified above from the Interest Accrual Date specified above until the principal hereof is paid or duly made available for payment (except as provided below) on the Scheduled Maturity Date, such interest payments to be payable on each Interest Payment Date specified above, commencing on the Interest Payment Date next succeeding the Interest Accrual Date specified above, and on the Scheduled Maturity Date (or any redemption or repayment date); provided, however, that if the Interest Accrual Date occurs between a Record Date, as defined below, and the next succeeding Interest Payment Date, interest payments will commence on the second Interest Payment

Date succeeding the Interest Accrual Date and shall be payable to the registered holder of this Note on the Record Date with respect to such second Interest Payment Date; and provided, further, that if this Note is subject to "**Annual Interest Payments**", interest payments shall be made annually in arrears.

Interest on this Note will accrue from the most recent Interest Payment Date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for, from the Interest Accrual Date, until the principal hereof has been paid or duly made available for payment. The interest so payable and punctually paid or duly provided for on any Interest Payment Date will, subject to certain exceptions described herein, be paid to the Person in whose name this Note (or one or more Predecessor Securities) is registered at the close of business on the date 15 calendar days prior to an Interest Payment Date (whether or not a New York Business Day) (each such date a "**Record Date**"); provided, however, that interest payable on the Scheduled Maturity Date (or any redemption or repayment date) will be payable to the Person in whose name this Note is registered on such date.

Payment of the principal and any premium and interest due on this Note at the Scheduled Maturity Date (or any redemption or repayment date) will be made in immediately available funds upon surrender of this Note at the Corporate Trust Office of the Trustee, as defined on the reverse hereof, in The City of New York, or at such other paying agency as the Issuer may determine. Payment of the principal of and premium, if any, and interest on this Note will be made in the currency indicated above; provided, however, that U.S. dollar payments of interest, other than interest due at maturity or any date of redemption or repayment, will be made by U.S. dollar check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register on the applicable Record Date. A Holder of U.S. $10,000,000 or more in aggregate principal amount of Notes having the same Interest Payment Date will be entitled to receive payments of interest, other than interest due at maturity or any date of redemption or repayment, by wire transfer of immediately available funds if appropriate wire transfer instructions have been received by the Trustee in writing not less than 15 calendar days prior to the applicable Interest Payment Date. If this Note is denominated in a Specified currency, payments of interest hereon will be made by wire transfer of immediately available funds to an account maintained by the Holder hereof with a bank located outside the United States, if appropriate wire transfer instructions have been received by the Trustee in writing not less than 15 calendar days prior to the applicable Interest Payment Date. If such wire transfer instructions are not so received, such interest payments will be made by check payable in such Specified Currency mailed to the address of the Person entitled thereto as such address shall appear in the Security Register on the applicable Record Date.

Reference is hereby made to the further provisions of this Note set forth after the caption reading "**Further Provisions of Note**", which further provisions shall for all purposes have the same effect as if set forth at this place. In the event of an inconsistency between any provision set forth above and any provision set forth in "**Further Provisions of Note**", the description above shall govern.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Note shall not be entitled to any benefit under the Indenture, as defined in Further Provisions of Note, or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Issuer has caused this Note to be duly executed under its corporate seal.

Dated:

PEPSICO, INC.

By: _____
Authorized Officer

By: _____
Authorized Officer

[seal]

Attest:

_____

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

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

JPMORGAN CHASE BANK, N.A.,
as Trustee

By: _____
Authorized Officer

[FURTHER PROVISIONS OF NOTE]

This Note is one of a duly authorized issue of debentures, notes or other evidences of indebtedness of the Issuer (herein called the "**Securities**") issued and to be issued in one or more series under an Indenture, dated as of _____, 2006 (herein called the "**Indenture**"), between the Issuer and JPMorgan Chase Bank, N.A., as Trustee (herein called 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 of the Issuer, the Trustee, and Holders of the Securities, the terms upon which the Securities are, and are to be,

authenticated and delivered, and the definitions of capitalized terms used herein and not otherwise defined herein. This Note is one of a series of Securities of the Issuer designated above having maturities not less than nine months from the date of issue (the "**Notes**"). The terms of individual Notes may vary with respect to interest rates, interest rate formulas, issue dates, maturity dates, or otherwise, all as provided in the Indenture. To the extent not inconsistent herewith, the terms of the Indenture are hereby incorporated by reference herein.

The Notes will not be subject to any sinking fund and, unless otherwise provided on the face hereof in accordance with the provisions of the following two paragraphs, will not be redeemable or subject to repayment at the option of the Holder prior to maturity.

Unless otherwise indicated on the face of this Note, this Note may not be redeemed prior to the Scheduled Maturity Date. If so indicated on the face of this Note, this Note may be redeemed in whole or in part at the option of the Issuer on or after the Initial Redemption Date specified on the face hereof on the terms set forth on the face hereof, together with interest accrued and unpaid hereon to the date of redemption (except as provided below). If this Note is subject to "**Annual Redemption Percentage Reduction,**" the Initial Redemption Percentage indicated on the face hereof will be reduced on each anniversary of the Initial Redemption Date by the Annual Redemption Percentage Reduction specified on the face hereof until the redemption price of this Note is 100% of the principal amount hereof, together with interest accrued and unpaid hereon to the date of redemption (except as provided below). Notice of redemption shall be mailed to the registered Holders of the Notes designated for redemption at their addresses as the same shall appear on the Security Register not less than 30 nor more than 60 days prior to the date fixed for redemption, subject to all the conditions and provisions of the Indenture. In the event of redemption of this Note in part only, a new Note or Notes for the amount of the unredeemed portion hereof shall be issued in the name of the holder hereof upon the cancellation hereof.

Unless otherwise indicated on the face of this Note, this Note shall not be subject to repayment at the option of the Holder prior to the Scheduled Maturity Date. If so indicated on the face of this Note, this Note will be subject to repayment at the option of the Holder on the Optional Repayment Date or Dates specified on the face hereof on the terms set forth herein. On any Optional Repayment Date, this Note will be repayable in whole or in part in increments of the denomination indicated on the face of this Note (provided that any remaining principal amount hereof shall not be less than the minimum authorized denomination hereof) at the option of the Holder hereof at a price equal to the Optional Repayment Price indicated on the face of this Note of the principal amount to be repaid, together with interest accrued and unpaid hereon to the date of repayment (except as provided below). For this Note to be repaid at the option of the Holder hereof, the Trustee must receive at its Corporate Trust Office in the

Borough of Manhattan, The City of New York, at least 15 but not more than 30 days prior to the date of repayment, (i) this Note with the form entitled "**Option to Elect Repayment**" below duly completed or (ii) a telegram, telex, facsimile transmission, or a letter from a member of a national securities exchange or the National Association of Securities Dealers, Inc. or a commercial bank or a trust company in the United States setting forth the name of the Holder of this Note, the principal amount hereof, the certificate number of this Note or a description of this Note's tenor and terms, the principal amount hereof to be repaid, a statement that the option to elect repayment is being exercised thereby, and a guarantee that this Note, together with the form entitled "**Option to Elect Repayment**" duly completed, will be received by the Trustee not later than the fifth New York Business Day after the date of such telegram, telex, facsimile transmission, or letter; provided, that such telegram, telex, facsimile transmission, or letter shall only be effective if this Note and form duly completed are received by the Trustee by such fifth New York Business Day. Exercise of such repayment option by the holder hereof shall be irrevocable. In the event of repayment of this Note in part only, a new Note or Notes for the amount of the unpaid portion hereof shall be issued in the name of the holder hereof upon the cancellation hereof.

Interest payments on this Note will include interest accrued to but excluding the Interest Payment Dates or the Scheduled Maturity Date (or any earlier redemption or repayment date), as the case may be. Interest payments for this Note will be computed and paid on the basis of a 360-day year of twelve 30-day months and the amount of interest payable for any partial period shall be computed on the basis of the actual number of days elapsed in a 360-day year of twelve 30-day months.

In the case where the Interest Payment Date or the Scheduled Maturity Date (or any redemption or repayment date) does not fall on a New York Business Day, payment of interest, premium, if any, or principal otherwise payable on such date need not be made on such date, but may be made on the next succeeding New York Business Day with the same force and effect as if made on such Interest Payment Date or on the Scheduled Maturity Date (or any redemption or repayment date), and no interest shall accrue for the period from and after such Interest Payment Date or the Scheduled Maturity Date (or any redemption or repayment date) to such next succeeding New York Business Day.

This Note and all the obligations of the Issuer hereunder are direct, unsecured obligations of the Issuer and rank without preference or priority among themselves and pari passu with all other existing and future unsecured and unsubordinated indebtedness of the Issuer, subject to certain statutory exceptions in the event of liquidation upon insolvency.

This Note, and any Note or Notes issued upon registration of transfer or exchange hereof, is issuable only in fully registered form, without coupons, and, if

denominated in U.S. dollars, is issuable only in denominations indicated on the face of this Note. If this Note is denominated in a Specified Currency, then, unless a higher minimum denomination is required by applicable law, it is issuable only in denominations of the equivalent of U.S. $_____ (rounded down to an integral multiple of 1,000 units of such Specified Currency), or any amount in excess thereof which is an integral multiple of 1,000 units of such Specified Currency, as determined by reference to the noon dollar buying rate in New York City for cable transfers of such Specified Currency published by the Federal Reserve Bank of New York on the New York Business Day immediately preceding the date of issuance.

Except as set forth below, if the principal of, premium, if any, or interest on, this Note is payable in a Specified Currency and such Specified Currency is not available to the Issuer for making payments hereon due to the imposition of exchange controls or other circumstances beyond the control of the Issuer or is no longer used by the government of the country issuing such currency or for the settlement of transactions by public institutions within the international banking community, then the Issuer will be entitled to satisfy its obligations to the Holder of this Note by making such payments in U.S. dollars on the basis of the noon buying rate in the City of New York for cable transfers of such Specified Currency published by the Federal Reserve Bank of New York (the "**Market Exchange Rate**") on the second New York Business Day prior to the applicable payment date or, if the Market Exchange Rate in effect on such date cannot be readily determined, then on the basis of the highest bid quotation (assuming European-style quotation — *i.e.*, Specified Currency per U.S. dollar) on the second New York Business Day prior to the applicable payment date from three recognized foreign exchange dealers in the City of New York (one of which may be the Issuer) for the purchase of the aggregate amount of the Specified Currency payable on such payment date, for settlement on such payment date, and at which the applicable dealer timely commits to execute a contract, or if the Issuer retains an exchange rate agent for this purpose, then on the basis of a bid quotation from a recognized foreign exchange dealer selected by the exchange rate agent (which may be the exchange rate agent itself). Any payment made under such circumstances in U.S. dollars where the required payment is in a Specified Currency other than U.S. dollars will not constitute an Event of Default.

If payments of principal, premium, if any, or interest, if any, with respect to this Note are required to be made in a composite currency and the composition of such composite currency is at any time altered (whether by the addition, elimination, combination, or subdivision of one or more components, by adjustment of the ratio of any component to the composite unit, or by any combination of such events), then the Issuer will be entitled to satisfy its payment obligations hereunder by making such payments in such composite currency as altered.

All determinations referred to above made by the Issuer or its agent shall be at its sole discretion and shall, in the absence of manifest error, be conclusive to the extent permitted by law for all purposes and binding on the Trustee and the Holder of this Note.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer and the rights of the Holders of the Securities of each series under the Indenture at any time by the Issuer and the Trustee with the consent of the Holders of a majority in aggregate principal amount of the Securities at the time Outstanding of each series to be affected by such amendment or modification. The Indenture also contains provisions permitting the Holders of a majority in aggregate principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Issuer 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 Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note 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 Note.

The Indenture contains provisions setting forth certain conditions to the institution of proceedings by Holders of Notes with respect to the Indenture or for any remedy under the Indenture.

If an Event of Default with respect to the Notes shall occur and be continuing, the principal amount hereof may be declared due and payable or may be otherwise accelerated in the manner and with the effect provided in the Indenture.

If the face hereof indicates that this Note is subject to "**Modified Payment upon Acceleration,**" then (i) if the principal hereof is declared to be due and payable or is otherwise accelerated as referred to in the preceding paragraph, the amount of principal due and payable with respect to this Note shall be limited to the aggregate principal amount hereof multiplied by the sum of the Issue Price specified on the face hereof (expressed as a percentage of the aggregate principal amount) plus the original issue discount amortized from the Original Issue Date to the date of declaration or acceleration, which amortization shall be calculated using the "**interest method**" (computed in accordance with generally accepted accounting principles in effect on the date of declaration or acceleration), (ii) for the purpose of any Act of Securityholders taken pursuant to the Indenture prior to the acceleration of payment of this Note, the principal amount hereof shall equal the amount that would be due and payable hereon, calculated as set forth in clause (i) above, if this Note were declared to be due and payable or otherwise accelerated on the date of any such Act and (iii) for the purpose of any Act of

Securityholders taken pursuant to the Indenture following the acceleration of payment of this Note, the principal amount hereof shall equal the amount of principal due and payable with respect to this Note, calculated as set forth in clause (i) above.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal of and interest on this Note at the times, place, and rate, and in the coin or currency, herein prescribed.

So long as this Note shall be Outstanding, the Issuer will cause to be maintained an office or agency for the payment of the principal of and premium, if any, and interest on this Note as herein provided in the City of New York, and an office or agency in said City of New York for the registration of transfer or exchange of the Notes. The Issuer may designate other agencies for the payment of said principal, premium, if any, and interest at such place or places (subject to applicable laws and regulations) as the Issuer may decide. So long as there shall be such an agency, the Issuer shall keep the Trustee advised of the names and locations of such agencies, if any are so designated.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note is registrable in the Security Register, upon surrender of this Note for registration of transfer at the Corporate Trust Office or any other applicable Place of Payment, duly endorsed, or accompanied by a written instrument of transfer in form satisfactory to the Issuer and the Security Registrar duly executed, by the Holder hereof or his or her attorney duly authorized in writing, and thereupon one or more new Notes, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

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

Prior to due presentment of this Note for registration of transfer, the Issuer, the Trustee, and any agent of the Issuer or the Trustee may treat the Person in whose name this Note is registered as the owner hereof for the purpose of receiving payments as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Issuer, the Trustee, nor any such agent shall be affected by notice to the contrary.

This Note shall for all purposes be governed by, and construed in accordance with, the laws of the State of New York.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM – as tenants in common
TEN ENT – as tenants by the entireties
JT TEN – as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT
Custodian

(Cust) (Minor)

Under Uniform Gifts to Minors Act

(State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto [PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE]

[PLEASE PRINT OR TYPE NAME AND ADDRESS, INCLUDING ZIP CODE OF ASSIGNEE]

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer such Note on the books of the Issuer, with full power of substitution in the premises.

Dated:

NOTE: The signature to this assignment must correspond with the name as written upon the face of the within Note in every particular without alteration or enlargement or any change whatsoever.

OPTION TO ELECT REPAYMENT

The undersigned hereby irrevocably requests and instructs the Issuer to repay the within Note (or portion thereof specified below) pursuant to its terms at a price equal to the principal amount thereof, together with interest to the Optional Repayment Date, to the undersigned at

_____

_____

_____

(Please print or typewrite name and address of the undersigned)

If less than the entire principal amount of the within Note is to be repaid, specify the portion thereof which the holder elects to have repaid: _____; and specify the denomination or denominations (which shall not be less than the minimum authorized denomination) of the Notes to be issued to the Holder for the portion of the within Note not being repaid (in the absence of any such specification, one such Note will be issued for the portion not being repaid): _____.

Dated: _____

_____

The signature on this Option to Elect Repayment must correspond with the name as written upon the face of the within instrument in every particular without alteration or enlargement or any change whatsoever.

Exhibit C

Floating Rate Note

NOTE DUE

No. $

CUSIP:

Unless this certificate is presented by an authorized representative of The Depository Trust Company (55 Water Street, New York, New York) to the Issuer or its agent for registration of transfer or exchange or for payment, then this certificate shall be registered in the name of Cede & Co. (or such other name as may be requested by an authorized representative of The Depository Trust Company), and ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

Unless and until this certificate is exchanged in whole or in part for Notes in certificated form, this certificate may not be transferred except as a whole by The Depository Trust Company to a nominee thereof or by a nominee thereof to The Depository Trust Company or another nominee of The Depository Trust Company or by The Depository Trust Company or any nominee to a successor depository or nominee of such successor depository.

PEPSICO, INC.
FLOATING RATE NOTE

ISSUE PRICE:	ORIGINAL ISSUE DATE:	SCHEDULED MATURITY DATE:
BASE RATE:	SPREAD (PLUS OR MINUS):	SPREAD MULTIPLIER:
INTEREST ACCRUAL DATE:	INTEREST PAYMENT PERIOD:	INTEREST RESET PERIOD:
INDEX CURRENCY:	REPORTING SERVICE:	
INDEX MATURITY:	INITIAL INTEREST RESET DATE:	INITIAL INTEREST RATE:
INTEREST PAYMENT DATES:	INTEREST DETERMINATION DATES:	INTEREST RESET DATES:
MINIMUM INTEREST RATE:	MAXIMUM INTEREST RATE:	SPECIFIED CURRENCY:
REDEEMABLE: YES ____ NO____	OPTION TO ELECT REPAYMENT: YES____ NO____	CALCULATION AGENT:
INITIAL REDEMPTION DATE:	OPTIONAL REPAYMENT DATE(S):	ALTERNATIVE RATE EVENT SPREAD:
INITIAL REDEMPTION PERCENTAGE:	OPTIONAL REPAYMENT PRICE(S):	
ANNUAL REDEMPTION PERCENTAGE REDUCTION:	SINKING FUND:	ORIGINAL YIELD TO MATURITY:
DENOMINATIONS:		

PepsiCo, Inc., a North Carolina corporation (together with its successors and assigns, the "**Issuer**"), for value received, hereby promises to pay to Cede &

Co., or the registered assignees thereof, the principal sum of _____ dollars on the Scheduled Maturity Date specified above (except to the extent redeemed or repaid prior to such Scheduled Maturity Date) and to pay interest thereon, from the Interest Accrual Date specified above, at a rate per annum equal to the Initial Interest Rate specified above until the Initial Interest Reset Date specified above, and thereafter at a rate per annum determined in accordance with the Base Rate set forth above, or to the extent not specified above, as determined in accordance with the provisions set forth under the Further Provisions of Note hereof until the principal hereof is paid or duly made available for payment. The Issuer will pay interest in arrears monthly, quarterly, semiannually, or annually as specified above on each Interest Payment Date (as specified above), such interest payments to commence on the first Interest Payment Date next succeeding the Interest Accrual Date specified above, and on the Scheduled Maturity Date (or any redemption or repayment date); provided, however, that if the Interest Accrual Date occurs between a Record Date, as defined below, and the next succeeding Interest Payment Date, interest payments will commence on the second Interest Payment Date succeeding the Interest Accrual Date and shall be payable to the registered Holder of this Note on the Record Date with respect to such second Interest Payment Date; and provided, further, that if an Interest Payment Date (other than the Scheduled Maturity Date or a redemption or repayment date) would fall on a day that is not a New York Business Day, as defined under the Further Provisions of Note hereof, such Interest Payment Date shall be the following day that is a New York Business Day; provided, however, that if the interest rate is determined by reference to LIBOR and such next succeeding New York Business Day falls in the next succeeding calendar month, such Interest Payment Date will be the immediately preceding New York Business Day; provided, further, that if the Scheduled Maturity Date or a redemption or repayment date falls on a day that not a New York Business Day, the payment of principal, premium, if any, and interest due on that date will be postponed to the next following New York Business Day and no additional interest on that payment will accrue as a result of such postponement.

Interest on this Note will accrue from the most recent date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for, from the Interest Accrual Date, until the principal hereof has been paid or duly made available for payment. The interest so payable and punctually paid or duly provided for on any Interest Payment Date will, subject to certain exceptions described herein, be paid to the person in whose name this Note (or one or more Predecessor Securities) is registered at the close of business on the date 15 calendar days prior to an Interest Payment Date (whether or not a New York Business Day) (each such date a "**Record Date**"); provided, however, that interest payable on the Scheduled Maturity Date (or any redemption or repayment date) will be payable to the Person in whose name this Note is registered on such date.

Payment of the principal and any premium and interest due on this Note at the Scheduled Maturity Date (or any redemption or repayment date) will be made in immediately available funds upon surrender of this Note at the Corporate Trust Office of the Trustee, as defined on the reverse hereof, in The City of New York, or at such other paying agency as the Issuer may determine. Payment of the principal of and premium, if any, and interest on this Note will be made in the currency indicated above; *provided*, *however*, that U.S. dollar payments of interest, other than interest due at maturity or any date of redemption or repayment, will be made by U.S. dollar check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register on the applicable Record Date. A Holder of U.S. $10,000,000 or more in aggregate principal amount of Notes having the same Interest Payment Date will be entitled to receive payments of interest, other than interest due at maturity or any date of redemption or repayment, by wire transfer of immediately available funds if wire transfer instructions have been received by the Trustee in writing not less than 15 calendar days prior to the applicable Interest Payment Date. If this Note is denominated in a currency other than U.S. dollars, payments of interest hereon will be made by wire transfer of immediately available funds to an account maintained by the Holder hereof with a bank located outside the United States, if appropriate wire transfer instructions have been received by the Trustee in writing not less than 15 calendar days prior to the applicable Interest Payment Date. If such wire transfer instructions are not so received, such interest payments will be made by check payable in such Specified Currency mailed to the address of the Person entitled thereto as such address shall appear in the Security Register on the applicable Record Date.

Reference is hereby made to the further provisions of this Note set forth after the caption reading "**Further Provisions of Note**", which further provisions shall for all purposes have the same effect as if set forth at this place. In the event of an inconsistency between any provision set forth above and any provision set forth in "**Further Provisions of Note**", the description above shall govern.

Unless the certificate of authentication hereon has been executed by the Trustee referred to under the Further Provisions of Note hereof by manual signature, this Note shall not be entitled to any benefit under the Indenture, as defined under the Further Provisions of Note hereof, or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Issuer has caused this Note to be duly executed under its corporate seal.

Dated:

PEPSICO, INC.

By: _____
Authorized Officer

By: _____
Authorized Officer

[seal]

Attest:

_____

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

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

JPMORGAN CHASE BANK, N.A.,
as Trustee

By: _____
Authorized Officer

[FURTHER PROVISIONS OF NOTE]

This Note is one of a duly authorized issue of debentures, notes or other evidences of indebtedness of the Issuer (herein called the "**Securities**") issued and to be issued in one or more series under an Indenture, dated as of _____, (herein called the "**Indenture**"), between the Issuer and JPMorgan Chase Bank, N.A., as Trustee (herein called 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 of the Issuer, the Trustee and the Holders of the Securities, the terms upon which the Securities are, and are to be,

authenticated and delivered, and the definitions of capitalized terms used herein and not otherwise defined herein. This Note is one of a series of Securities of the Issuer designated above having maturities not less than nine months from the date of issue (the "**Notes**"). The terms of individual Notes may vary with respect to interest rates, interest rate formulas, issue dates, maturity dates, or otherwise, all as provided in the Indenture. To the extent not inconsistent herewith, the terms of the Indenture are hereby incorporated by reference herein.

The Notes will not be subject to any sinking fund and, unless otherwise provided on the face hereof in accordance with the provisions of the following two paragraphs, will not be redeemable or subject to repayment at the option of the Holder prior to maturity.

Unless otherwise indicated on the face of this Note, this Note may not be redeemed prior to the Scheduled Maturity Date. If so indicated on the face of this Note, this Note may be redeemed in whole or in part at the option of the Issuer on or after the Initial Redemption Date specified on the face hereof on the terms set forth on the face hereof, together with interest accrued and unpaid hereon to the date of redemption. If this Note is subject to "**Annual Redemption Percentage Reduction,**" the Initial Redemption Percentage indicated on the face hereof will be reduced on each anniversary of the Initial Redemption Date by the Annual Redemption Percentage Reduction specified on the face hereof until the redemption price of this Note is 100% of the principal amount hereof, together with interest accrued and unpaid hereon to the date of redemption. Notice of redemption shall be mailed to the registered Holders of the Notes designated for redemption at their addresses as the same shall appear on the Security Register not less than 30 nor more than 60 days prior to the date fixed for redemption, subject to all the conditions and provisions of the Indenture. In the event of redemption of this Note in part only, a new Note or Notes for the amount of the unredeemed portion hereof shall be issued in the name of the Holder hereof upon the cancellation hereof.

Unless otherwise indicated on the face of this Note, this Note shall not be subject to repayment at the option of the Holder prior to the Scheduled Maturity Date. If so indicated on the face of this Note, this Note will be subject to repayment at the option of the Holder on the Optional Repayment Date or Dates specified on the face hereof on the terms set forth herein. On any Optional Repayment Date, this Note will be repayable in whole or in part in increments of the denomination indicated on the face of this Note (provided that any remaining principal amount hereof shall not be less than the minimum authorized denomination hereof) at the option of the holder hereof at a price equal to the Optional Repayment Price indicated on the face of this Note of the principal amount to be repaid, together with interest accrued and unpaid hereon to the date of repayment. For this Note to be repaid at the option of the Holder hereof, the Trustee must receive at its Corporate Trust Office in the Borough of Manhattan,

the City of New York, at least 15 but not more than 30 days prior to the date of repayment, (i) this Note with the form entitled "**Option to Elect Repayment**" below duly completed or (ii) a telegram, telex, facsimile transmission, or a letter from a member of a national securities exchange or the National Association of Securities Dealers, Inc. or a commercial bank or a trust company in the United States setting forth the name of the Holder of this Note, the principal amount hereof, the certificate number of this Note or a description of this Note's tenor and terms, the principal amount hereof to be repaid, a statement that the option to elect repayment is being exercised thereby and a guarantee that this Note, together with the form entitled "**Option to Elect Repayment**" duly completed, will be received by the Trustee not later than the fifth New York Business Day after the date of such telegram, telex, facsimile transmission, or letter; provided, that such telegram, telex, facsimile transmission, or letter shall only be effective if this Note and form duly completed are received by the Trustee by such fifth New York Business Day. Exercise of such repayment option by the Holder hereof shall be irrevocable. In the event of repayment of this Note in part only, a new Note or Notes for the amount of the unpaid portion hereof shall be issued in the name of the holder hereof upon the cancellation hereof.

This Note will bear interest at the rate determined in accordance with the applicable provisions below by reference to the Base Rate shown on the face hereof based on the Index Maturity, if any, shown on the face hereof (i) plus or minus the Spread, if any, or (ii) multiplied by the Spread Multiplier, if any, specified on the face hereof. Commencing with the Initial Interest Reset Date specified on the face hereof, the rate at which interest on this Note is payable shall be reset as of each Interest Reset Date (as used herein, the term "**Interest Reset Date**" shall include the Initial Interest Reset Date). The Interest Reset Dates will be the Interest Reset Dates specified on the face hereof; provided, however, that (i) the interest rate in effect for the period from the Interest Accrual Date to the Initial Interest Reset Date will be the Initial Interest Rate, (ii) the interest rate in effect hereon for the 15 days immediately prior to any Maturity Date (or, with respect to any principal amount to be redeemed or repaid, any redemption or repayment date) will be that in effect on the fifteenth calendar day preceding such Maturity Date or such date of redemption or repayment, as the case may be, and (iii) if interest is reset daily or weekly, the interest rate in effect for the two-day period immediately preceding any Interest Payment Date will be the interest rate that was in effect on the first day of such two-day period. If any Interest Reset Date would otherwise be a day that is not a New York Business Day, such Interest Reset Date shall be postponed to the next succeeding day that is a New York Business Day, except that if the Base Rate specified on the face hereof is LIBOR and such New York Business Day is in the next succeeding calendar month, such Interest Reset Date shall be the next preceding New York Business Day.

"**CD Rate**" with respect to any Interest Determination Date means the rate on that date for negotiable U.S. dollar certificates of deposit having the Index

Maturity specified on the face hereof as published by the Board of Governors of the Federal Reserve System in "Statistical Release H.15(519), Selected Interest Rates," or any successor publication of the Board of Governors of the Federal Reserve System ("**H.15(519)**") under the heading "CDs (Secondary Market)."

The following procedures shall be followed if the CD Rate cannot be determined as described above:

(i) If the above rate is not published in H.15(519) by 3:00 p.m., New York City time, on the Calculation Date, the CD Rate shall be the rate on that Interest Determination Date set forth in the daily update of H.15(519), available through the world wide website of the Board of Governors of the Federal Reserve System at http://www.federalreserve.gov/releases/h15/update, or any successor site or publication ("**H.15 Daily Update**") for the Interest Determination Date for certificates of deposit having the Index Maturity specified on the face hereof, under the caption "CDs (Secondary Market)."

(ii) If the above rate is not yet published in either H.15(519) or the H.15 Daily Update by 9:00 a.m., New York City time, on the Calculation Date, the CD Rate shall be the arithmetic mean of the secondary market offered rates as of 10:00 a.m., New York City time, on that Interest Determination Date of three leading nonbank dealers in negotiable U.S. dollar certificates of deposit in The City of New York, for negotiable U.S. dollar certificates of deposit of major U.S. money center banks of the highest credit standing in the market for negotiable certificates of deposit with a remaining maturity closest to the Index Maturity specified on the face hereof in an amount that is representative for a single transaction in that market at that time.

(iii) If the dealers selected are not quoting as set forth above, the CD Rate for that Interest Determination Date shall remain the CD Rate for the immediately preceding Interest Reset Period, or, if there was no Interest Reset Period, the rate of interest payable shall be the Initial Interest Rate.

"**Calculation Date**" when used with respect to any Interest Determination Date means the date by which the applicable interest rate must be determined, which date will be the earlier of (i) the tenth calendar day following such Interest Determination Date or, if such date is not a New York Business Day, the first New York Business Day occurring after such 10-day period, or (ii) the New York Business Day immediately preceding the applicable Interest Payment Date or Scheduled Maturity Date (or redemption date or repayment date), as the case may be.

"**Commercial Paper Rate**" with respect to any Interest Determination Date shall be the Money Market Yield (as defined herein), calculated as described below, of the rate on that date for U.S. dollar commercial paper having the Index

Maturity specified on the face hereof, as that rate is published in H.15(519), under the heading "Commercial Paper — Nonfinancial."

The following procedures shall be followed if the Commercial Paper Rate cannot be determined as described above:

(i) If the above rate is not published by 3:00 p.m., New York City time, on the Calculation Date, then the Commercial Paper Rate shall be the Money Market Yield of the rate on that Interest Determination Date for commercial paper of the Index Maturity specified on the face hereof as published in the H.15 Daily Update, or other recognized electronic source used for the purpose of displaying the applicable rate, under the heading "Commercial Paper — Nonfinancial."

(ii) If by 3:00 p.m., New York City time, on that Calculation Date the rate is not yet published in either H.15(519) or the H.15 Daily Update, or other recognized electronic source used for the purpose of displaying the applicable rate, then the Commercial Paper Rate shall be the Money Market Yield of the arithmetic mean of the offered rates as of 11:00 a.m., New York City time, on that Interest Determination Date of three leading dealers of U.S. dollar commercial paper in The City of New York, for commercial paper of the Index Maturity specified on the face hereof, placed for an industrial issuer whose bond rating is "Aa," or the equivalent, from a nationally recognized statistical rating agency.

(iii) If the dealers selected are not quoting as set forth in (ii) above, the Commercial Paper Rate for that Interest Determination Date shall remain the Commercial Paper Rate for the immediately preceding Interest Reset Period, or, if there was no Interest Reset Period, the rate of interest payable shall be the Initial Interest Rate.

"**Designated LIBOR Page**" means either: (a) if LIBOR Reuters is designated as the Reporting Service on the face hereof, the display on the Reuters Monitor Money Rates Service for the purpose of displaying the London interbank rates of major banks for the applicable Index Currency or its designated successor, or (b) if LIBOR Telerate is designated as the Reporting Service on the face hereof, the display on Moneyline Telerate Inc., or any successor service, on the page specified on the face hereof, or any other page as may replace that page on that service, for the purpose of displaying the London interbank rates of major banks for the applicable Index Currency.

If neither LIBOR Reuters nor LIBOR Telerate is specified on the face hereof, LIBOR for the applicable Index Currency shall be determined as if LIBOR Telerate were specified, and, if the U.S. dollar is the Index Currency, as if Page 3750 had been specified.

"**Federal Funds Rate**" with respect to any Interest Determination Date means the rate on that date for U.S. dollar federal funds as published in H.15(519) under

the heading "Federal Funds (Effective)" as displayed on Moneyline Telerate, or any successor service, on page 120 or any other page as may replace page 120 on that service ("**Telerate Page 120**").

The following procedures shall be followed if the Federal Funds Rate cannot be determined as described above:

(i) If the above rate is not published by 3:00 p.m., New York City time, on the Calculation Date, the Federal Funds Rate shall be the rate on that Interest Determination Date as published in the H.15 Daily Update, or other recognized electronic source used for the purpose of displaying the applicable rate, under the heading "Federal Funds (Effective)."

(ii) If the above rate is not yet published in either H.15(519) or the H.15 Daily Update, or other recognized electronic source used for the purpose of displaying the applicable rate, by 3:00 p.m., New York City time, on the Calculation Date, the Federal Funds Rate shall be the arithmetic mean of the rates for the last transaction in overnight U.S. dollar federal funds prior to 9:00 a.m., New York City time, on that Interest Determination Date, quoted by each of three leading brokers of U.S. dollar federal funds transactions in The City of New York.

(iii) If the brokers selected are not quoting as set forth in (ii) above, the Federal Funds Rate for that Interest Determination Date shall remain the Federal Funds Rate for the immediately preceding Interest Reset Period, or, if there was no Interest Reset Period, the rate of interest payable shall be the Initial Interest Rate.

"**H.15(519)**" means the weekly statistical release designated as such, or any successor publication, published by the Board of Governors of the Federal Reserve System.

"**Index Currency**" means the currency specified on the face hereof as the currency for which LIBOR shall be calculated, or, if the euro is substituted for that currency, the Index Currency shall be the euro. If that currency is not specified on the face hereof, the Index Currency shall be U.S. dollars.

"**Index Maturity**" means the period of maturity of the applicable instrument or obligation.

"**Interest Determination Date**" with respect to any Interest Reset Date means the date two New York Business Days prior to such Interest Reset Date. The Interest Determination Date pertaining to an Interest Reset Date for Notes bearing interest calculated by reference to the Treasury Rate shall be the day of the week in which such Interest Reset Date falls on which Treasury bills normally would be auctioned. Treasury Bills are normally sold at auction on Monday of each week, unless that day is a legal holiday, in which case the auction is

normally held on the following Tuesday, except that the auction may be held on the preceding Friday; *provided*, *however*, that if an auction is held on the Friday of the week preceding such Interest Reset Date, the Interest Determination Date shall be such preceding Friday; and *provided*, *further*, that if an auction shall fall on any Interest Reset Date, then the Interest Reset Date shall instead be the first New York Business Day following the date of such auction.

"**Interest Reset Period**" means the period from an Interest Reset Date to the next succeeding Interest Reset Date.

"**London Banking Day**" means any day on which dealings in deposits in the Index Currency (as defined herein) are transacted in the London interbank market.

"**LIBOR**" with respect to any Interest Determination Date will be based on London Interbank Offered Rate. The Calculation Agent shall determine LIBOR for each Interest Determination Date as follows:

(i) As of the Interest Determination Date, LIBOR shall be either (a) if "**LIBOR Reuters**" is specified as the Reporting Service on the face hereof, the arithmetic mean of the offered rates for deposits in the Index Currency having the Index Maturity designated on the face hereof, commencing on the second London Banking Day immediately following that Interest Determination Date, that appear on the Designated LIBOR Page, as defined above, as of 11:00 a.m., London time, on that Interest Determination Date, if at least two offered rates appear on the Designated LIBOR Page; except that if the specified Designated LIBOR Page, by its terms provides only for a single rate, that single rate shall be used; or (b) if "**LIBOR Telerate**" is specified as the Reporting Service on the face hereof, the rate for deposits in the Index Currency having the Index Maturity designated on the face hereof, commencing on the second London Banking Day immediately following that Interest Determination Date or, if pounds sterling is the Index Currency, commencing on that Interest Determination Date, that appears on the Designated LIBOR Page at approximately 11:00 a.m., London time, on that Interest Determination Date.

(ii) If fewer than two offered rates appear, or no rate appears, then the Calculation Agent shall request the principal London offices of each of four major reference banks in the London interbank market, as selected by the Calculation Agent (after consultation with the Issuer), to provide the Calculation Agent with its offered quotation for deposits in the Index Currency for the period of the Index Maturity specified on the face hereof commencing on the second London Banking Day immediately following the Interest Determination Date or, if pounds sterling is the Index Currency, commencing on that Interest Determination Date, to prime banks in the London interbank market at approximately 11:00 a.m., London time, on that Interest Determination Date and in a principal amount that is representative of a single transaction in that Index Currency in that market at that time.

(iii) If at least two quotations are provided, LIBOR determined on that Interest Determination Date shall be the arithmetic mean of those quotations. If fewer than two quotations are provided, LIBOR shall be determined for the applicable Interest Reset Date as the arithmetic mean of the rates quoted at approximately 11:00 a.m., London time, or some other time specified on the face hereof, in the applicable principal financial center for the country of the Index Currency on that Interest Reset Date, by three major banks in that principal financial center selected by the Calculation Agent (after consultation with the Issuer) for loans in the Index Currency to leading European banks, having the Index Maturity specified on the face hereof and in a principal amount that is representative of a single transaction in that Index Currency in that market at that time.

(iv) If the banks so selected by the Calculation Agent are not quoting as set forth above, the LIBOR rate for that Interest Determination Date shall remain the LIBOR for the immediately preceding Interest Reset Period, or, if there was no Interest Reset Period, the rate of interest payable shall be the Initial Interest Rate.

"**Maturity Date**" means the date on which the entire principal amount outstanding under a Debt Security becomes due and payable, whether on the Scheduled Maturity Date or by declaration of acceleration, call for redemption, or otherwise.

"**Money Market Yield**" shall be a yield calculated in accordance with the following formula:

$$\text{Money Market Yield} = \frac{D \times 360}{360 - (D \times M)} \times 100$$

where "D" refers to the applicable per year rate for commercial paper quoted on a bank discount basis and expressed as a decimal and "M" refers to the actual number of days in the interest period for which interest is being calculated.

"**New York Business Day**" means any day other than a Saturday or Sunday that is neither a legal holiday nor a day on which banking institutions are authorized or required by law, regulation, or executive order, to be closed in the City of New York and: (i) with respect to any Debt Security denominated or payable in a Specified Currency other than U.S. dollars, euro or Australian dollars, in the principal financial center of the country of the Specified Currency, or (z) if this Note is denominated in Australian dollars, in Sydney and (b) if this Note is denominated in euro, that is also a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer System is operating.

"**Prime Rate**" with respect to any Interest Determination Date means the rate set forth in H.15(519) for that day opposite the caption "**Bank Prime Loan**". If such rate does not appear in H.15(519) by 3:00 p.m., New York City time, on the Calculation Date relating to such Interest Determination Date, the rate for such Interest Determination Date will be the arithmetic mean of the rates of interest publicly announced by each bank that appears on the Reuters Screen USPRIME 1 Page as such bank's prime rate or base lending rate as in effect for that Interest Determination Date as quoted on the Reuters Screen USPRIME 1 Page for such Interest Determination Date or, if fewer than four rates appear on the Reuters Screen USPRIME 1 Page for such Interest Determination Date, the rate will be the arithmetic mean of the rates of interest publicly announced by three major banks in New York City, selected by the Calculation Agent, as its U.S. dollar prime rate or base lending rate as in effect for such Interest Determination Date. Each change in the prime rate or base lending rate of any bank so announced by such bank will be effective as of the effective date of the announcement or, if no effective date is specified, as of the date of the announcement. If the banks selected by the Calculation Agent are not quoting as set forth above, the Prime Rate for that Interest Determination Date shall remain the Prime Rate for the immediately preceding Interest Reset Period or, if there was no Interest Reset Period, the rate of interest payable shall be the Initial Interest Rate.

"**Reuters Screen USPRIME 1 Page**" means the display designated as page "USPRIME 1" on the Reuters Money 3000 Service, or any successor service, or any other page as may replace the USPRIME 1 Page on that service for the purpose of displaying prime rates or base lending rates of major U.S. banks.

"**US Treasury Bill Rate**" with respect to any Interest Determination Date means:

(i) the rate from the Auction held on the applicable Interest Determination Date (the "**Auction**") of direct obligations of the United States ("**Treasury Bills**") having the Index Maturity specified on the face hereof as that rate appears under the caption "INVESTMENT RATE" on the display on Moneyline Telerate, or any successor service, on page 56 or any other page as may replace page 56 on that service ("**Telerate Page 56**") or page 57 or any other page as may replace page 57 on that service ("**Telerate Page 57**"); or

(ii) if the rate described in (i) above is not published by 3:00 p.m., New York City time, on the Calculation Date, the Bond Equivalent Yield of the rate for the applicable Treasury Bills as published in the H.15 Daily Update, or other recognized electronic source used for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Auction High"; or

(iii) if the rate described in (ii) above is not published by 3:00 p.m., New York City time, on the related Calculation Date, the Bond Equivalent Yield of the Auction rate of the applicable Treasury Bills, announced by the United States Department of the Treasury; or

(iv) if the rate described in (iii) above is not announced by the United States Department of the Treasury, or if the Auction is not held, the Bond Equivalent Yield of the rate on the applicable Interest Determination Date of Treasury Bills having the Index Maturity specified on the face hereof published in H.15(519) under the caption "U.S. Government Securities/Treasury Bills/Secondary Market"; or

(v) if the rate described in (iv) above is not so published by 3:00 p.m., New York City time, on the related Calculation Date, the rate on the applicable Interest Determination Date of the applicable Treasury Bills as published in the H.15 Daily Update, or other recognized electronic source used for the purpose of displaying the applicable rate, under the caption "U.S. Government Securities/Treasury Bills/Secondary Market"; or

(vi) if the rate described in (v) above is not so published by 3:00 p.m., New York City time, on the related Calculation Date, the rate on the applicable Interest Determination Date calculated by the Calculation Agent as the Bond Equivalent Yield of the arithmetic mean of the secondary market bid rates, as of approximately 3:30 p.m., New York City time, on the applicable Interest Determination Date, of three primary U.S. government securities dealers, selected by the Calculation Agent, for the issue of Treasury Bills with a remaining maturity closest to the Index Maturity specified on the face hereof; or

(vii) if the dealers selected by the Calculation Agent are not quoting as described in (vi), the Treasury Rate for the immediately preceding Interest Reset Period, or, if there was no Interest Reset Period, the rate of interest payable shall be the Initial Interest Rate.

For the purposes of this definition, the term "**Bond Equivalent Yield**" is to be calculated in accordance with the following formula:

$$\text{Bond Equivalent Yield} = \frac{D \times N}{360 - (D \times M)} \times 100$$

where "**D**" refers to the per annum rate for Treasury Bills quoted on a bank discount basis, "**N**" refers to 365 or 366, as the case may be, and "**M**" refers to the actual number of days in the interest period for which interest is being calculated.

Notwithstanding the foregoing, the interest rate hereon shall not be greater than the Maximum Interest Rate, if any, or less than the Minimum Interest Rate, if

any, specified on the face hereof. The Calculation Agent shall calculate the interest rate hereon in accordance with the foregoing on or before each Calculation Date, which interest rate shall be conclusive and binding on the Issuer, the Holders of the Notes and the Trustee absent manifest error. The Trustee shall have no responsibility for determinations made by the Calculation Agent of the interest rates hereon. The interest rate on this Note will in no event be higher than the maximum rate permitted by New York law, as the same may be modified by United States Federal law of general application.

At the request of the Holder hereof, the Calculation Agent will provide to the Holder hereof the interest rate hereon then in effect and, if determined, the interest rate that will become effective as of the next Interest Reset Date.

Interest payments on this Note will be equal to the amount of interest accrued from (and including) the Interest Accrual Date or from (and including) the last date to which interest has been paid, as the case may be, to (but excluding) the applicable Interest Payment Date, except that interest payable on the Maturity Date will include interest accrued to (but excluding) the Maturity Date. If any Interest Payment Date (other than the Maturity Date) for any Floating Rate Debt Security would otherwise be a day that is not a New York Business Day, the payment of interest that would otherwise be payable on such date will be postponed to the next succeeding New York Business Day provided, however, that if the interest rate is determined by reference to LIBOR and such next succeeding New York Business Day falls in the next succeeding calendar month, such Interest Payment Date will be the immediately preceding New York Business Day. If the Maturity Date falls on this Note on a day that is not a New York Business Day, the payment of principal, premium, if any, and interest, if any, otherwise payable on such date will be postponed to the next succeeding New York Business Day, and no interest on such payment will accrue as a result of such postponement.

This Note will bear interest at the rate by reference to the Base Rate shown on the face hereof (i) plus or minus the Spread, if any, and/or (ii) multiplied by the Spread Multiplier, if any, specified on the face hereof. Commencing with the Initial Interest Reset Date specified on the face hereof, the rate at which interest on this Note is payable shall be reset as of each Interest Reset Date specified on the face hereof (as used herein, the term "**Interest Reset Date**" shall include the Initial Interest Reset Date).

Unless otherwise indicated on the face hereof, interest payments on this Note shall be the amount of interest accrued from and including the Interest Accrual Date or from and including the last date to which interest has been paid or duly provided for to but excluding the Interest Payment Dates or the Scheduled Maturity Date (or any earlier redemption or repayment date), as the case may be. Accrued interest hereon shall be an amount calculated by multiplying the face

amount hereof by an accrued interest factor. Such accrued interest factor shall be computed by adding the interest factor calculated for each day in the period for which interest is being paid. The interest factor for each such date shall be computed by dividing the interest rate applicable to such day (i) by 360 if the Base Rate is CD Rate, Commercial Paper Rate, Federal Funds Rate, Prime Rate or LIBOR (except if the Index Currency is pounds sterling); (ii) by 365 if the Base Rate is LIBOR and the Index Currency is pounds sterling; or (iii) by the actual number of days in the year if the Base Rate is the Treasury Rate.

The interest rate on this Note in effect on an Interest Reset Date is the interest rate determined as of the prior Interest Determination Date and the interest rate in effect on any other day is the interest rate in effect as of the preceding Interest Reset Date or (for the period from the Original Issue Date to the Initial Interest Reset Date) the Initial Interest Rate.

This Note and all the obligations of the Issuer hereunder are direct, unsecured obligations of the Issuer and rank without preference or priority among themselves and pari passu with all other existing and future unsecured and unsubordinated indebtedness of the Issuer, subject to certain statutory exceptions in the event of liquidation upon insolvency.

This Note, and Note or Notes issued upon registration of transfer or exchange hereof, is issuable only in fully registered form, without coupons, and, if denominated in U.S. dollars, is issuable only in denominations indicated on the face of this Note. If this Note is denominated in a Specified Currency, then, unless a higher minimum denomination is required by applicable law, it is issuable only in denominations of the equivalent of U.S. $_____ (rounded down to an integral multiple of 1,000 units of such Specified Currency), or any amount in excess thereof which is an integral multiple of 1,000 units of such Specified Currency, as determined by reference to the noon dollar buying rate in New York City for cable transfers of such Specified Currency published by the Federal Reserve Bank of New York (the "**Market Exchange Rate**") on the New York Business Day immediately preceding the date of issuance.

Except as set forth below, if the principal of, premium, if any, or interest on, this Note is payable in a Specified Currency and such Specified Currency is not available to the Issuer for making payments hereon due to the imposition of exchange controls or other circumstances beyond the control of the Issuer or is no longer used by the government of the country issuing such currency or for the settlement of transactions by public institutions within the international banking community, then the Issuer will be entitled to satisfy its obligations to the Holder of this Note by making such payments in U.S. dollars on the basis of the highest bid quotation (assuming European-style quotation — i.e., Specified Currency per U.S. dollar) on the second New York Business Day prior to the applicable payment date from the recognized foreign exchange dealers in the City of New

York (one of which may be the Issuer) for the purchase of the aggregate amount of the Specified Currency payable on such payment date, for settlement on such payment date, and at which the applicable dealer timely commits to execute a contract, or if the Issuer retains an exchange rate agent for this purpose, then on the basis of a bid quotation from a recognized foreign exchange dealer selected by the exchange rate agent (which may be the exchange rate agent itself). Any payment made under such circumstances in U.S. dollars where the required payment is in a Specified Currency other than U.S. dollars will not constitute an Event of Default. If payments of principal, premium, if any, or interest, if any, with respect to this Note are required to be made in a composite currency and the composition of such composite currency is at any time altered (whether by the addition, elimination, combination, or subdivision of one or more components, by adjustment of the ratio of any component to the composite unit, or by any combination of such events), then the Issuer will be entitled to satisfy its payment obligations hereunder by making such payments in such composite currency as altered.

All determinations referred to above made by the Issuer or its agent shall be at its sole discretion and shall, in the absence of manifest error, be conclusive to the extent permitted by law for all purposes and binding on the Trustee and the Holder of this Note.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer and the rights of the Holders of the Securities of each series under the Indenture at any time by the Issuer and the Trustee with the consent of the Holders of a majority in aggregate principal amount of the Securities at the time Outstanding of each series to be affected by such amendment or modification. The Indenture also contains provisions permitting the Holders of a majority in aggregate principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Issuer 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 Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note 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 Note.

The Indenture contains provisions setting forth certain conditions to the institution of proceedings by Holders of Notes with respect to the Indenture or for any remedy under the Indenture.

If an Event of Default with respect to the Notes shall occur and be continuing, the principal amount hereof may be declared due and payable or may be otherwise accelerated in the manner and with the effect provided in the Indenture.

No reference herein to the Indenture and no provisions of this Note or of the Indenture shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal of and interest on this Note at the times, place, and rate, and in the coin or currency, herein prescribed.

So long as this Note shall be Outstanding, the Issuer will cause to be maintained an office or agency for the payment of the principal of and premium, if any, and interest on this Note as herein provided in the City of New York, and an office or agency in said City of New York for the registration, transfer, or exchange of the Notes. The Issuer may designate other agencies for the payment of said principal, premium, if any, and interest at such place or places (subject to applicable laws and regulations) as the Issuer may decide. So long as there shall be such an agency, the Issuer shall keep the Trustee advised of the names and locations of such agencies, if any are so designated.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note is registrable in the Security Register, upon surrender of this Note for registration of transfer at the Corporate Trust Office of the Trustee or any other applicable Place of Payment, duly endorsed, or accompanied by a written instrument of transfer in form satisfactory to the Issuer and the Security Registrar duly executed, by the Holder hereof or his or her attorney duly authorized in writing, and thereupon one or more new Notes, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

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

Prior to due presentment of this Note for registration of transfer, the Issuer, the Trustee, and any agent of the Issuer or the Trustee may treat the Person in whose name this Note is registered as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Issuer, the Trustee, nor any such agent shall be affected by notice to the contrary.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM – as tenants in common
TEN ENT – as tenants by the entireties
JT TEN – as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT
Custodian
(Cust) (Minor)
Under Uniform Gifts to Minors Act
(State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto

[PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE]

[PLEASE PRINT OR TYPE NAME AND ADDRESS, INCLUDING ZIP CODE OF ASSIGNEE]

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer such Note on the books of the Issuer, with full power of substitution in the premises.

Dated:

NOTE: The signature to this assignment must correspond with the name as written upon the face of the within Note in every particular without alteration or enlargement or any change whatsoever.

OPTION TO ELECT REPAYMENT

The undersigned hereby irrevocably requests and instructs the Issuer to repay the within Note (or portion thereof specified below) pursuant to its terms at a price equal to the principal amount thereof, together with interest to the Optional Repayment Date, to the undersigned at

(Please print or typewrite name and address of the undersigned)

If less than the entire principal amount of the within Note is to be repaid, specify the portion thereof which the holder elects to have repaid: _____; and specify the denomination or denominations (which shall not be less than the minimum authorized denomination) of the Notes to be issued to the Holder for the portion of the within Note not being repaid (in the absence of any such specification, one such Note will be issued for the portion not being repaid): _____.

Dated: _____

_____

The signature on this Option to Elect Repayment must correspond with the name as written upon the face of the within instrument in every particular without alteration or enlargement or any change whatsoever.

OPINION OF DAVIS POLK & WARDWELL

May 2, 2006

PepsiCo, Inc.
700 Anderson Hill Road
Purchase, New York 10577

Ladies and Gentlemen:

We have acted as New York counsel for PepsiCo, Inc., a North Carolina company (the "**Company**"), in connection with the automatic shelf registration statement on Form S-3 (File No. 333-_____) (the "**Registration Statement**") being filed by the Company with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended (the "**Securities Act**"), for the registration of the sale from time to time of (a) the Company's senior debt securities and subordinated debt securities (collectively, the "**Debt Securities**"), which may be issued pursuant to an indenture between the Company and JPMorgan Chase Bank, N.A., as trustee (the "**Trustee**") (the "**Indenture**"); (b) shares of common stock, par value 1-2/3 cents per share (the "**Common Stock**") of the Company; (c) warrants of the Company to purchase Debt Securities, Common Stock or other securities of the Company or securities of third parties (the "**Warrants**"), which may be issued pursuant to a warrant agreement between the Company and the warrant agent (the "**Warrant Agreement**"); and (d) Debt Securities, Common Stock and Warrants or any combination thereof that may be offered in the form of units (the "**Units**") to be issued under one or more unit agreements to be entered into among the Company, a bank or trust company, as unit agent (the "**Unit Agent**"), and the holders from time to time of the Units (each such unit agreement, a "**Unit Agreement**").

We, as your counsel, have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments as we have deemed necessary or advisable for the purposes of rendering this opinion.

On the basis of the foregoing, we advise you that, in our opinion,:

1. When the Indenture and any supplemental indenture to be entered into in connection with the issuance of any Debt Securities have been duly authorized, executed and delivered by the Trustee and the Company; the specific terms of a particular series of Debt Securities have been duly authorized and established in accordance with the Indenture; and such Debt Securities have been duly authorized, executed, authenticated, issued and delivered in accordance with the Indenture and the applicable underwriting or other agreement, such Debt Securities will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, except as (a) the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium or similar laws now or hereinafter in effect relating to or affecting the enforcement of creditors' rights generally and (b) the availability of equitable remedies may be limited by equitable principles of general applicability (regardless of whether considered in a proceeding at law or in equity).

2. When the Warrant Agreement to be entered into in connection with the issuance of any Warrants has been duly authorized, executed and delivered by the Warrant Agent and the Company; the specific terms of the Warrants have been duly authorized and established in accordance with the Warrant Agreement; and such Warrants and the warrant certificate have been duly authorized, executed, issued and delivered in accordance with the Warrant Agreement and the applicable underwriting or other agreement, such Warrants will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, except as (a) the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent

transfer, moratorium or similar laws now or hereinafter in effect relating to or affecting the enforcement of creditors' rights generally and (b) the availability of equitable remedies may be limited by equitable principles of general applicability (regardless of whether considered in a proceeding at law or in equity).

3. When the Unit Agreement to be entered into in connection with the issuance of any Units has been duly authorized, executed and delivered by the Unit Agent and the Company; the specific terms of the Units have been duly authorized and established in accordance with the Unit Agreement; and such Units and the unit certificate have been duly authorized, executed, issued and delivered in accordance with the Unit Agreement and the applicable underwriting or other agreement, such Units will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, except as (a) the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium or similar laws now or hereinafter in effect relating to or affecting the enforcement of creditors' rights generally and (b) the availability of equitable remedies may be limited by equitable principles of general applicability (regardless of whether considered in a proceeding at law or in equity).

In connection with the opinions expressed above, we have assumed that, at or prior to the time of the delivery of any such security, (i) the Board of Directors shall have duly established the terms of such security and duly authorized the issuance and sale of such security and such authorization shall not have been modified or rescinded; (ii) the Registration Statement shall be effective and such effectiveness shall not have been terminated or rescinded; and (iii) there shall not have occurred any change in law affecting the validity or enforceability of such security. We have also assumed that none of the terms of any security to be established subsequent to the date hereof, nor the issuance and delivery of such security, nor the compliance by the Company with the terms of such security will violate any applicable law or will result in a violation of any provision of any instrument or agreement then binding upon the Company, or any restriction imposed by any court or governmental body having jurisdiction over the Company.

We are members of the Bar of the State of New York and the foregoing opinion is limited to the laws of the State of New York and the federal laws of the United States of America.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement to above and further consent to the reference to our name under the caption " Validity of Securities" in the prospectus, which is a part of the Registration Statement. In giving this consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

This opinion is rendered solely to you in connection with the above matter. This opinion may not be relied upon by you for any other purpose or relied upon by or furnished to any other person without our prior written consent.

Very truly yours,

/s/ Davis Polk & Wardwell

Exhibits 5.2 and 23.3

[Letterhead of Womble Carlyle Sandridge & Rice, PLLC]

May 2, 2006

PepsiCo, Inc.
700 Anderson Hill Road
Purchase, New York 10577

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as special North Carolina counsel to PepsiCo, Inc., a North Carolina corporation (the "Company"), in connection with the registration by the Company, under the Securities Act of 1933, as amended (the "Securities Act"), of the offer and sale by the Company from time to time, pursuant to Rule 415 under the Securities Act, of shares of common stock, par value 1-2/3 cents per share (the "Common Stock"), including any shares of Common Stock issuable upon conversion, exercise or exchange of any securities that are convertible into or exercisable or exchangeable for shares of Common Stock or that otherwise require the issuance of Common Stock (collectively, the "Securities"). The Common Stock will be offered in amounts, at prices and on terms to be determined in light of market conditions at the time of sale and to be set forth in supplements to the prospectus contained in the Company's registration statement on Form S-3, as it may be amended from time to time (the "Registration Statement"), to which this opinion is an exhibit.

As the Company's special North Carolina counsel, we have reviewed the Company's articles of incorporation and by-laws, each as amended to date, and have examined the originals, or copies certified or otherwise identified to our satisfaction, of corporate records, certificates of public officials and of representatives of the Company, statutes and other instruments and documents, as a basis for the opinions hereinafter expressed. In rendering this opinion, we have relied upon certificates of public officials and representatives of the Company with respect to the accuracy of the factual matters contained in such certificates.

In connection with such review, we have assumed with your permission (i) that the Company is a well-known seasoned issuer pursuant to Rule 405 under the Securities Act and, accordingly, the Registration Statement will become effective upon filing with the Securities and Exchange Commission (the "Commission") and that the Registration Statement and any amendments thereto (including post-effective amendments) will remain effective for so long as shares of the Common Stock are offered pursuant to the Registration Statement; (ii) that a prospectus supplement will have been prepared and filed with the Commission describing any Common Stock offered thereby; (iii) that the Common Stock will be issued and sold in the manner stated in the Registration Statement and the applicable prospectus supplement; (iv) that at the time of any offering or sale of any shares of Common Stock, the Company will have such number of shares of Common Stock, as set forth in such offering or sale, duly authorized and available for issuance; (v) that a definitive purchase,

underwriting or similar agreement with respect to any Common Stock offered will have been properly authorized, executed and delivered by the Company and the other parties thereto; (vi) that there shall not have occurred any change in law affecting the validity of the Common Stock; (vii) the genuineness of all signatures and the legal capacity of all signatories; (viii) the authenticity of all documents submitted to us as originals and the conformity to original documents of all documents submitted to us as certified or photostatic copies; and (ix) the proper issuance and accuracy of certificates of public officials and representatives of the Company. We have also assumed that the issuance and delivery of such Common Stock will not violate any applicable law or result in a violation of any provision of any instrument or agreement then binding upon the Company or any restriction imposed by any court or governmental body having jurisdiction over the Company.

This opinion is limited to the laws of the State of North Carolina, excluding local laws of the State of North Carolina (i.e., the statutes and ordinances, the administrative decisions and the rules and regulations of counties, towns, municipalities and special political subdivisions of, or authorities or quasi-governmental bodies constituted under the laws of, the State of North Carolina and judicial decisions to the extent they deal with any of the foregoing), and we are expressing no opinion as to the effect of the laws of any other jurisdiction.

Based upon and subject to the foregoing, and having regard for such legal considerations as we deem relevant, it is our opinion that when (a) all necessary corporate action has been taken to approve the issuance and sale of any shares of Common Stock, and (b) such shares have been issued and sold as contemplated in the Registration Statement, any prospectus supplement relating thereto and any definitive purchase, underwriting or similar agreement, all such shares will be validly issued, fully paid and nonassessable. The shares of Common Stock covered in the opinion in this paragraph include any shares of Common Stock that may be issued upon conversion, exercise, exchange or otherwise pursuant to the terms of any other Securities.

This opinion is rendered as of the date hereof, and we undertake no obligation to advise you of any changes in applicable law or any other matters that may come to our attention after the date hereof.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the use of our name in the prospectus forming a part of the Registration Statement under the caption “Validity of Securities.” In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act and the rules and regulations thereunder.

Sincerely,

/s/ WOMBLE CARLYLE SANDRIDGE & RICE
A Professional Limited Liability Company

KNS
GB

Exhibit 15.1

ACCOUNTANT'S ACKNOWLEDGEMENT

Board of Directors and Shareholders
PepsiCo, Inc.

Re: Registration Statement on Form S-3 filed with the Securities and Exchange Commission

With respect to the subject registration statement, we acknowledge our awareness of the incorporation by reference therein of our report dated April 26, 2006, related to our review of PepsiCo Inc.'s interim financial information.

Pursuant to Rule 436 under the Securities Act of 1933 (the "Act"), such report is not considered part of a registration statement prepared or certified by an accountant, or report prepared or certified by an accountant within the meaning of Sections 7 and 11 of the Act.

/s/ KPMG LLP
New York, New York
April 26, 2006

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders
PepsiCo, Inc.

We consent to the incorporation by reference in the Registration Statement to be filed on Form S-3 (the "Registration Statement") of PepsiCo, Inc. of our report dated February 24, 2006, relating to the consolidated balance sheet of PepsiCo, Inc. and Subsidiaries as of December 31, 2005 and December 25, 2004 and the related consolidated statements of income, cash flows and common shareholders' equity for each of the years in the three-year period ended December 31, 2005, management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2005 and the effectiveness of internal control over financial reporting as of December 31, 2005, which report appears in PepsiCo, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2005.

We also consent to the reference to our firm under the heading "Independent Registered Public Accounting Firm" in the Registration Statement.

/s/ KPMG LLP
New York, New York
April 26, 2006

SECURITIES AND EXCHANGE COMMISSION
Washington, D. C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF
A CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF
A TRUSTEE PURSUANT TO SECTION 305(b)(2)

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

(Exact name of trustee as specified in its charter)

	13-4994650
(State of incorporation if not a national bank)	**(I.R.S. employer identification No.)**
1111 Polaris Parkway **Columbus, Ohio**	**43271**
(Address of principal executive offices)	**(Zip Code)**

Pauline E. Higgins
Vice President and Assistant General Counsel
JPMorgan Chase Bank, National Association
707 Travis Street, 4th Floor North
Houston, Texas 77002
Tel: (713) 216-1436
(Name, address and telephone number of agent for service)

PepsiCo, Inc.

(Exact name of obligor as specified in its charter)

North Carolina	**13-1584302**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. employer identification No.)**
700 Anderson Hill Road **Purchase, New York**	**10577**
(Address of principal executive offices)	**(Zip Code)**

Debt Securities
(Title of the indenture securities)

GENERAL

Item 1. General Information.

Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Comptroller of the Currency, Washington, D.C.

Board of Governors of the Federal Reserve System, Washington, D.C., 20551

Federal Deposit Insurance Corporation, Washington, D.C., 20429.

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

Item 2. Affiliations with the Obligor and Guarantors.

If the obligor or any guarantor is an affiliate of the trustee, describe each such affiliation.

None.

Item 16. List of Exhibits

List below all exhibits filed as a part of this Statement of Eligibility.

1. A copy of the Articles of Association of JPMorgan Chase Bank, N.A. (see Exhibit 1 to Form T-1 filed in connection with Registration Statement No. 333-106575 which is incorporated by reference).

2. A copy of the Certificate of Authority of the Comptroller of the Currency for the trustee to commence business. (see Exhibit 2 to Form T-1 filed in connection with Registration Statement No. 333-106575 which is incorporated by reference).

3. None, the authority of the trustee to exercise corporate trust powers being contained in the documents described in Exhibits 1 and 2.

4. A copy of the existing By-Laws of the Trustee. (see Exhibit 4 to Form T-1 filed in connection with Registration Statement No. 333-106575 which is incorporated by reference).

5. Not applicable.

6. The consent of the Trustee required by Section 321(b) of the Act. (see Exhibit 6 to Form T-1 filed in connection with Registration Statement No. 333-106575 which is incorporated by reference).

7. A copy of the latest report of condition of the Trustee, published pursuant to law or the requirements of its supervising or examining authority.

8. Not applicable.

9. Not applicable.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939 the Trustee, JPMorgan Chase Bank, N.A., has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of New York and State of New York, on the 28th day of April, 2006.

JPMORGAN CHASE BANK, N.A.

By /s/ Francine Springer
Francine Springer, Vice President

Exhibit 7 to Form T-1

Bank Call Notice

RESERVE DISTRICT NO. 2
CONSOLIDATED REPORT OF CONDITION OF

JPMorgan Chase Bank, N.A.
of 1111 Polaris Parkway, Columbus, Ohio 43240
and Foreign and Domestic Subsidiaries,
a member of the Federal Reserve System,

at the close of business December 31, 2005, in
accordance with a call made by the Federal Reserve Bank of this
District pursuant to the provisions of the Federal Reserve Act.

	Dollar Amounts in Millions
ASSETS	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	$ 35,280
Interest-bearing balances	22,803
Securities:	
Held to maturity securities	77
Available for sale securities	34,994
Federal funds sold and securities purchased under agreements to resell	
Federal funds sold in domestic offices	27,504
Securities purchased under agreements to resell	193,355
Loans and lease financing receivables:	
Loans and leases held for sale	32,360
Loans and leases, net of unearned income	$ 363,371
Less: Allowance for loan and lease losses	4,857
Loans and leases, net of unearned income and allowance	**358,514**
Trading Assets	221,837
Premises and fixed assets (including capitalized leases)	8,102
Other real estate owned	134
Investments in unconsolidated subsidiaries and associated companies	1,508
Customers' liability to this bank on acceptances outstanding	471
Intangible assets	
Goodwill	23,499
Other Intangible assets	10,478
Other assets	43,069
TOTAL ASSETS	**$ 1,013,985**

LIABILITIES	
Deposits	
In domestic offices	$ 406,865
Noninterest-bearing	$ 141,522
Interest-bearing	265,343
In foreign offices, Edge and Agreement subsidiaries and IBF's	145,745
Noninterest-bearing	$ 7,552
Interest-bearing	138,193
Federal funds purchased and securities sold under agreements to repurchase:	
Federal funds purchased in domestic offices	10,091
Securities sold under agreements to repurchase	95,300
Trading liabilities	124,236
Other borrowed money (includes mortgage indebtedness and obligations under capitalized leases)	84,483
Bank's liability on acceptances executed and outstanding	471
Subordinated notes and debentures	18,655
Other liabilities	39,850
TOTAL LIABILITIES	**925,696**
Minority Interest in consolidated subsidiaries	1,939
EQUITY CAPITAL	
Perpetual preferred stock and related surplus	0
Common stock	1,785
Surplus (exclude all surplus related to preferred stock)	59,504
Retained earnings	25,711
Accumulated other comprehensive income	(650)
Other equity capital components	0
TOTAL EQUITY CAPITAL	**86,350**
TOTAL LIABILITIES, MINORITY INTEREST, AND EQUITY CAPITAL	**$1,013,985**

I, Joseph L. Sclafani, E.V.P. & Controller of the above-named bank, do hereby declare that this Report of Condition has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true to the best of my knowledge and belief.

JOSEPH L. SCLAFANI

We, the undersigned directors, attest to the correctness of this Report of Condition and declare that it has been examined by us, and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory **authority and is true and correct.**

WILLIAM B. HARRISON, JR.)
JAMES DIMON) DIRECTORS
MICHAEL J. CAVANAGH)