
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

(Mark One)

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

For the Quarterly Period Ended September 30, 2004

or

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

For the transition period from to

Commission file number 1-12154

Waste Management, Inc.

(Exact name of registrant as specified in its charter)

Delaware

*(State or other jurisdiction of
incorporation or organization)*

73-1309529

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

1001 Fannin

Suite 4000

Houston, Texas 77002

(Address of principal executive offices)

(713) 512-6200

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Securities Exchange Act of 1934). Yes No

The number of shares of Common Stock, \$0.01 par value, of the registrant outstanding at October 25, 2004 was 572,129,820 (excluding treasury shares of 58,152,641).

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PART I.

Item 1. *Financial Statements.*

WASTE MANAGEMENT, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In Millions, Except Share and Par Value Amounts)

ASSETS

	September 30, 2004	December 31, 2003
	(Unaudited)	
Current assets:		
Cash and cash equivalents	\$ 619	\$ 217
Accounts receivable, net of allowance for doubtful accounts of \$61 and \$58, respectively	1,733	1,494
Notes and other receivables	241	317
Parts and supplies	86	82
Deferred income taxes	419	421
Prepaid expenses and other assets	207	139
	<hr/>	<hr/>
Total current assets	3,305	2,670
Property and equipment, net of accumulated depreciation and amortization of \$10,345 and \$9,553, respectively	11,395	11,411
Goodwill	5,344	5,266
Other intangible assets, net	160	156
Other assets	1,224	1,235
	<hr/>	<hr/>
Total assets	\$21,428	\$20,738

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:		
Accounts payable	\$ 724	\$ 721
Accrued liabilities	1,790	1,711
Deferred revenues	452	429
Current portion of long-term debt	635	514
	<hr/>	<hr/>
Total current liabilities	3,601	3,375
Long-term debt, less current portion	8,152	7,997
Deferred income taxes	1,671	1,663
Landfill and environmental remediation liabilities	1,167	1,124
Other liabilities	716	727
	<hr/>	<hr/>
Total liabilities	15,307	14,886
Minority interest in subsidiaries and variable interest entities	275	250
	<hr/>	<hr/>
Commitments and contingencies		
Stockholders' equity:		
Common stock, \$0.01 par value; 1,500,000,000 shares authorized; 630,282,461 shares issued	6	6
Additional paid-in capital	4,485	4,501
Retained earnings	2,841	2,497
Accumulated other comprehensive income (loss)	19	(14)
Restricted stock unearned compensation	(4)	—
Treasury stock at cost, 57,459,846 and 54,164,336 shares, respectively	(1,501)	(1,388)
	<hr/>	<hr/>
Total stockholders' equity	5,846	5,602
	<hr/>	<hr/>
Total liabilities and stockholders' equity	\$21,428	\$20,738

See notes to condensed consolidated financial statements.

WASTE MANAGEMENT, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(In Millions, Except Per Share Amounts)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Operating revenues	\$3,274	\$2,996	\$9,308	\$8,662
Costs and expenses:				
Operating (exclusive of depreciation and amortization shown below)	2,151	1,941	6,111	5,656
Selling, general and administrative	316	297	949	921
Depreciation and amortization	345	325	1,018	952
Restructuring	(1)	—	(1)	43
Asset impairments and unusual items	(2)	(2)	(20)	(9)
	2,809	2,561	8,057	7,563
Income from operations	465	435	1,251	1,099
Other income (expense):				
Interest expense	(112)	(110)	(344)	(329)
Interest income	21	3	31	9
Equity in earnings (losses) of unconsolidated entities	(27)	1	(70)	3
Minority interest	(10)	(2)	(26)	(5)
Other, net	—	2	(2)	9
	(128)	(106)	(411)	(313)
Income before income taxes and cumulative effect of changes in accounting principles	337	329	840	786
Provision for income taxes	35	119	178	293
Income before cumulative effect of changes in accounting principles	302	210	662	493
Cumulative effect of changes in accounting principles, net of income tax expense of \$5 for the nine months ended September 30, 2004 and income tax benefit of \$31 for the nine months ended September 30, 2003	—	—	8	(46)
Net income	\$ 302	\$ 210	\$ 670	\$ 447
Basic earnings per common share:				
Income before cumulative effect of changes in accounting principles	\$ 0.52	\$ 0.36	\$ 1.15	\$ 0.84
Cumulative effect of changes in accounting principles	—	—	0.01	(0.08)
Net income	\$ 0.52	\$ 0.36	\$ 1.16	\$ 0.76
Diluted earnings per common share:				
Income before cumulative effect of changes in accounting principles	\$ 0.52	\$ 0.35	\$ 1.14	\$ 0.83
Cumulative effect of changes in accounting principles	—	—	0.01	(0.08)
Net income	\$ 0.52	\$ 0.35	\$ 1.15	\$ 0.75
Cash dividends per common share	\$ 0.19	\$ 0.01	\$ 0.56	\$ 0.01

See notes to condensed consolidated financial statements.

WASTE MANAGEMENT, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(In Millions)
(Unaudited)

	Nine Months Ended September 30,	
	2004	2003
Cash flows from operating activities:		
Net income	\$ 670	\$ 447
Adjustments to reconcile net income to net cash provided by operating activities:		
Cumulative effect of changes in accounting principles	(8)	46
Provision for bad debts	36	31
Depreciation and amortization	1,018	952
Deferred income tax provision	110	246
Minority interest	26	5
Equity in losses (earnings) of unconsolidated entities, net of distributions	49	(3)
Net gain on disposal of assets	(12)	(7)
Effect of asset impairments and unusual items	(20)	(9)
Change in operating assets and liabilities, net of effects of acquisitions and divestitures:		
Receivables	(227)	(63)
Prepaid expenses and other current assets	(35)	(1)
Other assets	(12)	94
Accounts payable and accrued liabilities	26	(467)
Deferred revenues and other liabilities	(3)	15
Net cash provided by operating activities	1,618	1,286
Cash flows from investing activities:		
Acquisitions of businesses, net of cash acquired	(110)	(244)
Capital expenditures	(837)	(798)
Proceeds from divestitures of businesses, net of cash divested, and other sales of assets	73	44
Net receipts from restricted funds	297	217
Other	(6)	19
Net cash used in investing activities	(583)	(762)
Cash flows from financing activities:		
New borrowings	348	83
Debt repayments	(434)	(99)
Minority interest distributions paid	(21)	—
Common stock repurchases	(353)	(264)
Cash dividends	(326)	—
Exercise of common stock options and warrants	150	21
Other	3	(40)
Net cash used in financing activities	(633)	(299)
Effect of exchange rate changes on cash and cash equivalents	—	1
Increase in cash and cash equivalents	402	226
Cash and cash equivalents at beginning of period	217	359
Cash and cash equivalents at end of period	\$ 619	\$ 585

See notes to condensed consolidated financial statements.

WASTE MANAGEMENT, INC.

CONDENSED CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY

(In Millions, Except Shares in Thousands)
(Unaudited)

	Common Stock		Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Restricted Stock Unearned Compensation	Treasury Stock	
	Shares	Amount					Shares	Amount
Balance, December 31, 2003	630,282	\$ 6	\$4,501	\$2,497	\$(14)	\$—	(54,164)	\$(1,388)
Net income	—	—	—	670	—	—	—	—
Cash dividends	—	—	—	(326)	—	—	—	—
Common stock issued upon exercise of stock options and warrants and grants of restricted stock, including tax benefit of \$29	—	—	(18)	—	—	(5)	7,791	201
Earned compensation related to restricted stock	—	—	—	—	—	1	—	—
Common stock repurchases	—	—	—	—	—	—	(11,674)	(329)
Unrealized loss resulting from changes in fair values of derivative instruments, net of tax benefit of \$4	—	—	—	—	(6)	—	—	—
Realized losses on derivative instruments reclassified into earnings, net of tax benefit of \$5	—	—	—	—	7	—	—	—
Translation adjustment of foreign currency statements	—	—	—	—	32	—	—	—
Other	—	—	2	—	—	—	587	15
Balance, September 30, 2004	630,282	\$ 6	\$4,485	\$2,841	\$ 19	\$(4)	(57,460)	\$(1,501)

See notes to condensed consolidated financial statements.

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

1. Basis of Presentation

The condensed financial statements presented herein represent the consolidation of Waste Management, Inc., a Delaware corporation, its majority-owned subsidiaries and entities required to be consolidated pursuant to the Financial Accounting Standards Board ("FASB") Interpretation No. 46, *Consolidation of Variable Interest Entities* ("FIN 46") (see Note 9). Waste Management, Inc. is a holding company that conducts all of its operations through its subsidiaries. When the terms "the Company," "we," "us" or "our" are used in this document, those terms refer to Waste Management, Inc. and all of its consolidated subsidiaries. When we use the term "WMI," we are referring only to the parent holding company.

The condensed consolidated financial statements as of and for the three and nine months ended September 30, 2004 are unaudited. In the opinion of management, these financial statements include all adjustments, which, except as described elsewhere herein, are of a normal recurring nature, necessary for a fair presentation of the financial position, results of operations, and cash flows for the periods presented. The results for interim periods are not necessarily indicative of results for the entire year. The condensed consolidated balance sheet at December 31, 2003 has been derived from the audited consolidated financial statements at that date, but does not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. The financial statements presented herein should be read in connection with the financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2003.

In preparing our financial statements, we make several estimates and assumptions that affect the accounting for and recognition of assets, liabilities, stockholders' equity, revenues and expenses. We must make these estimates and assumptions because certain of the information that we use is dependent on future events, cannot be calculated with a high degree of precision from data available or simply cannot be readily calculated based on generally accepted methodologies. In some cases, these estimates are particularly difficult to determine and we must exercise significant judgment. Actual results could differ materially from the estimates and assumptions that we use in the preparation of our financial statements.

Accounting changes — The FASB's December 2003 revision to FIN 46 deferred until March 31, 2004 our application of the Interpretation to non-special purpose type variable interest entities created on or before January 31, 2003. Our application of FIN 46 to this type of entity resulted in the consolidation of certain trusts established to support the performance of closure, post-closure and environmental remediation activities. On March 31, 2004, we recorded an increase in our net assets and a credit to cumulative effect of changes in accounting principles of approximately \$8 million, net of taxes, to consolidate these variable interest entities. The consolidation of these trusts has not had, nor is it expected to have, a material effect on our financial position, results of operations or cash flows. The impact of our implementation of FIN 46 is discussed further in Note 9.

In the first quarter of 2003, we recorded a \$46 million charge, net of tax, to cumulative effect of changes in accounting principles for the adoption of the (i) Statement of Financial Accounting Standards ("SFAS") No. 143, *Accounting for Asset Retirement Obligations*; (ii) a change in our accounting for major repairs and maintenance expenditures and deferred costs associated with annual plant outages at our waste-to-energy facilities and independent power production plants; and (iii) a change in accounting for future losses under customer contracts that over the contract life are projected to have direct costs greater than revenues. These accounting changes do not affect the comparability of our financial position or income before cumulative effect of changes in accounting principles as presented herein.

Reclassifications — In 2004, as a result of internal review processes, we have identified certain items that require modifications to our accounting and reporting. The following discussion provides information about

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

each of the changes identified and the reclassifications made in the accompanying condensed consolidated financial statements to conform our prior year's presentation to the current year's presentation.

- Effective January 1, 2004, we began recording all mandatory fees and taxes that create direct obligations for us as operating expenses and recording revenue when the fees and taxes are billed to our customers. In prior years, certain of these costs had been treated as pass-through costs for financial reporting purposes. We have conformed the prior year's presentation of our revenues and expenses with the current year's presentation by increasing both our revenue and our operating expenses by approximately \$21 million for the three months ended September 30, 2003 and by approximately \$56 million for the nine months ended September 30, 2003.
- Certain cash accounts with negative balances and no legal right of offset had been included in cash and cash equivalents on our balance sheet in prior periods. As a result, we increased both our cash and cash equivalents and accounts payable balances at December 31, 2003 by approximately \$82 million to properly reflect our gross cash balances and current liabilities. We determined that these changes in our accounts payable balances during each reporting period should be treated as financing activities within the statement of cash flows. Accordingly, the \$33 million decrease in the amount payable (from \$95 million at December 31, 2002 to \$62 million at September 30, 2003) has been reflected as a component of cash used in financing activities — other for the nine months ended September 30, 2003.
- Certain amounts related to our consolidated Canadian operations required adjustment to properly capture the impact of accounting for foreign currency translation adjustments. As a result, we have decreased both our accrued liabilities balance and our accumulated other comprehensive loss at December 31, 2003 by approximately \$39 million.

We have various investments in unconsolidated entities that we account for using the equity method. Our equity in the earnings of these entities has historically been presented as a component of other income in our statements of operations and the related cash flow impact has been reflected as a component of the change in other assets within our statements of cash flows. As a result of investments we made during the first and second quarters of 2004, as described in Note 4, this activity has become a more significant component of our net income and operating cash flow activity. Accordingly, we have shown equity in earnings and losses of unconsolidated entities as a separate component within our statement of operations and equity in earnings and losses of unconsolidated entities, net of distributions, as a separate component of cash provided by operating activities. Prior periods have been reclassified to conform to the current periods' presentation.

2. Landfill and Environmental Remediation Liabilities

Landfill

We have material financial commitments at our landfills for final capping, closure and post-closure activities, as described below:

- *Final capping* — involves the installation of flexible membrane and geosynthetic clay liners, drainage equipment and compacted soil layers and topsoil over areas of a landfill where total airspace capacity has been consumed. Final capping asset retirement obligations are recorded on a units-of-consumption basis as airspace is consumed within each discrete capping event with a corresponding increase in the landfill asset until all airspace related to each discrete capping event has been consumed.
- *Closure* — includes the construction of the final portion of methane gas collection systems (when required), demobilization and routine maintenance costs. These are costs incurred after the site stops accepting waste, but before the landfill is certified as closed by the applicable regulatory agency.

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Closure obligations are accrued as an asset retirement obligation on a units-of-consumption basis as airspace is consumed over the life of the landfill with a corresponding increase in the landfill asset.

- *Post-closure* — Once a landfill is certified closed by the applicable regulatory agency, we are required to maintain and monitor the site over a period of time, which is generally 30 years. These maintenance and monitoring costs are accrued as an asset retirement obligation on a units-of-consumption basis as airspace is consumed over the life of the landfill with a corresponding increase in the landfill asset.

We develop our estimates of these obligations using input from our operations personnel, engineers and accountants. Our estimates are based on our interpretation of legal and regulatory requirements and are intended to approximate fair value under the provisions of SFAS No. 143. An estimate of fair value under SFAS No. 143 should include the premium that a third party would receive for bearing the uncertainty in cash outflows. However, when using discounted cash flow techniques, reliable estimates of market premiums are not available because there is no market for selling the responsibility for final capping, closure and post-closure obligations independent of selling the landfill in its entirety. Accordingly, we do not believe that it is possible to develop a methodology to estimate a market risk premium and therefore no market risk premium is included in our determination of expected cash outflows for landfill asset retirement obligations. The specific methods used to calculate the fair value for final capping, closure and post-closure and the method of accruing for these balances are explained in more detail in the notes to the financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2003.

In accordance with SFAS No. 143, we inflate estimated final capping, closure and post-closure costs to the expected time of payment and discount those expected future costs back to present value using a credit-adjusted, risk-free discount rate. For liabilities incurred during the nine months ended September 30, 2004, we used an inflation rate of 2.5% and a credit-adjusted, risk free discount rate of 6.25%. Our credit-adjusted, risk-free discount rate is based on the risk-free interest rate on obligations of similar maturity adjusted for our own credit rating. Changes in our credit-adjusted, risk-free discount rate do not change recorded liabilities, but subsequently recognized obligations are measured using the revised discount rate. We determine the inflation rate and our credit-adjusted, risk-free discount rate on an annual basis unless there have been interim changes in either rate that would significantly impact our results of operations.

Environmental Remediation

We routinely review and evaluate sites that require remediation and determine our estimated cost for the likely remedy based on several estimates and assumptions. These estimates are sometimes a range of reasonably possible outcomes. "Reasonably possible" outcomes are those outcomes that are considered more than remote and less than likely. In cases where our estimates are a range, we use the amount within the range that constitutes our best estimate. If no amount within the range appears to be a better estimate than any other, we use the low end of the range in accordance with SFAS No. 5, *Accounting for Contingencies*, and its interpretations. If we used the high ends of such ranges, our aggregate potential liability would be approximately \$175 million higher on a discounted basis than the \$323 million recorded in our condensed consolidated financial statements as of September 30, 2004.

As of September 30, 2004, we had been notified that we are a potentially responsible party in connection with 71 locations listed on the NPL, which is the EPA's National Priorities List. Sixteen of these sites were initially developed by others and later acquired by us. We are working with the government to characterize or remediate identified site problems and have either agreed with other parties on an arrangement for sharing the costs of remediation or are pursuing resolution of an allocation formula. We generally expect to receive any agreed-upon amounts due from these parties at, or near, the time that we make environmental remediation expenditures. Claims have been made against us at another 55 sites that we do not own but where we have been an operator, transporter or generator of waste. These claims are at different procedural stages under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, which is

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

known as CERCLA or Superfund. At some of these sites, our liability is well defined as a consequence of a governmental decision and an agreement among the parties involved as to the allocation of costs and has been accounted for accordingly. At others where no remedy has been selected or the potentially responsible parties have been unable to agree on an appropriate allocation, our future costs are uncertain, and could have a material adverse effect on our condensed consolidated financial statements.

Where we believe that both the amount of a particular environmental remediation liability and the timing of the payments are reliably determinable, we inflate the cost in current dollars until the expected time of payment and discount the cost to present value using a risk-free discount rate, which is based on the rate for United States Treasury bonds with a term approximating the weighted average period until settlement of the underlying obligation. As of September 30, 2004, we are using an inflation rate of 2.5% and a risk-free discount rate of 4.25% to record our estimated environmental remediation obligations. We determine the inflation rate and the risk-free discount rate on an annual basis unless there have been interim changes in either rate that would significantly impact our results of operations.

Financial Statement Impact of Landfill and Environmental Remediation Obligations

Liabilities for landfill and environmental remediation costs are presented in the table below (in millions):

	September 30, 2004			December 31, 2003		
	Landfill	Environmental Remediation	Total	Landfill	Environmental Remediation	Total
Current (in accrued liabilities)	\$ 108	\$ 55	\$ 163	\$109	\$ 57	\$ 166
Long-term	899	268	1,167	849	275	1,124
	<u>\$1,007</u>	<u>\$323</u>	<u>\$1,330</u>	<u>\$958</u>	<u>\$332</u>	<u>\$1,290</u>

The changes to landfill and environmental remediation liabilities for the nine months ended September 30, 2004 and 2003 are reflected in the tables below (in millions):

	Landfill	Environmental Remediation
December 31, 2003	\$ 958	\$332
Obligations incurred and capitalized	48	—
Obligations settled	(53)	(23)
Interest accretion	47	8
Revisions in estimates	7	3
Acquisitions, divestitures and other adjustments	—	3
September 30, 2004	<u>\$1,007</u>	<u>\$323</u>
December 31, 2002	\$ 655	\$343
Cumulative effect of change in accounting principle	266	—
Obligations incurred and capitalized	41	—
Obligations settled	(49)	(24)
Interest accretion	46	6
Revisions in estimates	2	13
Acquisitions, divestitures and other adjustments	20	12
September 30, 2003	<u>\$ 981</u>	<u>\$350</u>

At several of our landfills, we provide financial assurance by depositing cash into restricted escrow accounts or trust funds for purposes of settling closure, post-closure and environmental remediation

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

obligations. The fair value of these escrow accounts and trust funds was approximately \$200 million at September 30, 2004, and is primarily included as other long-term assets in our condensed consolidated balance sheet. Balances maintained in these trust funds and escrow accounts will fluctuate based on (i) changes in statutory requirements; (ii) the ongoing use of funds for qualifying closure, post-closure and environmental remediation activities; (iii) acquisitions or divestitures of landfills; and (iv) changes in the fair value of the underlying financial instruments.

3. Debt and Interest Rate Derivatives

Debt

Debt consisted of the following (in millions):

	September 30, 2004	December 31, 2003
Revolving credit facilities(a),(b)	\$ —	\$ —
Senior notes and debentures, maturing through 2032, interest rates ranging from 5.00% to 8.75% (weighted average interest rate of 7.0% at September 30, 2004)	5,663 (c)	5,662
Tax-exempt bonds maturing through 2039, fixed and variable interest rates ranging from 1.7% to 7.4% (weighted average interest rate of 3.5% at September 30, 2004)	1,947 (d)	1,762
Tax-exempt project bonds, principal payable in periodic installments, maturing through 2027, fixed and variable interest rates ranging from 1.7% to 9.3% (weighted average interest rate of 5.1% at September 30, 2004)	522	566
5.75% convertible subordinated notes due 2005	34	33
Capital leases and other, maturing through 2027, interest rates up to 12%	621	488
	<u>8,787</u>	<u>8,511</u>
Less current portion	635 (e), (f)	514
	<u>\$ 8,152</u>	<u>\$ 7,997</u>

- a) As of September 30, 2004, we had a three-year, \$650 million syndicated revolving credit facility and a five-year, \$1.75 billion syndicated revolving credit facility. These facilities generally have been used to issue letters of credit to support our bonding and financial assurance needs. As of September 30, 2004, no borrowings were outstanding under these facilities, and we had unused and available credit capacity of \$1,047 million. On October 15, 2004, we replaced these facilities with a single, five-year, \$2.4 billion syndicated revolving credit facility.
- b) As of September 30, 2004, we were required to maintain the following financial covenants under our revolving credit facilities: (i) an interest coverage ratio in excess of 3 to 1; (ii) total debt to EBITDA ratio of less than 3.25 to 1; and (iii) minimum net worth of at least \$3.5 billion plus 75% of cumulative consolidated net income beginning with the quarter ended March 31, 2001, all as defined in the credit facilities for the purpose of determining compliance with the covenants. Pursuant to the credit facilities, we calculated our covenants based on GAAP as of December 31, 2000 and 2001 for the five-year revolver and the three-year revolver, respectively. As of September 30, 2004 and December 31, 2003, we were in compliance with all covenants under our revolving credit facilities and all other debt instruments. Our new revolving credit facility contains similar, less restrictive, financial covenants as those in (i) and (ii) above, and does not contain a minimum net worth covenant.
- c) During March 2004, we issued \$350 million of 5.0% senior notes due March 15, 2014. Interest on the notes is payable on March 15 and September 15 of each year. The net proceeds of the offering were approximately \$346 million after deducting underwriters' discounts and expenses. These proceeds were used to repay \$150 million of 8.0% senior notes due April 30, 2004 and \$200 million of 6.5% senior notes due May 15, 2004. As discussed in further detail below, there has been an \$8 million decrease in the carrying value of our senior notes from December 31, 2003 as a result of hedge accounting for our interest rate derivatives.
- d) Proceeds from tax-exempt bond issues are treated as non-cash financing activities and are excluded from cash provided by financing activities in our cash flow statement as the proceeds are deposited directly into trust funds and may only be used for

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

the specific purpose for which the money was raised, which is generally capital projects relating to our collection and disposal facilities. Accordingly, our 2004 issuances of approximately \$245 million of tax-exempt bonds maturing through 2039 were treated as non-cash financing activities.

- e) Our debt obligations as of September 30, 2004 include approximately \$403 million of fixed rate tax-exempt bonds subject to re-pricing within the next twelve months, which is prior to their scheduled maturities. If the re-offering of the bonds is unsuccessful, then the bonds can be put to us, requiring immediate repayment. These bonds are not backed by letters of credit supported by our long-term facilities that would serve to guarantee repayment in the event of a failed re-offering and are, therefore, considered a current obligation. However, these bonds have been classified as long-term in our condensed consolidated balance sheet as of September 30, 2004. The classification of these obligations as long-term was based upon our intent to refinance the borrowings with other long-term financings in the event of a failed re-offering and our ability, in the event other sources of long-term financing are not available, to use our \$1.75 billion, five-year revolving credit facility or the new \$2.4 billion five-year facility, once it was executed.
- f) At September 30, 2004, we have \$590 million of tax-exempt bonds and \$46 million of tax-exempt project bonds that are remarketed either daily or weekly by a remarketing agent to effectively maintain a variable yield. If the remarketing agent is unable to remarket the bonds, then the remarketing agent can put the bonds to us. These bonds are supported by letters of credit guaranteeing repayment of the bonds in this event. We classified these borrowings as long-term in our condensed consolidated balance sheet at September 30, 2004 because the borrowings are supported by letters of credit issued under our five-year revolving credit facility, which is long-term.

Our debt balances are generally unsecured, except for approximately \$431 million of the tax-exempt project bonds outstanding at September 30, 2004 that were issued by certain subsidiaries within our Wheelabrator Group. These bonds are secured by the related subsidiaries' assets that have a carrying value of approximately \$648 million and the related subsidiaries' future revenue. Additionally, our consolidated variable interest entities have approximately \$162 million of outstanding borrowings that are collateralized by certain of their assets. These assets have a carrying value of approximately \$421 million as of September 30, 2004.

As part of our operations, and in connection with issuances of tax-exempt bonds, we use letters of credit to support our bonding and financial assurance needs. The following table summarizes our outstanding letters of credit (in millions):

	September 30, 2004	December 31, 2003
Revolving credit facilities	\$ 1,353	\$ 1,608
Letter of credit and term loan agreements(a)	294 (a)	284 (a)
Letter of credit facility(b)	350 (b)	349 (b)
Other lines of credit	110	146
	<u>\$ 2,107</u>	<u>\$ 2,387</u>

- a) In June 2003 we entered into a five-year, \$15 million letter of credit and term loan agreement, a seven-year, \$175 million letter of credit and term loan agreement, and a ten-year, \$105 million letter of credit and term loan agreement.
- b) In December 2003 we entered into a five-year, \$350 million letter of credit facility.

Our letters of credit generally have terms allowing for automatic renewal after one year. In the event of an unreimbursed draw on a letter of credit, the amount of the draw paid by the letter of credit provider generally converts into a term loan for the remaining term under the respective agreement or facility. Through September 30, 2004, we had not experienced any unreimbursed draws on letters of credit.

Interest rate swaps

We manage the interest rate risk of our debt portfolio principally by using interest rate derivatives to achieve a desired position of fixed and floating rate debt, which was approximately 64% fixed and 36% floating

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

at September 30, 2004. Interest rate swap agreements outstanding as of September 30, 2004 and December 31, 2003 are set forth in the table below (dollars in millions):

As of	Notional Amount	Receive		Pay		Maturity Date	Fair Value Liability(a)
September 30, 2004	\$ 16	Floating	2.02%	Fixed	7.27%	Through December 31, 2012	\$ (2)(b)
September 30, 2004	\$2,550	Fixed	5.00%-7.65%	Floating	1.82%-6.41%	Through December 15, 2017	\$(70)(c), (d)
December 31, 2003	\$ 17	Floating	1.15%	Fixed	7.27%	Through December 31, 2012	\$ (3)(b)
December 31, 2003	\$2,250	Fixed	6.38%-7.65%	Floating	3.74%-5.54%	Through December 15, 2017	\$(99)(c), (d)

- The fair value of interest rate derivatives is included in our balance sheets as components of other long-term assets and other long-term liabilities. Fair values of these interest rate derivatives are based on third-party pricing models.
- This interest rate derivative contract's terms do not qualify for hedge accounting. Therefore, the related derivative is accounted for at fair value with changes in fair value recognized immediately in interest expense.
- These interest rate derivatives qualify for hedge accounting. Therefore, changes in fair value of these interest rate swap contracts are deferred and recognized as an adjustment to interest expense over the remaining life of the hedged instrument.
- The fair value of these interest rate derivatives at September 30, 2004 is a net fair value liability of \$70 million that is comprised of \$10 million of other long-term assets and \$80 million of other long-term liabilities. The fair value of these interest rate derivatives at December 31, 2003 is a net fair value liability of \$99 million that is comprised of \$2 million of other long-term assets and \$101 million of other long-term liabilities.

Fair value hedge accounting for interest rate swap contracts increased the carrying value of debt instruments by approximately \$160 million as of September 30, 2004 and \$168 million as of December 31, 2003. The following table summarizes the accumulated fair value adjustments from interest rate swap agreements by underlying debt instrument category (in millions):

Increase (decrease) in carrying value of debt due to hedge accounting for interest rate swaps	September 30, 2004	December 31, 2003
Senior notes and debentures:		
Active swap agreements	\$ (70)	\$ (99)
Terminated swap agreements	229 (a)	266
	159	167
Tax-exempt and project bonds:		
Terminated swap agreements	1 (a)	1
	\$160	\$168

- Of these amounts, \$42 million (on a pre-tax basis) is scheduled to be reclassified as a credit to interest expense over the next twelve months.

Interest rate swap agreements reduced net interest expense by \$23 million and \$73 million for the three and nine months ended September 30, 2004, respectively, and \$25 million and \$72 million for the three and nine months ended September 30, 2003, respectively. The significant terms of the interest rate contracts and the underlying debt instruments are identical and therefore no ineffectiveness has been realized.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

4. Income Taxes

The current tax obligations associated with the provision for income taxes recorded in the statements of operations are reflected in the accompanying condensed consolidated balance sheets as a component of accrued liabilities, and the deferred tax obligations are reflected in deferred income taxes.

Our effective tax rate is evaluated at each interim period and adjusted accordingly as facts and circumstances warrant. The difference between federal income taxes computed at the federal statutory rate and reported income taxes for the three and nine months ended September 30, 2003 is primarily due to state and local income taxes, offset in part by non-conventional fuel tax credits. The difference between federal income taxes computed at the federal statutory rate and reported income taxes for the three and nine months ended September 30, 2004 is primarily due to favorable tax audit settlements and the favorable impact of non-conventional fuel tax credits, offset in part by state and local income taxes. The settlement of several tax audits resulted in a \$62 million tax benefit for the three months ended September 30, 2004 and a \$74 million tax benefit for the nine months ended September 30, 2004. These tax audit settlements resulted in an 18.4 percentage point reduction in our effective tax rate for the three months ended September 30, 2004 and an 8.8 percentage point reduction in our effective tax rate for the nine months ended September 30, 2004.

During 2004, the favorable impact of non-conventional fuel tax credits has been derived from our landfills and our investments in two coal-based synthetic fuel production facilities (the "Facilities"), which are discussed in more detail below. The fuel generated from our landfills and the Facilities qualifies for tax credits through 2007 pursuant to section 29 of the Internal Revenue Code, and may be phased-out when the price of oil exceeds a threshold annual average price determined by the U.S. Internal Revenue Service.

In the first and second quarters of 2004, we acquired minority ownership interests in two Facilities for approximately \$119.7 million, which is comprised primarily of notes payable of \$118.5 million, as well as commitments to fund our pro-rata share of the operations of the Facilities. We have also agreed to make additional payments to the seller based on our pro-rata allocation of the tax credits generated by each Facility. We have been granted private letter rulings from the IRS confirming that the synthetic fuel produced by the Facilities is a "qualified fuel" under Section 29 of the Internal Revenue Code and that the resulting tax credits may be allocated among the owners of the interests in the Facilities.

We account for our investment in the Facilities using the equity method of accounting, which results in the recognition of our pro-rata share of the Facilities' losses, the amortization of our initial investments and other estimated obligations being recorded as equity in losses of unconsolidated entities within our statement of operations. The total loss recognized during the three months ended September 30, 2004 was approximately \$28 million, making cumulative losses recognized during the nine months ended September 30, 2004 approximately \$73 million. We also recognized interest expense related to these investments of approximately \$2 million during the three months ended September 30, 2004 and approximately \$6 million during the nine months ended September 30, 2004. The pre-tax impacts of these investments were losses of approximately \$30 million for the three months ended September 30, 2004 and approximately \$79 million for the nine months ended September 30, 2004. These impacts would not have been incurred if we had not acquired the minority ownership interest in the Facilities, and if, for some reason, the tax credits generated by the Facilities were no longer allowable under Section 29 of the Internal Revenue Code, we would no longer incur these financial impacts.

The tax benefits that we will realize as a result of our investments in the Facilities have been reflected as a reduction to our provision for income taxes. This resulted in a decrease in our tax provision of approximately \$39 million (including \$28 million of tax credits) for the three months ended September 30, 2004 and approximately \$93 million (including \$63 million of tax credits) for the nine months ended September 30, 2004, which more than offset the equity losses and interest expense recognized during each period. After excluding the impact of the favorable tax audit settlements noted above, the decreases in our tax provision

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

resulting from these investments provide a reduction in our effective tax rate of approximately eight percentage points for the three and nine months ended September 30, 2004.

5. Comprehensive Income

Comprehensive income represents all changes in our equity except for changes resulting from investments by, and distributions to, stockholders. As discussed in Note 1, during 2004 we identified certain amounts related to our consolidated Canadian operations that required adjustment to properly capture the impact of accounting for foreign currency translation adjustments. The following tables have been adjusted to properly reflect the effects of our foreign currency translation.

Comprehensive income for the three and nine months ended September 30, 2004 and September 30, 2003 was as follows (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Net income	\$302	\$210	\$670	\$447
Other comprehensive income (loss):				
Unrealized gain (loss) resulting from changes in fair values of derivative instruments, net of taxes	3	—	(6)	(3)
Realized losses on derivative instruments reclassified into earnings, net of taxes	2	1	7	1
Minimum pension liability adjustment, net of taxes	—	—	—	1
Unrealized loss on marketable securities, net of taxes	—	—	—	—
Translation adjustment of foreign currency statements	58	(2)	32	126
Other comprehensive income (loss)	63	(1)	33	125
Comprehensive income	\$365	\$209	\$703	\$572

The components of accumulated other comprehensive income (loss) were as follows:

	September 30, 2004	December 31, 2003
Accumulated unrealized loss on derivative instruments, net of tax benefit	\$(41)	\$(42)
Accumulated unrealized gain on marketable securities, net of taxes	1	1
Cumulative translation adjustment of foreign currency statements	59	27
	\$ 19	\$(14)

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

6. Earnings Per Share

The following table reconciles net income as presented on the condensed consolidated statements of operations with diluted net income for purposes of calculating diluted earnings per common share (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Net income	\$302	\$210	\$670	\$447
Interest on convertible subordinated notes, net of taxes	—	—	—	—
Diluted net income	\$302	\$210	\$670	\$447

The following table reconciles the number of common shares outstanding at September 30 of each year to the number of weighted average basic common shares outstanding and the number of weighted average diluted common shares outstanding for the purpose of calculating basic and diluted earnings per common share. The table also provides the number of shares of common stock potentially issuable at the end of each period and the number of potentially issuable shares excluded from the diluted earnings per share computation for each period (shares in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Number of common shares outstanding at end of period	572.8	584.9	572.8	584.9
Effect of using weighted average common shares outstanding	3.9	4.9	5.2	6.8
Weighted average basic common shares outstanding	576.7	589.8	578.0	591.7
Dilutive effect of common stock options, warrants, restricted stock, convertible subordinated notes and contingently issuable shares	4.5	4.0	4.8	2.9
Weighted average diluted common shares outstanding	581.2	593.8	582.8	594.6
Potentially issuable shares	47.6	51.5	47.6	51.5
Number of potentially issuable shares excluded from diluted common shares outstanding	16.8	22.0	17.1	22.0

7. Stock-Based Compensation, Common Stock Dividends and Common Stock Repurchases***Stock-Based Compensation***

Pursuant to our stock incentive plans, we have the ability to issue stock options, stock awards and stock appreciation rights, all on terms and conditions determined by the Compensation Committee of our Board of Directors. The following is a summary of the significant terms of the stock options and restricted stock granted to our officers and other employees under these plans during the nine months ended September 30, 2004.

Stock options — During the nine months ended September 30, 2004, we issued an aggregate of approximately 9.0 million of stock options to certain of our officers and other employees as part of the 2004 annual grant or as grants issued for promotions or new hire incentives. The weighted average exercise price of options granted during this period was \$29.20 per common share. These stock options all have exercise prices equal to the fair market value of our common stock as of the date of grant, expire ten years from the date of grant and vest ratably over a four-year period.

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Restricted stock — During the nine months ended September 30, 2004, we issued an aggregate of 162,500 shares of restricted stock to certain of our officers as part of the 2004 annual grant or as grants issued for promotions or new hire incentives. The restricted stock grants also vest ratably over a four-year period. The shares issued are subject to forfeiture in the event of termination of employment and entitle the holder to all benefits of a stockholder, including the right to receive dividends and vote on all matters put to a vote of security holders.

We account for our stock-based compensation using the intrinsic value method. Under this method, we do not recognize any compensation cost for our stock options because the number of shares potentially issuable and the exercise price, which is equal to the fair market value of the underlying stock on the date of grant, are fixed. We recognize compensation expense for restricted stock awards on a straight-line basis over the vesting period based on the fair market value of our common stock on the date of grant.

The following schedule reflects the pro forma impact on net income and earnings per common share of accounting for our stock options using SFAS No. 123, *Accounting for Stock-Based Compensation*, which would result in the recognition of compensation expense for the fair value of stock options as computed using the Black-Scholes option-pricing model (in millions, except per share amounts):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Reported net income	\$ 302	\$ 210	\$ 670	\$ 447
Less: compensation expense per SFAS No. 123, net of tax benefit	14	17	42	50
Pro forma net income	\$ 288	\$ 193	\$ 628	\$ 397
Basic earnings per common share:				
Reported net income	\$0.52	\$0.36	\$1.16	\$0.76
Less: compensation expense per SFAS No. 123, net of tax benefit	0.02	0.03	0.07	0.08
Pro forma net income	\$0.50	\$0.33	\$1.09	\$0.68
Diluted earnings per common share:				
Reported net income	\$0.52	\$0.35	\$1.15	\$0.75
Less: compensation expense per SFAS No. 123, net of tax benefit	0.02	0.03	0.07	0.08
Pro forma net income	\$0.50	\$0.32	\$1.08	\$0.67

Common Stock Dividends and Repurchases

In August 2003, we announced that our Board of Directors approved a quarterly dividend program. In August 2004, we declared our third quarterly dividend of \$0.1875 per share of common stock, or approximately \$108 million, which was paid on September 24, 2004 to stockholders of record as of September 1, 2004. On October 12, 2004, we declared a quarterly dividend of \$0.1875 per share of common stock, which will be paid on December 23, 2004 to stockholders of record as of December 1, 2004. Based on shares outstanding as of September 30, 2004, the payment of this dividend will result in a cash payment of approximately \$107 million. We have paid approximately \$326 million in dividends during the nine months ended September 30, 2004.

In February 2002, we announced that our Board of Directors had approved a stock repurchase program for up to \$1 billion in annual repurchases through 2004, to be implemented at management's discretion. In August 2003, we amended the program, starting in 2004, to include quarterly dividend payments. The

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

following is a summary of activity under the stock repurchase program through September 30, 2004 (in millions, except shares in thousands and price per share in dollars).

Transaction Type	Agreement		Common Stock		Net Repurchases
	Initiated	Settled	Shares	Price	
Private accelerated purchase	March 2002	August 2002	10,925	\$ 27.46	\$ 282
Private accelerated purchase	December 2002	February 2003	1,731	\$ 24.52	39
Private accelerated purchase	March 2003	May 2003	2,400	\$ 20.00	51
Subtotal			15,056		372 (a)
Open market purchases — 2002			25,594	\$23.01-\$28.19	658
Open market purchases — 2003			19,650	\$19.70-\$29.48	526 (b)
Open market purchases — 2004			11,674	\$26.71-\$30.51	329
Subtotal			56,918		1,513
Total			71,974		\$1,885

- a) At the inception of each of our private accelerated share repurchase agreements, we purchased shares by paying an amount equal to the number of shares of common stock multiplied by the per share market price of our common stock on that day. Pursuant to the terms of the agreements, a cash settlement was made by either us or the counterparty at the termination of each agreement's valuation period for the difference between our initial payment and the weighted average daily market price during that valuation period times the number of shares. The amount included here represents the total cash paid, net of any cash received for each agreement.
- b) Approximately \$24 million of our 2003 share repurchases was settled in cash in January 2004.

Total dividend payments and share repurchases were approximately \$655 million during the nine months ended September 30, 2004.

As of September 30, 2004, we had the ability, under our most restrictive financial covenants, to make dividend payments and share repurchases in the aggregate amount of approximately \$370 million. As discussed in Note 3, in October 2004, we replaced the revolving credit facilities that provided for this restriction with a five-year \$2.4 billion revolving credit facility. The new facility does not define a minimum net worth that would restrict our ability to make future dividend payments or share repurchases. In October 2004, we announced that our Board of Directors approved a new capital allocation program that provides for up to \$1.2 billion in aggregate dividend payments and share repurchases each year during 2005, 2006 and 2007.

8. Commitments and Contingencies

Financial instruments — We have obtained letters of credit, performance bonds and insurance policies, and have established trust funds and issued financial guarantees to support tax-exempt bonds, contracts, performance of landfill closure and post-closure requirements, environmental remediation and other obligations. We obtain these financial assurance instruments from several sources, including an entity that we have an investment in and account for under the equity method; a wholly-owned insurance company, the sole business of which is to issue policies for the parent holding company and its other subsidiaries; and a consolidated variable interest entity that was formed to provide surety bonds to the waste industry (as described in Note 9).

Because virtually no claims have been made against these financial instruments in the past, and considering our current financial position, we do not expect that these instruments will have a material adverse effect on our consolidated financial statements. We have not experienced any unmanageable difficulty in obtaining the required financial assurance instruments for our current operations. However, in an ongoing effort to mitigate risks of future cost increases and reductions in available capacity, we continue to evaluate various options to access cost-effective sources of financial assurance.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Insurance — We carry insurance coverage for protection of our assets and operations from certain risks including automobile liability, general liability, real and personal property, workers' compensation, directors' and officers' liability, pollution legal liability and other coverages we believe are customary to the industry. Our exposure to loss for insurance claims is generally limited to the per incident deductible under the related insurance policy. Our exposure, however, could increase if our insurers were unable to meet their commitments on a timely basis. We have retained a portion of the risks related to our automobile, general liability and workers' compensation insurance programs. For our self-insured retentions, the exposure for unpaid claims and associated expenses, including incurred but not reported losses, is based on an actuarial valuation. The estimated accruals for these liabilities could be affected if future occurrences or loss development significantly differ from utilized assumptions. We do not expect the impact of any known casualty, property, environmental or other contingency to have a material impact on our financial condition, results of operations or cash flows.

For the 14 months ended January 1, 2000, we insured certain risks, including auto, general liability and workers' compensation, with Reliance National Insurance Company, whose parent filed for bankruptcy in June 2001. In October 2001, the parent and certain of its subsidiaries, including Reliance National Insurance Company, were placed in liquidation. We believe that because of various state insurance guarantee funds and potential recoveries from the liquidation, currently estimated to be approximately \$26 million, it is unlikely that events relating to Reliance will have a material adverse impact on our financial statements.

Guarantees — We have entered into the following guarantee agreements associated with our operations.

- Waste Management Holdings, Inc. ("WM Holdings"), one of WMI's wholly-owned subsidiaries, has fully and unconditionally guaranteed WMI's senior indebtedness that matures through 2032. WMI has fully and unconditionally guaranteed the senior indebtedness of WM Holdings that matures through 2026 and WM Holdings' 5.75% convertible subordinated notes due 2005. Performance under these guarantee agreements would be required if either party defaulted on its respective obligations. No additional liability has been recorded for these guarantees because the underlying obligations are reflected in our consolidated balance sheets. See Note 11 for further information.
- WMI has guaranteed the tax-exempt bonds of its subsidiaries. If a subsidiary fails to meet its obligations associated with tax-exempt bonds as they come due, WMI will be required to perform under the related guarantee agreement. No additional liability has been recorded for these guarantees because the underlying obligations are reflected in our consolidated balance sheets. See Note 3 for information related to the balances and maturities of our tax-exempt bonds.
- We have guaranteed certain financial obligations of unconsolidated entities. The guarantees are primarily for the benefit of entities that we account for under the equity method of accounting. The related obligations, which mature through 2020, are not recorded on our consolidated balance sheets, and we have not recorded any liability for these guarantees. As of September 30, 2004, our maximum future payments associated with these guarantees is approximately \$35 million. However, we have ongoing relationships with the entities and believe that our performance under these guarantees is not likely.
- During 2003, we issued a \$25.6 million letter of credit to support the debt of a surety bonding company. The guaranteed obligation is included as a component of long-term debt in our condensed consolidated balance sheet. See Note 9 for additional discussion about our financial interest in this surety bonding company.
- WM Holdings has guaranteed all reimbursement obligations of WMI under its \$350 million letter of credit facility and \$295 million letter of credit and term loan agreements. Under those facilities, any draw on a letter of credit supported by the facilities will be reimbursed by WMI to the entities funding the facilities. As of September 30, 2004, we had approximately \$644 million in outstanding letters of credit under these facilities.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

- In connection with the \$350 million letter of credit facility, WMI and WM Holdings entered into a guarantee pursuant to which they guaranteed the interest rate swaps entered into by the entity funding the letter of credit facility. The probability of loss for the guarantees was determined to be remote and the fair value of the guarantees is immaterial to our financial position and results of operations.
- Certain of our subsidiaries have guaranteed the market value of various residential properties that are adjacent to our landfills. These guarantee agreements extend over the life of the landfill. Under these agreements, we would be responsible for the difference between the sale value and the guaranteed market value of the homeowners' properties, if any. Generally, it is not possible to determine the contingent obligation associated with these guarantees, but we do not believe that these contingent obligations will have a material effect on our financial position, results of operations or cash flows.
- We have indemnified the purchasers of businesses or divested assets for the occurrence of specified events under certain of our divestiture agreements. Other than certain identified items that are currently recorded as obligations, we do not believe it is possible to determine the contingent obligations associated with these indemnities.
- WMI and WM Holdings guarantee the service, lease and general operating obligations of certain of their subsidiaries. If such a subsidiary fails to meet its contractual obligations as they come due, the guarantor has an unconditional obligation to perform on its behalf. No additional liability has been recorded for service or general operating guarantees because the subsidiaries' obligations are properly accounted for as costs of operations as services are provided or general operating obligations are incurred. No additional liability has been recorded for the lease guarantees because the subsidiaries' obligations are properly accounted for as operating or capital leases, as appropriate.

We currently believe that it is not reasonably likely that we will be required to perform under these guarantee agreements or that any performance requirement would have a material impact on our consolidated financial statements.

Environmental matters — Our business is intrinsically connected with the protection of the environment. As such, a significant portion of our operating costs and capital expenditures could be characterized as costs of environmental protection. Such costs may increase in the future as a result of several factors, including but not limited to legislation or regulation. For more information regarding environmental matters, see Note 2.

Litigation — In December 1999, an individual brought an action against the Company, five former officers of WM Holdings, and WM Holdings' former independent auditor, Arthur Andersen LLP, in Illinois state court on behalf of a proposed class of individuals who purchased WM Holdings common stock before November 3, 1994, and who held that stock through February 24, 1998. The action is for alleged acts of common law fraud, negligence and breach of fiduciary duty. This case has remained in the pleadings stage for the last several years due to numerous motions and rulings by the court related to the viability of these claims. Based on the most recent pleadings by the plaintiff, the defendants have removed the case to federal court in Illinois where a remand motion is pending. Only limited discovery has occurred and the defendants continue to defend themselves vigorously. The extent of possible damages, if any, in this action cannot yet be determined.

In April 2002, a former participant in WM Holdings' ERISA plans and another individual filed a lawsuit in Washington, D.C. against us, WM Holdings and others, attempting to increase the recovery of a class of ERISA plan participants based on allegations related to both the events alleged in, and the settlements relating to, the securities class action against WM Holdings that was settled in 1998 and the securities class action against us that was settled in November 2001. Subsequently, the issues related to the latter class action have been dropped as to the Company, its officers and directors. However, the case is ongoing with respect to WM Holdings and others. Additionally, a single group of stockholders opted not to participate in the

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

settlement of the class action lawsuit against us related to 1998 and 1999 activity and filed an individual lawsuit against us. The Company intends to defend itself vigorously in all of these proceedings.

Three groups of stockholders have filed separate lawsuits in state courts in Texas and federal court in Illinois against us and certain of our former officers. The lawsuit filed in Illinois was subsequently transferred to federal court in Texas. The petitions allege that the plaintiffs are substantial holders of the Company's common stock who intended to sell their stock in 1999, or to otherwise protect themselves against loss, but that the public statements we made regarding our prospects, and in some instances statements made by the individual defendants, were false and misleading and induced the plaintiffs to retain their stock or not to take other measures. The plaintiffs assert that the value of their retained stock declined dramatically and that they incurred significant losses. The plaintiffs assert claims for fraud, negligent misrepresentation, and conspiracy. The first of these cases was dismissed by summary judgment by a Texas state court in March 2002. That dismissal was reversed in the first quarter of 2004 by an intermediate appellate court, and we are appealing that decision. The second case also filed in state court is stayed pending resolution of the first case, and we intend to continue to vigorously defend ourselves against these claims. In March 2004, the court granted our motion to dismiss the third case, which was pending in federal court, and the plaintiffs have appealed that dismissal. Finally, another shareholder has sued the Company in Louisiana making allegations similar to those made in the securities class action referred to above and by the plaintiff claiming damages for having held stock. The case has been removed to federal court and we are seeking a transfer to Texas where we will seek dismissal.

The Company is currently defending allegations related generally to the termination of two separate joint ventures to which one of our wholly-owned subsidiaries was a party. The claims in both proceedings involve the value of the joint ventures. The joint venture relationships have ended and the contributed assets have been divested by the Company. The Company is defending itself vigorously in each of these proceedings, in which the parties are seeking a variety of remedies ranging from monetary damages to unwinding the transaction. However, the nature and extent of possible remedies or damages cannot be determined at this time.

From time to time, we pay fines or penalties in environmental proceedings relating primarily to waste treatment, storage or disposal facilities. As of September 30, 2004, there were six proceedings involving our subsidiaries where we reasonably believe that the sanctions could exceed \$100,000. The matters involve allegations that subsidiaries (i) operated a waste-to-energy facility that, as a result of intermittent and isolated equipment malfunctions, exceeded emission limits and failed to meet monitoring requirements; (ii) are responsible for late performance of work required under a Unilateral Administrative Order; (iii) improperly operated a solid waste landfill and caused excess odors; (iv) improperly operated a solid waste landfill by failing to maintain required records, properly place and cover waste and adhere to proper leachate levels; (v) discharged wastewater from a cogeneration facility in noncompliance with waste discharge requirements issued pursuant to a state water code; and (vi) failed to comply with air permit, landfill gas flow and emission limit requirements. We do not believe that the fines or other penalties in any of these matters will, individually or in the aggregate, have a material adverse effect on our financial condition or results of operations.

It is not always possible to predict the impact that lawsuits, proceedings, investigations and inquiries may have on us, nor is it possible to predict whether additional suits or claims may arise out of the matters described above in the future. We intend to defend ourselves vigorously in all the above matters. However, it is possible that the outcome of any of the matters described, or others, may ultimately have a material adverse impact on our financial condition, results of operations or cash flows in one or more future periods.

We also are currently involved in other routine civil litigation and governmental proceedings relating to the conduct of our business, including litigation involving former employees and competitors. We do not believe that any of the matters will ultimately have a material adverse impact on our consolidated financial statements.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Tax matters — We are currently under audit by the IRS and from time to time are audited by other taxing authorities. We fully cooperate with all audits, but defend our positions vigorously. Our audits are in various stages of completion. Specifically, we are in the process of concluding the appeals phase of IRS audits for the years 1989 to 2000. The audits for these years should be completed within the next six months. We are in the examination phase of an IRS audit for 2001, which should be completed within the next three months. In addition, the planning phase of an IRS audit for the years 2002 and 2003 was recently initiated. This audit should be completed within the next 24 months. To provide for potential tax exposures, we maintain an allowance for tax contingencies, the balance of which management believes is adequate. Results of audit assessments by taxing authorities could have a material effect on our quarterly or annual cash flows over the next six months as these audits are completed, although we do not believe they will have a material adverse impact on our results of operations. For discussion regarding the current period impact of such matters, see Note 4.

Capitalized software costs — We are currently assessing our options with respect to the implementation of a revenue management system. Although no impairment has been required through September 30, 2004, there are certain reasonably possible implementation alternatives that could result in an impairment.

9. Variable Interest Entities

In January 2003, the FASB issued FIN 46, which requires variable interest entities to be consolidated by their primary beneficiaries. A primary beneficiary is the party that absorbs a majority of the entity's expected losses or receives a majority of the entity's expected residual returns, or both, as a result of ownership, contractual or other financial interests in the entity. In December 2003, the FASB revised FIN 46 to provide additional exemptions for application, an extended initial application period and clarification of key terms.

As it applies to us, the effective dates for FIN 46 were as follows:

Entity Characteristics		
Creation or Modification	Entity Type	Effective Dates
After January 31, 2003	All variable interest entities(a), (b)	February 1, 2003
On or before January 31, 2003	Special purpose variable interest entities(c)	December 31, 2003
On or before January 31, 2003	All other variable interest entities(d)	March 31, 2004

- a) During the third quarter of 2003, we began consolidating a surety bonding company that was formed July 1, 2003 due to our financial interest in that company, as described in our annual report on Form 10-K for the year ended December 31, 2003. The consolidation of this variable interest entity has not had a material impact on our financial position or results of operations as of and for the three and nine months ended September 30, 2004.
- b) As discussed in Note 4, we hold an ownership interest in two coal-based synthetic fuel production facilities. Along with the other equity investors, we support the operations of the entities in exchange for a pro-rata share of the tax credits generated by the facilities. Our obligation to support the facilities' future operations is, therefore, limited to the tax benefit we expect to receive. We are not the primary beneficiary of either of these entities, and we do not believe that we have any material exposure to loss, as measured under the provisions of FIN 46, as a result of our investments. Therefore, these entities are not consolidated in our financial statements.
- c) On December 31, 2003, we began consolidating two limited liability companies from which we lease three waste-to-energy facilities, as described in our Annual Report on Form 10-K for the year ended December 31, 2003. The consolidation of these entities decreased our operating expenses by approximately \$13 million and \$40 million for the three and nine months ended September 30, 2004, respectively. However, this decrease was substantially offset by increases in depreciation expense, interest expense and minority interest expense, resulting in an immaterial impact on our net income.
- d) We have determined that we are the primary beneficiary of trust funds that are created for purposes of settling certain of our closure, post-closure or environmental remediation obligations. Therefore, on March 31, 2004, we recorded a credit of approximately \$8 million, net of tax, or \$0.01 per diluted share, as a cumulative effect of change in accounting principle to consolidate these trust funds. As the trust funds are generally invested in high quality, low risk financial instruments and are expected to continue to meet the statutory requirements for which they were established, we do not believe that there is any

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

material exposure to loss associated with the trusts. The consolidation of these variable interest entities has not materially affected our financial position or results of operations.

10. Segment and Related Information

We manage and evaluate our operations primarily through our Eastern, Midwest, Southern, Western, Canadian, Wheelabrator and Recycling Groups. These seven operating Groups are presented below as our reportable segments. These reportable segments, when combined with certain other operations not managed through the seven operating Groups, comprise our North American Solid Waste, or NASW, operations. NASW, our core business, provides integrated waste management services consisting of collection, disposal (solid waste and hazardous waste landfills), transfer, waste-to-energy facilities and independent power production plants that are managed by Wheelabrator, recycling and other miscellaneous services to commercial, industrial, municipal and residential customers throughout the United States, Puerto Rico and Canada. The operations not managed through our seven operating Groups are presented herein as “Other NASW.”

Early in the third quarter of 2004, we implemented a market realignment that consisted of moving our Ohio operations to the Midwest Group and our Kentucky operations to the Southern Group, both of which were previously in the Eastern Group. We believe that the realignment will provide benefits to each of the operating groups affected. Specifically, the Ohio Market Area faces many of the same issues as other industrial regions in the Midwest Group and the Kentucky Market Area’s rural characteristics make it similar to other markets in the Southern Group. By balancing the revenues between each of the Groups, we will enable the Eastern Group leadership team to focus on the challenges associated with the Northeast corridor. As a result of the realignment, we have reclassified the operating results of the Ohio and Kentucky Market Areas for all periods presented to provide segment financial information that appropriately reflects our approach to managing operations. Approximately \$622 million and \$167 million of assets as of December 31, 2003 were transferred to the Midwest and Southern Groups, respectively, from the Eastern Group due to the realignment. Prior period information has also been reclassified to reflect our change in accounting for certain mandatory fees and taxes (as described in Note 1).

WASTE MANAGEMENT, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Summarized financial information concerning our reportable segments for the three and nine months ended September 30 is shown in the following tables (in millions).

Three Months Ended:	Gross Operating Revenues	Intercompany Operating Revenues(d)	Net Operating Revenues(e)	Income from Operations(f)
September 30, 2004				
Canadian	\$ 163	\$ (16)	\$ 147	\$ 18
Eastern	940	(211)	729	96
Midwest	709	(137)	572	103
Southern	917	(136)	781	167
Western	703	(95)	608	101
Wheelabrator	218	(14)	204	87
Recycling	197	(5)	192	8
Other NASW(a)	60	(19)	41	(11)
	—	—	—	—
Total NASW	3,907	(633)	3,274	569
Other(b)	—	—	—	4
Corporate(c)	—	—	—	(108)
	—	—	—	—
Total	\$3,907	\$(633)	\$3,274	\$ 465
September 30, 2003				
Canadian	\$ 152	\$ (14)	\$ 138	\$ 19
Eastern	909	(196)	713	90
Midwest	683	(128)	555	102
Southern	795	(127)	668	155
Western	656	(92)	564	96
Wheelabrator	205	(15)	190	60
Recycling	141	(3)	138	(1)
Other NASW(a)	52	(22)	30	(7)
	—	—	—	—
Total NASW	3,593	(597)	2,996	514
Other(b)	—	—	—	—
Corporate(c)	—	—	—	(79)
	—	—	—	—
Total	\$3,593	\$(597)	\$2,996	\$ 435
September 30, 2004				
September 30, 2004				
Canadian	\$ 461	\$ (46)	\$ 415	\$ 48
Eastern	2,678	(583)	2,095	249
Midwest	2,022	(386)	1,636	264
Southern	2,571	(395)	2,176	492
Western	2,018	(271)	1,747	284
Wheelabrator	625	(42)	583	213
Recycling	558	(15)	543	25
Other NASW(a)	171	(58)	113	(23)
	—	—	—	—
Total NASW	11,104	(1,796)	9,308	1,552
Other(b)	—	—	—	16
Corporate(c)	—	—	—	(317)
	—	—	—	—
Total	\$11,104	\$(1,796)	\$9,308	\$1,251

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Nine Months Ended:	Gross Operating Revenues	Intercompany Operating Revenues(d)	Net Operating Revenues(e)	Income from Operations(f)
September 30, 2003				
Canadian	\$ 419	\$ (42)	\$ 377	\$ 43
Eastern	2,561	(548)	2,013	223
Midwest	1,945	(352)	1,593	255
Southern	2,352	(370)	1,982	441
Western	1,908	(266)	1,642	263
Wheelabrator	607	(45)	562	173
Recycling	413	(9)	404	(2)
Other NASW(a)	146	(57)	89	(13)
	_____	_____	_____	_____
Total NASW	10,351	(1,689)	8,662	1,383
Other(b)	—	—	—	(2)
Corporate(c)	—	—	—	(282)
	_____	_____	_____	_____
Total	\$10,351	\$(1,689)	\$8,662	\$1,099
	_____	_____	_____	_____

- a) Other NASW includes operations provided throughout our operating Groups for methane gas recovery and certain third party sub- contract and administration revenues managed by our national accounts organization. Also included are certain quarter-end adjustments related to the reportable segments that are not included in the measure of segment profit or loss used to assess their performance for the periods disclosed.
- b) All of our international waste management services and non-solid waste services, reported herein as “Other”, were divested by March 31, 2002. The income (loss) from operations recognized during each of the periods presented above represents the combined impact of minimal administrative expenses that we continue to incur in connection with these divestitures and revisions of our estimated obligations associated with these divestitures.
- c) Corporate functions include the treasury, legal, information technology, tax, insurance, management of closed landfills and related insurance recoveries, centralized service center and other typical administrative functions. Certain of the associated costs for support services are allocated to the seven operating Groups. The increase in operating losses for the Corporate segment is due primarily to (i) increased costs for salaried, hourly and severance compensation; (ii) higher legal fees; (iii) additional costs related to Sarbanes-Oxley compliance efforts; and (iv) higher depreciation expense caused by additional hardware and software placed in service.
- d) Intercompany operating revenues reflect each segment’s total intercompany sales including intercompany sales within a segment and between segments. Transactions within and between segments are generally made on a basis intended to reflect the market value of the service.
- e) Our operating revenues tend to be somewhat higher in the summer months, primarily due to the higher volume of construction and demolition waste. The volumes of industrial and residential waste in certain regions also tend to increase during the summer months. Additionally, certain destructive weather conditions, such as the hurricanes experienced during the third quarter of 2004, actually increase our revenues in the areas affected, although those revenues are often low margin due to high start-up costs and other special circumstances related to disaster clean-up. Our second and third quarter revenues and results of operations typically reflect these seasonal trends.
- f) For those items included in the determination of income from operations, the accounting policies of our segments are the same as those described in the summary of significant accounting policies included in our December 31, 2003 Form 10-K, except as discussed in Note 1 included herein.

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The table below shows the total revenues by principal lines of business (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Collection	\$2,154	\$1,983	\$ 6,177	\$ 5,800
Landfill	805	751	2,242	2,114
Transfer	448	423	1,258	1,175
Wheelabrator	218	205	625	607
Recycling and other(a)	282	231	802	655
Intercompany(b)	(633)	(597)	(1,796)	(1,689)
Operating revenues	\$3,274	\$2,996	\$ 9,308	\$ 8,662

- a) In addition to the revenue generated by our Recycling Group, we have included revenues generated within our five geographic operating Groups derived from recycling, methane gas operations, sweeping services and Port-O-Let® services in the “recycling and other” line of business.
- b) Intercompany revenues between lines of business are eliminated within the condensed consolidated financial statements included herein.

11. Condensed Consolidating Financial Statements

WM Holdings has fully and unconditionally guaranteed WMI’s senior indebtedness. WMI has fully and unconditionally guaranteed all of WM Holdings’ senior indebtedness and its 5.75% convertible subordinated notes due 2005. None of WMI’s other subsidiaries have guaranteed any of WMI’s or WM Holdings’ debt. As a result of these guarantee arrangements, we are required to present the following condensed consolidating financial information (in millions):

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

CONDENSED CONSOLIDATING BALANCE SHEETS

September 30, 2004

(Unaudited)

ASSETS

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Current assets:					
Cash and cash equivalents	\$ 601	\$ —	\$ 18	\$ —	\$ 619
Other current assets	14	1	2,671	—	2,686
	615	1	2,689	—	3,305
Property and equipment, net	—	—	11,395	—	11,395
Investments in and advances to affiliates	9,942	6,730	—	(16,672)	—
Other assets	42	28	6,658	—	6,728
Total assets	\$10,599	\$6,759	\$20,742	\$(16,672)	\$21,428

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:					
Current portion of long-term debt	\$ 295	\$ 103	\$ 237	\$ —	\$ 635
Accounts payable and other current liabilities	104	29	2,833	—	2,966
	399	132	3,070	—	3,601
Long-term debt, less current portion	4,280	1,239	2,633	—	8,152
Due to affiliates	—	—	5,299	(5,299)	—
Other liabilities	74	5	3,475	—	3,554
Total liabilities	4,753	1,376	14,477	(5,299)	15,307
Minority interest in subsidiaries and variable interest entities	—	—	275	—	275
Stockholders' equity	5,846	5,383	5,990	(11,373)	5,846
Total liabilities and stockholders' equity	\$10,599	\$6,759	\$20,742	\$(16,672)	\$21,428

December 31, 2003

ASSETS

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Current assets:					
Cash and cash equivalents	\$ 224	\$ —	\$ —	\$ (7)	\$ 217
Other current assets	12	1	2,440	—	2,453
	236	1	2,440	(7)	2,670
Property and equipment, net	—	—	11,411	—	11,411
Investments in and advances to affiliates	9,975	6,065	—	(16,040)	—
Other assets	29	106	6,522	—	6,657
Total assets	\$10,240	\$6,172	\$20,373	\$(16,047)	\$20,738

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:					
Current portion of long-term debt	\$ 118	\$ —	\$ 396	\$ —	\$ 514
Accounts payable and other current liabilities	100	44	2,724	(7)	2,861

	218	44	3,120	(7)	3,375
Long-term debt, less current portion	4,325	1,531	2,141	—	7,997
Due to affiliates	—	—	6,327	(6,327)	—
Other liabilities	95	6	3,413	—	3,514
	<u> </u>				
Total liabilities	4,638	1,581	15,001	(6,334)	14,886
Minority interest in subsidiaries and variable interest entities	—	—	250	—	250
Stockholders' equity	5,602	4,591	5,122	(9,713)	5,602
	<u> </u>				
Total liabilities and stockholders' equity	\$10,240	\$6,172	\$20,373	\$(16,047)	\$20,738
	<u> </u>				

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

CONDENSED CONSOLIDATING STATEMENTS OF OPERATIONS

Three Months Ended September 30, 2004

(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Operating revenues	\$ —	\$ —	\$3,274	\$ —	\$3,274
Costs and expenses	—	—	2,809	—	2,809
Income from operations	—	—	465	—	465
Other income (expense):					
Interest expense, net	(62)	(22)	(7)	—	(91)
Equity in subsidiaries, net of taxes	342	356	—	(698)	—
Minority interest	—	—	(10)	—	(10)
Equity in losses of unconsolidated entities and other, net	—	—	(27)	—	(27)
	280	334	(44)	(698)	(128)
Income before income taxes	280	334	421	(698)	337
Provision for (benefit from) income taxes	(22)	(8)	65	—	35
Net income	\$302	\$342	\$ 356	\$(698)	\$ 302

Three Months Ended September 30, 2003

(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Operating revenues	\$ —	\$ —	\$2,996	\$ —	\$2,996
Costs and expenses	—	—	2,561	—	2,561
Income from operations	—	—	435	—	435
Other income (expense):					
Interest expense, net	(61)	(32)	(14)	—	(107)
Equity in subsidiaries, net of taxes	249	269	—	(518)	—
Minority interest	—	—	(2)	—	(2)
Equity in earnings of unconsolidated entities and other, net	—	—	3	—	3
	188	237	(13)	(518)	(106)
Income before income taxes	188	237	422	(518)	329
Provision for (benefit from) income taxes	(22)	(12)	153	—	119
Net income	\$210	\$249	\$ 269	\$(518)	\$ 210

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

CONDENSED CONSOLIDATING STATEMENTS OF OPERATIONS

Nine Months Ended September 30, 2004

(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Operating revenues	\$ —	\$ —	\$9,308	\$ —	\$9,308
Costs and expenses	—	—	8,057	—	8,057
Income from operations	—	—	1,251	—	1,251
Other income (expense):					
Interest expense, net	(192)	(70)	(51)	—	(313)
Equity in subsidiaries, net of taxes	792	836	—	(1,628)	—
Minority interest	—	—	(26)	—	(26)
Equity in losses of unconsolidated entities and other, net	—	—	(72)	—	(72)
	600	766	(149)	(1,628)	(411)
Income before income taxes and cumulative effect of changes in accounting principles	600	766	1,102	(1,628)	840
Provision for (benefit from) income taxes	(70)	(26)	274	—	178
Income before cumulative effect of changes in accounting principles	670	792	828	(1,628)	662
Cumulative effect of changes in accounting principles, net of taxes	—	—	8	—	8
Net income	\$ 670	\$792	\$ 836	\$(1,628)	\$ 670

Nine Months Ended September 30, 2003

(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Operating revenues	\$ —	\$ —	\$8,662	\$ —	\$8,662
Costs and expenses	—	—	7,563	—	7,563
Income from operations	—	—	1,099	—	1,099
Other income (expense):					
Interest expense, net	(180)	(98)	(42)	—	(320)
Equity in subsidiaries, net of taxes	561	622	—	(1,183)	—
Minority interest	—	—	(5)	—	(5)
Equity in losses of unconsolidated entities and other, net	—	2	10	—	12
	381	526	(37)	(1,183)	(313)
Income before income taxes and cumulative effect of changes in accounting principles	381	526	1,062	(1,183)	786
Provision for (benefit from) income taxes	(66)	(35)	394	—	293
Income before cumulative effect of changes in accounting principles	447	561	668	(1,183)	493
Cumulative effect of changes in accounting principles, net of taxes	—	—	(46)	—	(46)
Net income	\$ 447	\$561	\$ 622	\$(1,183)	\$ 447

WASTE MANAGEMENT, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)
CONDENSED CONSOLIDATING STATEMENTS OF CASH FLOWS

Nine Months Ended September 30, 2004

(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Cash flows from operating activities:					
Net income	\$ 670	\$ 792	\$ 836	\$(1,628)	\$ 670
Equity in earnings of subsidiaries, net of taxes	(792)	(836)	—	1,628	—
Other adjustments and charges	3	(6)	951	—	948
	—	—	—	—	—
Net cash provided by (used in) operating activities	(119)	(50)	1,787	—	1,618
	—	—	—	—	—
Cash flows from investing activities:					
Acquisitions of businesses, net of cash acquired	—	—	(110)	—	(110)
Capital expenditures	—	—	(837)	—	(837)
Proceeds from divestitures of businesses, net of cash divested, and other sales of assets	—	—	73	—	73
Net receipts from restricted funds and other	—	5	286	—	291
	—	—	—	—	—
Net cash used in investing activities	—	5	(588)	—	(583)
	—	—	—	—	—
Cash flows from financing activities:					
New borrowings	346	—	2	—	348
Debt repayments	(223)	(150)	(61)	—	(434)
Common stock repurchases	(353)	—	—	—	(353)
Cash dividends	(326)	—	—	—	(326)
Exercise of common stock options and warrants	150	—	—	—	150
Minority interest distributions paid and other	(1)	—	(17)	—	(18)
(Increase) decrease in intercompany and investments, net	903	195	(1,105)	7	—
	—	—	—	—	—
Net cash provided by (used in) financing activities	496	45	(1,181)	7	(633)
	—	—	—	—	—
Effect of exchange rate changes on cash and cash equivalents	—	—	—	—	—
	—	—	—	—	—
Increase in cash and cash equivalents	377	—	18	7	402
Cash and cash equivalents at beginning of period	224	—	—	(7)	217
	—	—	—	—	—
Cash and cash equivalents at end of period	\$ 601	\$ —	\$ 18	\$ —	\$ 619

Nine Months Ended September 30, 2003

(Unaudited)

	WMI	WM Holdings	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Cash flows from operating activities:					
Net income	\$ 447	\$ 561	\$ 622	\$(1,183)	\$ 447
Equity in earnings of subsidiaries, net of taxes	(561)	(622)	—	1,183	—
Other adjustments and charges	89	17	733	—	839
	—	—	—	—	—
Net cash provided by (used in) operating activities	(25)	(44)	1,355	—	1,286
	—	—	—	—	—
Cash flows from investing activities:					
Acquisitions of businesses, net of cash acquired	—	—	(244)	—	(244)
Capital expenditures	—	—	(798)	—	(798)
Proceeds from divestitures of businesses, net of cash divested, and other sales of assets	—	—	44	—	44
Net receipts from restricted funds and other	—	—	236	—	236
	—	—	—	—	—
Net cash used in investing activities	—	—	(762)	—	(762)
	—	—	—	—	—
Cash flows from financing activities:					
New borrowings	—	—	83	—	83

Debt repayments	—	(7)	(92)	—	(99)
Common stock repurchases	(264)	—	—	—	(264)
Exercise of common stock options and warrants	21	—	—	—	21
Minority interest distributions paid and other	(4)	—	(36)	—	(40)
(Increase) decrease in intercompany and investments, net	461	51	(512)	—	—
	—	—	—	—	—
Net cash provided by (used in) financing activities	214	44	(557)	—	(299)
	—	—	—	—	—
Effect of exchange rate changes on cash and cash equivalents	—	—	1	—	1
	—	—	—	—	—
Increase (decrease) in cash and cash equivalents	189	—	37	—	226
Cash and cash equivalents at beginning of period	316	—	43	—	359
	—	—	—	—	—
Cash and cash equivalents at end of period	\$ 505	\$ —	\$ 80	\$ —	\$ 585

WASTE MANAGEMENT, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

12. 2003 Restructurings

In February 2003 we reduced the number of market areas that make up our geographic operating Groups and reduced certain overhead positions to further streamline our organization. In connection with the restructuring, we reduced our workforce by about 700 employees and 270 contract workers. We recorded \$20 million of pre-tax charges for costs associated with our February 2003 restructuring and workforce reduction, all of which was associated with employee severance and benefit costs. The operational efficiencies provided by these organizational changes and a focus on fully utilizing the capabilities of our information technology resources enabled us to further reduce our workforce in June 2003. This workforce reduction resulted in the elimination of an additional 600 employee positions and 200 contract worker positions. We recorded \$23 million of pre-tax charges for costs associated with the June 2003 workforce reduction during the nine months ended September 30, 2003. We do not expect to incur any additional costs for these restructuring and workforce reduction efforts. During the third quarter of 2004, we recorded a credit of approximately \$1 million to reduce our accrual for employee severance costs associated with these activities. Approximately \$1 million remains accrued as of September 30, 2004 for employee severance and benefit costs incurred as a result of these activities, which will be paid to certain employees through the third quarter of 2005.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

When we make statements containing projections about our accounting and finances, plans and objectives for the future, future economic performance or when we make statements containing any other projections or estimates about our assumptions relating to these types of statements, we are making forward-looking statements. These statements usually relate to future events and anticipated revenues, earnings, cash flows or other aspects of our operations or operating results. We make these statements in an effort to keep stockholders and the public informed about our business, and have based them on our current expectations about future events. You should view such statements with caution. These statements are not guarantees of future performance or events. All phases of our business are subject to uncertainties, risks and other influences, many of which we have no control over. Any of these factors, either alone or taken together, could have a material adverse effect on us and could change whether any forward-looking statement ultimately turns out to be true. Additionally, we assume no obligation to update any forward-looking statement as a result of future events or developments. The following discussion should be read together with the condensed consolidated financial statements and the notes to the condensed consolidated financial statements.

Some of the risks that we face and that could affect our business and financial statements for the remainder of 2004 and beyond include:

- the effects competition may have on our profitability or cash flows, including the negative impact to our yield on base business resulting from price roll-backs and lower than average pricing to retain and attract customers;
- our inability to maintain or expand margins as volumes increase if we are unable to control variable costs or fixed cost base increases;
- increases in employee-related costs and expenses, including health care and other employee benefits such as unemployment insurance and workers' compensation, as well as the costs and expenses associated with attracting and retaining qualified personnel;
- possible increases in expenses due to fuel price increases or fuel supply shortages;
- the effect that fluctuating commodity prices may have on our operating revenues and expenses;
- the general effects of a weak economy, including the resulting decreases in volumes of waste generated;
- the effect the weather has on our quarter to quarter results, as well as the effect of extremely harsh weather on our operations;
- possible changes in our estimates of site remediation requirements, final capping, closure and post-closure obligations, compliance and regulatory developments;
- the possible impact of regulations on our business, including the cost to comply with regulatory requirements and the potential liabilities associated with disposal operations, as well as our ability to obtain and maintain permits needed to operate our facilities;
- the effect of limitations or bans on disposal or transportation of out-of-state waste or certain categories of waste;
- possible charges against earnings as a result of shut-down operations, uncompleted development or expansion projects or other events;
- the effects that trends toward requiring recycling, waste reduction at the source and prohibiting the disposal of certain types of wastes could have on volumes of waste going to landfills and waste-to-energy facilities;
- possible diversions of management's attention and increases in operating expenses due to efforts by labor unions to organize our employees;
- the outcome of litigation or threatened litigation;

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- the need for additional capital if cash flows are less than we expect or capital expenditures are more than we expect, and the possibility that we cannot obtain additional capital on acceptable terms if needed;
- possible errors or problems upon implementation of new information technology systems; and
- possible fluctuations in quarterly results of operations or adverse impacts on our results of operations as a result of the adoption of new accounting standards or interpretations.

These are not the only risks that we face. There may be additional risks that we do not presently know of or that we currently believe are immaterial which could also impair our business and financial position.

General

Our principal executive offices are located at 1001 Fannin Street, Suite 4000, Houston, Texas 77002. Our telephone number at that address is (713) 512-6200. Our website address is <http://www.wm.com>. Our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K are all available, free of charge, on our website as soon as practicable after we file the reports with the SEC. Our stock is traded on the New York Stock Exchange under the symbol "WMI."

We are the leading provider of integrated waste services in North America. Through our subsidiaries we provide collection, transfer, recycling and resource recovery, and disposal services. We are also a leading developer, operator and owner of waste-to-energy facilities in the United States. Our customers include commercial, industrial, municipal and residential customers, other waste management companies, electric utilities and governmental entities.

Overview

The third quarter of 2004 was a strong quarter for the Company, marked by trends similar to those seen in the first two quarters. During 2004, management has been focused primarily on the following:

- Increasing prices on our base business and improving base business yield with a focus on recouping our cost increases and improving return on capital;
- Increasing the efficiency of our operations, primarily by focusing on improving the efficiency of low-performing business units;
- Continuing to standardize processes across the organization;
- Using our fixed cost structure to capitalize on growing volumes;
- Controlling variable cost increases and reducing fixed costs; and
- Producing free cash flow that can be used to increase shareholder value through a combination of dividends, share repurchases and accretive tuck-in acquisitions.

Net income for the quarter was \$302 million, or \$0.52 per diluted share, as compared with \$210 million or \$0.35 per diluted share in the third quarter of 2003. Net income before cumulative effects of changes in accounting principles for the nine months ended September 30, 2004 was \$662 million, or \$1.14 per diluted share, as compared with \$493 million, or \$0.83 per diluted share for the nine months ended September 30, 2003. The increase in net income for both periods was primarily a result of favorable tax audit settlements and our ability to take advantage of our fixed cost structure on a growing revenue base, offsetting certain other rising components of cost.

Our favorable audit settlements increased our earnings by \$71 million, or \$0.12 per diluted share, during the current quarter, which includes a \$62 million decline in our tax provision and \$9 million of after-tax interest income. The earnings impact for the nine months ended September 30, 2004 was approximately \$83 million, or \$0.14 per diluted share, and includes an additional decline of approximately \$12 million in our tax provision for audit settlements that occurred during the first and second quarters.

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Revenues for the current quarter were up \$278 million, or 9.3%, to \$3.27 billion in the third quarter of 2004. For the nine months ended September 30, 2004, our operating revenues were \$9.31 billion as compared with \$8.66 billion for the comparable nine-month period last year. Revenues for the third quarter of 2004 include approximately \$59 million, or 2.0% of current quarter revenue growth, related to clean-up efforts from the hurricanes in Florida. The remaining revenue growth in the quarter is from (i) combined average yield improvement of 2.8% from our base business, recyclable commodities and fuel surcharges and fees; (ii) volume increases driven by economic growth; and (iii) acquisitions, net of divestitures.

Yield increase on base business improved to 0.8% in the third quarter, from 0.4% in the first half of 2004. While we continue to have reasonable success implementing annual price increases to our collection customer base, we have experienced increased price competition in the collection business in many markets. This increased competition has been characterized by offers from competitors to our customers to provide the same services at much lower prices than we are charging and lower average rates being offered by the competition on new business bids. The price competition is the greatest in our Midwestern Group, where negative yield on their base business of 2.0% was experienced in the third quarter. We have also experienced declines in yield for our landfill operations, due largely to competitive pricing on special waste that have been partially offset by yield increases on our municipal solid waste landfill operations.

At 4.5%, internal revenue growth from volumes in the quarter was the highest we have experienced in any quarter for several years. Excluding the increase in volumes related to the hurricanes, the remaining volume growth of 2.5% is similar to the volume growth reported for the second quarter. Volume growth in 2004 has been much better than recent years. This is primarily a result of improved general economic conditions, which among other things resulted in a substantial increase in construction and demolition activity in the U.S. Consistent with that view, our volumes were most improved in the landfill, industrial collection and commercial collection lines of business, with smaller volume increases experienced in the transfer and residential collection lines of business.

We have paid approximately \$203 million, net of cash acquired, for acquisitions since the third quarter of 2003. The effect of these acquisitions was an increase of approximately 2.0% in third quarter 2004 net revenues as compared with the prior year's quarter. Our acquisition program is directed towards maximizing the benefits of our fixed cost infrastructure by improving our collection route density and increasing our internalized waste volumes by investing in landfills and transfer stations.

We continue our efforts to improve our operating margins. We were not successful in doing that in the third quarter, primarily as a result of (i) a significant portion of the hurricane clean-up efforts being sub-contracted to third parties resulting in relatively low margins on these revenues; (ii) higher fuel costs driven by an increase in the per gallon cost of diesel fuel and third-party fuel surcharges that have more than offset the fuel surcharge revenues we have been able to generate; and (iii) increased costs of goods sold related to our recycling line of business due to higher commodity prices. Each of these items contributed to the margin declines we experienced on this quarter's incremental revenues. We continue to seek opportunities to reduce our operating costs and improve our margins.

We believe that the production of free cash flow is a very important measure of our liquidity and operating results as it is indicative of our ability to pay our quarterly dividends, repurchase stock and execute our acquisition program. Free cash flow is not a measure of financial performance under generally accepted accounting principles and is not intended to replace the condensed consolidated statement of cash flows that was prepared in accordance with GAAP. Our free cash flow was \$305 million for the quarter and \$854 million for the nine-month period. Free cash flow is calculated by subtracting capital expenditures from net cash

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provided by operating activities, and adding to that the proceeds from divestitures, net of cash divested, and other sales of assets, as shown in the table below (in millions).

	Three Months Ended September 30, 2004	Nine Months Ended September 30, 2004
Net cash provided by operating activities	\$ 599	\$1,618
Capital expenditures	(311)	(837)
Proceeds from divestitures of businesses, net of cash divested, and other sales of assets	17	73
Free cash flow	\$ 305	\$ 854

We are projecting full-year 2004 free cash flow to meet or exceed our previously stated range of \$900 million to \$1 billion, based on estimated net cash provided by operating activities meeting or exceeding a range of \$2.1 billion to \$2.2 billion, capital expenditures of between \$1.25 billion and \$1.3 billion, and proceeds from divestitures, net of cash divested and other sales of assets of \$80 million to \$100 million.

Basis of Presentation of Consolidated and Segment Financial Information

As discussed in Notes 1 and 10 to the condensed consolidated financial statements, the following reclassifications have been made in our 2003 financial statements in order to conform to the current year presentation:

- *Mandated fees and taxes* — We have conformed the prior year's presentation of our revenues and expenses with the current year's presentation by increasing both our revenue and our operating expenses by approximately \$21 million for the three months ended September 30, 2003 and by approximately \$56 million for the nine months ended September 30, 2003.
- *Cash balances* — We have increased both our cash and cash equivalents and accounts payable balances at December 31, 2003 by approximately \$82 million to properly reflect our gross cash balances and current liabilities. The \$33 million decrease in the amount payable (from \$95 million at December 31, 2002 to \$62 million at September 30, 2003) has been reflected as a component of cash used in financing activities — other for the nine months ended September 30, 2003.
- *Foreign currency translation* — We have decreased both our accrued liabilities balance and our accumulated other comprehensive loss at December 31, 2003 by approximately \$39 million to properly reflect the impact of foreign currency translation on our consolidated Canadian operations.
- *Segments* — Early in the third quarter of 2004, we implemented a market realignment that consisted of moving our Ohio operations to the Midwest Group and our Kentucky operations to the Southern Group, both of which were previously in the Eastern Group. We believe that the realignment will provide benefits to each of the operating groups affected. Specifically, the Ohio Market Area faces many of the same issues as other industrial regions in the Midwest Group and the Kentucky Market Area's rural characteristics make it similar to other markets in the Southern Group. By balancing the revenues between each of the Groups, we will enable the Eastern Group leadership team to focus on the challenges associated with the Northeast corridor. As a result of the realignment, we have reclassified the operating results of the Ohio and Kentucky Market Areas for all periods presented to provide segment financial information that appropriately reflects our approach to managing operations.

The supplementary financial information included in this section has been updated to reflect these changes.

Critical Accounting Estimates and Assumptions

In preparing our financial statements, we make several estimates and assumptions that affect the accounting for and recognition of our assets and liabilities and revenues and expenses. We must make these estimates and assumptions because certain of the information that we use is dependent on future events, cannot be calculated with a high degree of precision from available data or is simply not capable of being

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readily calculated based on generally accepted methodologies. In some cases, these estimates are particularly difficult to determine and we must exercise significant judgment. The most difficult, subjective and complex estimates and the assumptions that deal with the greatest amount of uncertainty relate to our accounting for landfills, environmental remediation liabilities and asset impairments, as described in Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2003.

Results of Operations for the Three and Nine Months Ended September 30, 2004

The following table presents, for the periods indicated, the period to period change in dollars (in millions) and percentages for the respective consolidated statement of operations line items.

	Period to Period Change For the Three Months Ended September 30, 2004 and 2003		Period to Period Change For the Nine Months Ended September 30, 2004 and 2003	
Statement of Operations:				
Operating revenues	\$278	9.3 %	\$646	7.5 %
Costs and expenses:				
Operating (exclusive of depreciation and amortization shown below)	210	10.8	455	8.0
Selling, general and administrative	19	6.4	28	3.0
Depreciation and amortization	20	6.2	66	6.9
Restructuring	(1)	*	(44)	*
Asset impairments and unusual items	—	*	(11)	*
	248	9.7	494	6.5
Income from operations	30	6.9	152	13.8
Other income (expense):				
Interest expense, net	16	15.0	7	2.2
Equity in earnings (losses) of unconsolidated entities	(28)	*	(73)	*
Minority interest	(8)	*	(21)	*
Other, net	(2)	(100.0)	(11)	(122.2)
	(22)	(20.8)	(98)	(31.3)
Income before income taxes and cumulative effect of changes in accounting principles	8	2.4	54	6.9
Provision for income taxes	84	*	115	*
Income before cumulative effect of changes in accounting principles	\$ 92	43.8 %	\$169	34.3 %

* Percentage change is not meaningful. Please refer to the explanations of these items included herein for a discussion of the relationship between current year and prior year activity.

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The following table presents, for the periods indicated, the percentage relationship that the respective consolidated statement of operations line items bear to operating revenues:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Statement of Operations:				
Operating revenues	100.0 %	100.0 %	100.0 %	100.0 %
Costs and expenses:				
Operating (exclusive of depreciation and amortization shown below)	65.7	64.8	65.7	65.3
Selling, general and administrative	9.7	9.9	10.2	10.6
Depreciation and amortization	10.5	10.9	10.9	11.0
Restructuring	—	—	—	0.5
Asset impairments and unusual items	(0.1)	(0.1)	(0.2)	(0.1)
	85.8	85.5	86.6	87.3
Income from operations	14.2	14.5	13.4	12.7
Other income (expense):				
Interest expense, net	(2.8)	(3.5)	(3.4)	(3.7)
Equity in earnings (losses) of unconsolidated entities	(0.8)	—	(0.7)	—
Minority interest	(0.3)	(0.1)	(0.3)	—
Other, net	—	0.1	—	0.1
	(3.9)	(3.5)	(4.4)	(3.6)
Income before income taxes and cumulative effect of changes in accounting principles	10.3	11.0	9.0	9.1
Provision for income taxes	1.1	4.0	1.9	3.4
Income before cumulative effect of changes in accounting principles	9.2 %	7.0 %	7.1 %	5.7 %

Operating Revenues

Our operating revenues for the three months ended September 30, 2004, were \$3.3 billion, compared with \$3.0 billion in 2003. For the nine months ended September 30, 2004, our operating revenues were \$9.3 billion, as compared with \$8.7 billion in 2003. Shown below (in millions) is the contribution to revenues during each period provided by our seven operating Groups and our Other North American Solid Waste, or NASW, services.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Canadian	\$ 163	\$ 152	\$ 461	\$ 419
Eastern	940	909	2,678	2,561
Midwest	709	683	2,022	1,945
Southern	917	795	2,571	2,352
Western	703	656	2,018	1,908
Wheelabrator	218	205	625	607
Recycling	197	141	558	413
Other NASW	60	52	171	146
Intercompany	(633)	(597)	(1,796)	(1,689)
	\$3,274	\$2,996	\$ 9,308	\$ 8,662

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Our operating revenues generally come from fees charged for our collection, landfill, transfer, Wheelabrator (waste-to-energy facilities and independent power production plants) and recycling services. The mix of operating revenues from our different services is reflected in the table below (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Collection	\$2,154	\$1,983	\$ 6,177	\$ 5,800
Landfill	805	751	2,242	2,114
Transfer	448	423	1,258	1,175
Wheelabrator	218	205	625	607
Recycling and other	282	231	802	655
Intercompany	(633)	(597)	(1,796)	(1,689)
	\$3,274	\$2,996	\$ 9,308	\$ 8,662

The following table provides details associated with the period-to-period change in NASW revenues (dollars in millions) along with an explanation of the significant components of the current period changes:

	Period to Period Change for the Three Months Ended September 30, 2004 and 2003		Period to Period Change for the Nine Months Ended September 30, 2004 and 2003	
Average yield:				
Base business(a)	\$ 24	0.8%	\$ 50	0.6%
Commodity(b)	43	1.5	116	1.3
Electricity	1	—	1	—
Fuel surcharge and fees	16	0.5	26	0.3
Total	84	2.8	193	2.2
Volume(c)	133	4.5	240	2.8
Internal growth	217	7.3	433	5.0
Acquisitions(d)	59	2.0	202	2.4
Divestitures	(6)	(0.2)	(17)	(0.2)
Foreign currency translation	8	0.2	28	0.3
	\$278	9.3%	\$646	7.5%

- a) During the three and nine months ended September 30, 2004, base business yield improvements contributed to increased revenues in our collection, transfer and waste-to-energy operations. In our collection business, the most substantial yield improvements during the current quarter were in our industrial and residential operations, where nearly all of our operating groups experienced base business pricing improvements. Although the yields provided by our collection operations throughout 2004 have been positive, they have been partially offset by increased price competition, particularly in the Midwest, and the unfavorable impact of lower priced recycling and yard waste service programs in the South. The base business yield improvements in our transfer business throughout 2004 have been almost exclusively attributable to the Eastern portion of the United States. However, as discussed in footnote (c) below, increased pricing on our transfer business in the East has negatively affected our volume-related revenue in that region. The base business yield increases during 2004 have been partially offset by average yield declines in our landfill operations. This decline is primarily the net result of increased pricing for municipal solid waste disposal in the East and West, which was more than offset by the continued impact of lower pricing for special waste in the South and Midwest.
- b) Revenue was positively affected by price increases in all of the recycling commodities that we process. Average prices for old corrugated cardboard and old newsprint, two commodities that make up a substantial portion of our recycling revenues, are up approximately 36% and 29%, respectively, for the third quarter of 2004 when compared with the comparable prior year period. However, a significant portion of increases from commodity prices is rebated to our suppliers, increasing our cost of goods sold.
- c) During both the three and nine months ended September 30, 2004, we experienced significant volume-related revenue increases in our collection and landfill businesses, driven principally by our Southern and Western Groups. A substantial portion of volume-related revenue growth is due to the volume increases each of our operating groups has experienced in its industrial and commercial collection operations. Additionally, hurricane clean-up efforts significantly affected the Southern Group's third quarter volume-related revenues, providing approximately \$59 million of the current quarter's increase. Landfill volume

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increases have also provided significant revenue improvements during the year, particularly our special waste volume increases in the Midwest and South during the third quarter of 2004. In the East, volumes from our transfer and residential collection businesses have declined significantly during the current quarter. As discussed in (a) above, these declines can largely be attributed to increased pricing in that region. The decreases experienced in the East have been more than offset by increased transfer and residential collection volumes in the South and West, which have made substantial contributions to revenue growth throughout the nine-month period. Excluding the impact of hurricanes, we believe that a relatively strong economic environment has driven our volume-related revenue improvements.

- d) This increase is largely related to the current year impact of our acquisition of collection assets from Allied Waste Industries, Inc. in the third and fourth quarters of 2003. Other acquisitions of recycling, transfer and waste-to-energy businesses consummated subsequent to the third quarter of 2003 also provided notable increases in revenues during the current quarter and nine-month period.

Operating Expenses (Exclusive of Depreciation and Amortization Shown Below)

Operating expenses are (i) labor and related benefits, which include salaries and wages, related payroll taxes, insurance and benefits costs and the costs associated with contract labor; (ii) transfer and disposal costs, which include tipping fees paid to third party disposal facilities and transfer stations; (iii) maintenance and repairs relating to both equipment and facilities; (iv) subcontractor costs, which include the costs of independent haulers who transport our waste to disposal facilities; (v) costs of goods sold, which are primarily the rebates paid to suppliers associated with recycling commodities; (vi) fuel costs, which represent the costs of fuel and oils to operate our truck fleet and landfill operating equipment; (vii) disposal and franchise fees and taxes, which include landfill taxes, host community fees and royalties; and (viii) other operating costs, which include equipment and facility rent, property taxes, insurance and claims costs, and landfill operating costs.

The following table summarizes the major components of our operating expenses, including the impact of foreign currency translation, for the three and nine months ended September 30, 2004 and 2003 (in millions):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2004	2003	Change	2004	2003	Change
Labor and related benefits	\$ 739	\$ 702	\$ 37 (a)	\$2,174	\$2,054	\$120 (a)
Transfer and disposal costs	336	315	21 (b)	956	886	70 (b)
Maintenance and repairs	172	169	3	528	519	9
Subcontractor costs	264	184	80 (c)	646	513	133 (c)
Cost of goods sold	163	127	36 (d)	455	365	90 (d)
Fuel	103	80	23 (e)	286	245	41 (e)
Disposal and franchise fees and taxes	165	158	7	469	445	24
Other	209	206	3	597	629	(32)(f)
	<u>\$2,151</u>	<u>\$1,941</u>	<u>\$210</u>	<u>\$ 6,111</u>	<u>\$5,656</u>	<u>\$455</u>

- a) These increased costs are the result of (i) higher salaries and hourly wages when compared with prior year due to annual merit increases; (ii) increased overtime costs due in part to increased volumes; and (iii) salary costs related to acquisitions made in the second half of 2003 and early 2004. Additionally, our costs for employee benefits, principally health care, have continued to rise in 2004. All of these increases have been partially offset by savings realized as a result of our 2003 workforce reductions.
- b) The increases are due principally to volume increases from both general operating activities and acquisitions.
- c) These cost increases are primarily due to higher volumes we have experienced throughout the year, including increased subcontractor costs of approximately \$46 million in the current quarter attributable to hurricane clean-up services provided by our Southern Group. Also contributing to the increases are (i) the impact of acquisitions; (ii) increased third-party transportation costs in our Western Group due to the service requirements of certain event work; (iii) higher fuel surcharges paid to third party subcontractors; and (iv) additional transportation costs in our Eastern Group due to capacity constraints at some of our landfills.
- d) Our Recycling Group provides our suppliers with rebates that are driven by market prices of recyclable commodities, which means that the increase in cost of goods sold correlates directly to the increase in the market prices of these commodities and our revenue yield. Therefore, there is a relatively insignificant net impact on our operating results from changing commodity prices.
- e) We experienced an average increase of \$0.36 per gallon for the current quarter and \$0.19 per gallon for the year-to-date period when compared with the corresponding prior year periods. However, a significant portion of this cost increase is offset by our fuel surcharges to customers.

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- f) The primary reason for the decrease is the impact of the December 31, 2003 consolidation of two special purpose type variable interest entities from which we lease three waste-to-energy facilities. Prior to the consolidation of these entities, we accounted for these arrangements as operating leases. The consolidation of these entities has, therefore, resulted in a decline in rental expense in 2004, which was partially offset by increases in depreciation, interest expense and minority interest expense.

Selling, General and Administrative

Selling, general and administrative expenses are (i) labor costs, which include salaries, related insurance and benefits, contract labor, and payroll taxes; (ii) professional fees, which include fees for consulting, legal, audit, and tax services; (iii) provision for bad debts, which includes allowances for uncollectible customer accounts and collection fees; and (iv) other general and administrative expenses, which include voice and data telecommunications, advertising, travel and entertainment, rentals, postage, and printing.

The following table summarizes the major components of our selling, general and administrative costs for the three and nine months ended September 30, 2004 and 2003 (in millions):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2004	2003	Change	2004	2003	Change
Labor and related benefits	\$185	\$176	\$ 9 (a)	\$558	\$547	\$11 (a)
Professional fees	45	34	11 (b)	118	106	12 (b)
Provision for bad debts	13	8	5 (c)	37	33	4
Other	73	79	(6)	236	235	1
	\$316	\$297	\$19	\$949	\$921	\$28

- a) The increased costs were the result of (i) increased commissions paid to our sales personnel; (ii) higher salaries and hourly wages that were partially offset by the 2003 workforce reductions; and (iii) current period severance related expenses. A decline in our use of contract labor has partially offset these increases.
- b) The increases were the result of higher litigation and defense costs and consulting fees for both general business reasons and our compliance with Section 404 of the Sarbanes-Oxley Act of 2002.
- c) The current quarter increase in our provision for bad debts is the result of a significant current quarter increase in our accounts receivable balances. The increase in receivables relates to both an increase in our days sales outstanding of approximately two days and an increase in average daily revenues. A significant portion of this increase can be attributed to receivables related to hurricane clean-up services that we currently expect will be paid by the Federal Emergency Management Agency in 2005.

Other Components of Income From Operations

The following table summarizes the remaining components of income from operations for the three and nine months ended September 30, 2004 and 2003 (in millions):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2004	2003	Change	2004	2003	Change
Depreciation and amortization	\$345	\$325	\$20 (a)	\$1,018	\$952	\$ 66 (a)
Restructuring	(1)	—	(1)(b)	(1)	43	(44)(b)
Asset impairments and unusual items	(2)	(2)	— (c)	(20)	(9)	(11)(c)

- a) The increases are primarily related to (i) an increase in landfill airspace amortization due to higher volumes at our landfills and an increase in the per ton amortization rate; (ii) increased information technology depreciation expense recognized as a result of placing additional enterprise-wide software systems into service during the latter half of 2003; and (iii) increased depreciation expense for our Wheelabrator Group as a result of consolidating two variable interest entities.
- b) In February 2003 we reduced the number of market areas that make up our geographic operating Groups and reduced certain overhead positions to streamline our organization. As a result, we incurred approximately \$20 million in one-time employee severance and benefit costs. The operational efficiencies provided by the February 2003 organizational changes enabled us to further reduce our workforce in June 2003. In the second quarter of 2003, we recorded \$23 million of pre-tax charges for

employee severance and benefit costs associated with this workforce reduction. During the current quarter, we recorded a \$1 million credit to reduce our accrual for severance costs associated with these workforce reductions.

- c) Approximately \$14 million of the gains realized during the nine month period is attributable to divestiture activity, primarily the divestiture of certain Port-O-Let® operations during the first quarter. The remaining current year activity is the result of adjustments to our estimated obligations associated with our non-solid waste services that were divested by March 31, 2002 and the receipt of cash from a third-party for a previously settled remedial obligation. We are currently assessing our options with respect to the implementation of a revenue management system. Although no impairment has been required through September 30, 2004, there are certain reasonably possible implementation alternatives that could result in an impairment.

Income From Operations by Reportable Segment

The following table summarizes income from operations by reportable segment for the three and nine months ended September 30, 2004 and 2003 and provides explanations of significant factors contributing to the identified variances (in millions):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2004	2003	Change	2004	2003	Change
Canadian	\$ 18	\$ 19	\$ (1)	\$ 48	\$ 43	\$ 5
Eastern	96	90	6	249	223	26 (a)
Midwest	103	102	1	264	255	9
Southern	167	155	12 (b)	492	441	51 (b)
Western	101	96	5	284	263	21 (c)
Wheelabrator	87	60	27 (d)	213	173	40 (d)
Recycling	8	(1)	9	25	(2)	27 (e)
Other NASW	(11)	(7)	(4)	(23)	(13)	(10)
Total NASW	\$569	\$514	\$55	\$1,552	\$1,383	\$169

- a) This increase was driven primarily by (i) revenue growth due to increased average yield across all major lines of business, which was partially offset by volume declines in landfill, transfer and residential collection operations throughout the year; (ii) the impact of one-time employee severance and benefit costs incurred as part of the February and June 2003 restructurings; (iii) higher operating expenses incurred in 2003 because of the first quarter's harsh weather conditions; and (iv) acquisitions. These earnings improvements were partially offset by increased costs for the transportation of waste and labor and an increase in landfill amortization expense.
- b) Operating income in 2004 has been favorably affected by (i) positive internal revenue growth, largely due to volume increases in higher margin landfill operations; (ii) acquisitions; (iii) increased revenue as a result of the hurricanes in the region during the current quarter; (iv) the impact of one-time employee severance and benefit costs incurred as part of the February and June 2003 restructurings; and (v) various operating and administrative cost reductions.
- c) The increase is primarily attributable to revenue growth, which is largely due to increased volumes in industrial collection and transfer operations and average yield improvements in our commercial and residential collection operations.
- d) The increases were due in large part to (i) positive internal revenue growth driven by improved electricity pricing and average yield improvements on long-term disposal contracts; and (ii) the consolidation of two special purpose variable interest entities on December 31, 2003, which has increased income from operations as a result of decreased operating costs, partially offset by increases in depreciation expense (the impact of the consolidation of these entities on income before income taxes is further reduced by increases in interest expense and minority interest expense). The comparison of current nine-month operating results with the same prior year period is also affected by an \$11 million favorable settlement of a legal dispute during the second quarter of 2003.
- e) The Recycling Group's 2004 operating revenues have been favorably affected by significantly higher market prices for recycling commodities. Improvements in the market prices for these commodities provide marginal increases to our income from operations because a substantial portion of changes in market prices are generally passed on as rebates to our suppliers. These favorable market conditions, and to a lesser extent, accretive acquisitions, were the primary drivers of the current year's increase in earnings.

Other Components of Income Before Cumulative Effect of Changes in Accounting Principles

The following summarizes the other major components of our income before cumulative effect of changes in accounting principles for the three and nine months ended September 30, 2004 and 2003 (in millions):

	Three Months Ended September 30,		Change	Nine Months Ended September 30,		Change
	2004	2003		2004	2003	
Interest expense, net	\$ 91	\$107	\$(16)(a)	\$313	\$320	\$ (7)
Equity in losses (earnings) of unconsolidated entities	27	(1)	28 (b)	70	(3)	73 (b)
Minority interest	10	2	8 (c)	26	5	21 (c)
Other, net	—	(2)	2	2	(9)	11
Provision for income taxes	35	119	(84)(d)	178	293	(115)(d)

- a) The decrease is attributable to an \$18 million increase in interest income, \$15 million of which was realized as a result of the favorable audit settlements discussed in footnote (d).
- b) In the first and second quarters of 2004, we acquired an equity interest in two coal-based synthetic fuel production facilities. We account for our investments in these entities using the equity method of accounting and their related losses are the reason for the quarter-over-quarter and year-over-year change in equity in losses (earnings) of unconsolidated entities. This impact would not have been incurred if we had not acquired the minority ownership interest in the facilities, and if, for some reason, the tax credits generated by the facilities were no longer allowable under Section 29 of the Internal Revenue Code, we would no longer incur these financial impacts. Additional information related to these investments is included in Note 4 to the condensed consolidated financial statements.
- c) The increase is primarily attributable to the consolidation of two special purpose type variable interest entities on December 31, 2003 as a result of our implementation of FIN 46. Additional information related to the consolidation of these entities is included in Note 9 to the condensed consolidated financial statements.
- d) The tax benefits that we will realize as a result of the investments discussed in footnote (b) have been reflected as a reduction to our provision for income taxes. This resulted in a decrease in our tax provision of approximately \$39 million for the three months ended September 30, 2004 and approximately \$93 million for the nine months ended September 30, 2004, which more than offset the equity losses and interest expense realized during each period. Additionally, our tax provision includes the realization of a net benefit of approximately \$62 million for the three months ended September 30, 2004 and \$74 million for the nine-month period for tax audit settlements that occurred during the year. This decrease in our tax provision has been partially offset by an increase in our overall provision for income taxes as a result of the increase in our consolidated pre-tax income.

Cumulative Effect of Changes in Accounting Principles

On March 31, 2004, we recorded a credit of approximately \$8 million, net of taxes, or \$0.01 per diluted share, as a cumulative effect of change in accounting principle as a result of the consolidation of previously unrecorded trusts as required by Financial Accounting Standards Board Interpretation No. 46, *Consolidation of Variable Interest Entities*. See Note 9 to the condensed consolidated financial statements.

In the first quarter of 2003, we recorded a charge of \$46 million, net of taxes, or \$0.08 per diluted share, to cumulative effect of changes in accounting principles for the adoption of certain accounting changes described below.

- Through December 31, 2002, we accrued in advance for major repairs and maintenance expenditures and deferred costs associated with annual plant outages at our waste-to-energy facilities and independent power production plants. Effective January 1, 2003, we changed our policy from that method to one that expenses such costs as they are incurred. We recorded approximately \$25 million, net of taxes, or \$0.04 per diluted share, as a credit to cumulative effect of changes in accounting principles.
- Through December 31, 2002, we accrued for future losses under customer contracts that over the contract life were projected to have direct costs greater than revenues. Effective January 1, 2003, we changed our policy from that method to one that expenses such losses as they are incurred. We recorded approximately \$30 million, net of taxes, or \$0.05 per diluted share, as a credit to cumulative effect of changes in accounting principles.

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- In connection with the adoption of SFAS No. 143, we recorded approximately \$101 million, including tax benefit, or \$0.17 per diluted share, in the first quarter of 2003 as a charge to cumulative effect of changes in accounting principles. Substantially all of this charge was related to the impact of changes in accounting for landfill final capping, closure and post-closure costs.

Liquidity and Capital Resources

General

As an organization that has consistently generated cash flows in excess of its reinvestment needs, our primary source of liquidity has been cash flows from operations. However, we operate in a capital-intensive business and continued access to various financing resources is vital to our continued financial strength. In the past, we have been successful in obtaining financing from a variety of sources on terms we consider attractive. Based on several key factors we believe are considered important by credit rating agencies and financial markets in determining our access to attractive financing alternatives, we expect to continue to maintain access to capital sources in the future. These factors include:

- the essential nature of the services we provide and our large and diverse customer base;
- our ability to generate strong and consistent cash flows despite the economic environment;
- our liquidity profile;
- our asset base; and
- our commitment to maintaining a moderate financial profile and disciplined capital allocation.

We continually monitor our actual and forecasted cash flows, our liquidity and our capital resources enabling us to plan for our present needs and fund unbudgeted business activities that may arise during the year as a result of changing business conditions or new opportunities. In addition to our working capital needs for the general and administrative costs of our ongoing operations, we have cash requirements for: (i) the construction and expansion of our landfills; (ii) additions to and maintenance of our trucking fleet; (iii) refurbishments and improvements at waste-to-energy and materials recovery facilities; (iv) the container and equipment needs of our operations; and (v) capping, closure and post-closure activities at our landfills. Beginning in 2002, we committed ourselves to providing our shareholders with a return on their investment through our share repurchase program, and in 2004 began a quarterly dividend program. We also continue to invest in acquisitions that we believe will provide continued growth in our core business. Our Board of Directors has approved a new capital allocation program that provides for up to \$1.2 billion in aggregate dividend payments and share repurchases each year during 2005, 2006 and 2007.

Summary of Cash and Restricted Fund Balances and Debt Obligations

The following is a summary of our cash, restricted fund and debt balances as of September 30, 2004 and December 31, 2003 (in millions):

	September 30, 2004	December 31, 2003
Cash and cash equivalents	\$ 619	\$ 217
Restricted funds:		
Tax-exempt bond funds	\$ 382	\$ 465
Closure, post-closure and remediation funds	200	186
Debt service funds	50	89
Other	17	12
Total restricted funds	\$ 649	\$ 752
Debt:		
Current portion	\$ 635	\$ 514
Long-term portion	8,152	7,997
Total debt	\$8,787	\$8,511
Increase in carrying value of debt due to hedge accounting for interest rate swaps	\$ 160	\$ 168

Cash and cash equivalents — Cash and cash equivalents consist primarily of cash on deposit, certificates of deposit, money market accounts, and investment grade commercial paper purchased with original maturities of three months or less. The changes in our cash balance from December 31, 2003 are discussed in the “Summary of Cash Flow Activity” section below.

Restricted funds — Restricted funds consist primarily of funds held in trust for the construction of various facilities or repayment of debt obligations, funds deposited in connection with landfill closure, post-closure and remedial obligations and insurance escrow deposits. These balances are primarily included within long-term other assets in our condensed consolidated balance sheets.

- *Tax-exempt bond funds* — We obtain funds from the issuance of industrial revenue bonds for the construction of collection and disposal facilities. Proceeds from these arrangements are directly deposited into trust funds, and we do not have the ability to use the funds in regular operating activities. Accordingly, these amounts are reported as an investing activity when the cash is released from the trust funds and as a financing activity when the industrial revenue bonds are repaid from our cash balances. During the nine months ended September 30, 2004, we received approximately \$293 million from these funds for approved capital expenditures.
- *Closure, post-closure and remedial funds* — At several of our landfills, we provide financial assurance by depositing cash into escrow accounts or trust funds that are restricted for purposes of settling closure, post-closure and remedial obligations. These balances will fluctuate based on (i) changes in statutory requirements; (ii) the ongoing use of funds for qualifying closure, post-closure and remedial activities; (iii) acquisitions or divestitures of landfills; and (iv) changes in the fair value of the underlying financial instruments.
- *Debt service funds* — Funds are held in trust to meet future principal and interest payments required under certain of our tax-exempt project bonds.

Debt

Revolving credit and letter of credit facilities — The table below summarizes the credit capacity, maturity and outstanding letters of credit under our revolving credit facilities and principal letter of credit facilities outstanding at September 30, 2004 (in millions). We also had an additional \$110 million in outstanding letters

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of credit at September 30, 2004 that have been issued under various arrangements, none of which provide for committed capacity by the fronting financial institution.

Facility	Total Credit Capacity	Maturity	Outstanding Letters of Credit
Three-year revolving credit facility(a)	\$ 650	June 2005	\$ 87
Five-year revolving credit facility(a)	1,750	June 2006	1,266
Five-year letter of credit and term loan agreement(b)	15	June 2008	15
Five-year letter of credit facility(b)	350	December 2008	350
Seven-year letter of credit and term loan agreement(b)	175	June 2010	174
Ten-year letter of credit and term loan agreement(b)	105	June 2013	105
Total	\$3,045		\$1,997

- a) These facilities provided us with credit capacity that could be used for either cash borrowings or letters of credit. At September 30, 2004, no borrowings were outstanding under these facilities, and we had unused and available credit capacity of approximately \$1,047 million. As described below, these facilities were replaced with a new facility in October 2004.
- b) These facilities have been established to provide us with letter of credit capacity. In the event of an unreimbursed draw on a letter of credit, the amount of the draw paid by the letter of credit provider generally converts into a term loan for the remaining term under the respective agreement or facility. Through September 30, 2004 we had not experienced any unreimbursed draws on our letters of credit.

We have used each of these facilities to support letters of credit that we issue to support our insurance programs, certain tax-exempt bond issuances, municipal and governmental waste management contracts, closure and post-closure obligations and disposal site or transfer station operating permits. These facilities require us to pay fees to the lenders and our obligation is generally to repay any draws that may occur on the letters of credit. We expect that similar facilities may continue to serve as a cost efficient source of this form of financial assurance in the future, and we continue to assess our financial assurance requirements to ensure that we have adequate letter of credit and surety bond capacity in advance of our business needs.

The letters of credit we have issued generally have a one-year term, and therefore, as of September 30, 2004, the three-year \$650 million syndicated revolving credit facility, which had a maturity date in June 2005, was no longer a viable source to support new letters of credit. On October 15, 2004, we replaced our three-year \$650 million and five-year \$1.75 billion revolving credit facilities with a single, five-year \$2.4 billion syndicated revolving credit facility.

Senior notes — During March 2004 we issued \$350 million of 5.0% senior notes due March 15, 2014. The net proceeds of the offering were approximately \$346 million after deducting underwriters' discounts and expenses. We used these proceeds to repay \$150 million of 8.0% senior notes due April 30, 2004 and \$200 million of 6.5% senior notes due May 15, 2004. As of September 30, 2004, we had \$295 million of 7.0% senior notes due October 1, 2004, which were paid with cash on hand at maturity. We also have \$100 million of 7.0% senior notes due May 15, 2005 that we currently expect to redeem with available cash.

Tax-exempt bonds — We issued approximately \$245 million of tax-exempt bonds during the nine months ended September 30, 2004, \$35 million of which was issued to refinance higher rate tax-exempt bonds. We actively issue tax-exempt bonds as a means of accessing low-cost financing for capital expenditures. The proceeds from these financing arrangements are deposited directly into trust funds and may only be used for the specific purpose for which the money was raised, which is generally the construction of collection and disposal facilities. As we spend monies on the specific projects being financed, we are able to requisition cash from the trust funds. As discussed in the restricted funds section above, we have approximately \$382 million held in trust for future spending as of September 30, 2004. During the nine months ended September 30, 2004, we received \$293 million from these funds for approved capital expenditures.

As of September 30, 2004, approximately \$590 million of our tax-exempt bonds are remarketed weekly by a remarketing agent to effectively maintain a variable yield. If the remarketing agent is unable to remarket the bonds, then the remarketing agent can put the bonds to us. These bonds are supported by letters of credit, that were issued under our \$1.75 billion, five-year revolving credit facility, that guarantee repayment of the

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bonds in this event. During the second quarter of 2004, we fixed the interest rates of approximately \$379 million of tax-exempt bonds that had previously been remarketed on a weekly basis. With our use of interest rate derivatives, we were able to maintain our existing level of interest rate risk. Because our variable-rate tax-exempt bonds require letter of credit support, fixing the interest rates of these debt instruments resulted in a decrease in our financial assurance needs.

Tax-exempt project bonds — Tax-exempt project bonds are used by our Wheelabrator Group to finance the development of waste-to-energy facilities. The bonds generally require periodic principal installment payments. As of September 30, 2004, approximately \$46 million of these bonds are remarketed either daily or weekly by a remarketing agent to effectively maintain a variable yield. If the remarketing agent is unable to remarket the bonds, then the remarketing agent can put the bonds to us. Repayment of these bonds has been guaranteed with letters of credit issued under our five-year revolving credit facility. Approximately \$44 million of these bonds will be repaid with available cash within the next twelve months.

Convertible subordinated notes — We have approximately \$34 million of convertible subordinated notes that mature January 24, 2005. Each \$1,000 note is convertible into 18.9 shares of our common stock, subject to adjustment upon the occurrence of certain events. Upon any such conversion, we have the option to pay cash equal to the market value of the shares that would otherwise be issuable. We currently expect to redeem these notes with available cash.

Interest rate swaps — We manage the interest rate risk of our debt portfolio principally by using interest rate derivatives to achieve a desired position of fixed and floating rate debt. As of September 30, 2004, the interest payments on approximately \$2.6 billion of our fixed rate debt have been swapped to variable rates, allowing us to maintain approximately 64% of our debt at fixed interest rates and approximately 36% at variable interest rates. Fair value hedge accounting for interest rate swap contracts increased the carrying value of debt instruments by approximately \$160 million as of September 30, 2004 and approximately \$168 million at December 31, 2003.

Summary of Cash Flow Activity

The following is a summary of our cash flows for the nine months ended September 30, 2004 and 2003 (in millions):

	Nine Months Ended September 30,		Change
	2004	2003	
Net cash provided by operating activities	\$1,618	\$1,286	\$ 332
Net cash used in investing activities	\$ (583)	\$ (762)	\$ 179
Net cash used in financing activities	\$ (633)	\$ (299)	\$(334)

Net Cash Provided by Operating Activities — Cash flows generated from operations for the nine months ended September 30, 2003 were favorably affected by \$109 million for the termination of interest rate swap agreements before their scheduled maturities and negatively affected by a \$259 million net cash outflow for the settlement of our securities class action lawsuit in the third quarter of 2003. Settlement related activity impacting our operating cash flows during the nine-month period ended September 20, 2003 includes: (i) the final cash payment of \$377 million plus accrued interest; (ii) use of insurance proceeds of approximately \$87 million to settle the remainder of the \$457 million provided for under the settlement agreement; (iii) second and third quarter tax benefits of approximately \$66 million and \$36 million, respectively; and (iv) related net settlement recoveries of approximately \$16 million. We have excluded the net \$150 million decrease to the prior nine-month period from our discussion because of the non-recurring nature of those items.

After excluding those items, our cash flows generated from operations have increased by approximately \$182 million, from \$1,436 million during the nine months ended September 30, 2003 to \$1,618 million in the

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current year period. The increase is primarily the result of our improved profitability, as well as the realization of tax savings associated with our investments in two coal-based synthetic fuel production facilities. These favorable items were partially offset by a net decline in our working capital deficit, which was driven by an increase in our receivables. The increase in receivables relates to both a current year increase in our days sales outstanding of approximately two days and an increase in average daily revenues for the nine months ended September 30, 2004 as compared with the corresponding prior year period. The significant change in our days sales outstanding during the current year can largely be attributed to receivables related to hurricane clean-up services that we expect will be paid by the Federal Emergency Management Agency in 2005.

Net Cash Used in Investing Activities — The \$179 million decrease in cash used in investing activities is primarily due to a decline in acquisition spending, from \$244 million during the nine months ended September 30, 2003 to \$110 million in the current year period. In recent years, our business acquisition strategy has been to focus on tuck-in acquisitions, which are relatively small, accretive businesses that will easily integrate with, and provide value to, our existing operations. However, our 2003 acquisition activity was uncharacteristically high because of a few relatively large acquisitions, particularly in our recycling line-of-business, that were made in addition to numerous smaller tuck-in acquisitions. Our current market development and capital allocation strategies reflect our desire to continue to invest in businesses that will enable us to effectively utilize our existing assets and the development or acquisition of disposal assets, which tend to provide higher returns on investment and operating margins. We intend to continue to make accretive tuck-in investments throughout the remainder of 2004. However, we currently expect cash paid for acquisitions to be less than our original \$250 million target for the full year.

Also contributing to the current period decrease was an \$80 million increase in net receipts from restricted funds and a \$29 million increase in proceeds from divestitures and other sales of assets. Through September 30, 2004, proceeds from divestitures, net of cash divested, and other sales of assets were approximately \$73 million. We are currently expecting total 2004 proceeds to be between \$80 million and \$100 million. Our projection of proceeds from divestitures for 2004 does not include the effect of compliance with a Divestiture Order from the Canadian Competition Bureau that requires the divestiture of one of our landfills because we received a stay of the Divestiture Order in August 2004. There continues to be uncertainty associated with the potential impact and timing of the Divestiture Order. We expect to obtain legal and regulatory resolutions late in the fourth quarter, which could result in our having to divest of the landfill. If this occurred, the divestiture could take place as early as the fourth quarter of 2004.

These declines have been partially offset by a \$39 million increase in capital expenditures, from \$798 million during the nine months ended September 30, 2003 to \$837 million in the current year period. We expect that total 2004 capital expenditures will be in the range of \$1.25 billion to \$1.3 billion, which is a level of spending consistent with the \$1.2 billion in cash resources used for capital expenditures in 2003.

Net Cash Used in Financing Activities — The primary reason for the \$334 million increase in net cash used in financing activities is the payment of our quarterly dividends, which has resulted in \$326 million in cash payments during the year. Our Board of Directors approved our quarterly dividend program during the first quarter of 2004, and we have declared and paid a dividend of \$0.1875 per share of common stock in each of the first three quarters of 2004, compared with the prior year's annual \$0.01 per share dividend, which was paid in the fourth quarter of 2003. On October 12, 2004, we declared our fourth quarterly dividend, which will be paid on December 23, 2004 to stockholders of record as of December 1, 2004. Based on shares outstanding as of September 30, 2004, the payment of this dividend will result in a fourth quarter cash outlay of approximately \$107 million and total payments of \$433 million in 2004.

We paid approximately \$353 million for share repurchases during the nine months ended September 30, 2004, an \$89 million increase from the \$264 million we paid during the comparable prior year period. During the second and third quarters of 2004, we purchased approximately 11.7 million shares of our common stock for a weighted average price of \$28.22 per common share, or approximately \$329 million, and in the first quarter made a cash payment of approximately \$24 million to settle repurchases made in December 2003. Our current capital allocation program authorizes up to \$1 billion for stock repurchases and cash dividends this year. We currently expect total 2004 share repurchases and cash dividends to be in the range of \$850 million to

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\$925 million. Since the inception of the repurchase program in February 2002, we have repurchased approximately 72 million shares of our common stock at a net cost of approximately \$1.9 billion.

Net debt repayments during the nine months ended September 30, 2004 were approximately \$86 million, an increase of \$70 million from the corresponding prior year period. The following summary shows our most significant borrowings and debt repayments made during the current year:

- proceeds of approximately \$346 million from the March 2004 issuance of \$350 million of 5.0% senior notes;
- repayment of \$150 million of 8.0% senior notes that matured in April 2004 and \$200 million of 6.5% senior notes that matured in May 2004; and
- repayments of approximately \$25 million of tax-exempt bonds, \$16 million of tax-exempt project bonds and \$43 million of other debt.

Offsetting these net cash outflows are cash receipts of approximately \$150 million for common stock option and warrant exercises, which is a \$129 million increase in the cash generated by this activity year-over-year.

Off-Balance Sheet Arrangements

We are party to (i) lease agreements with unconsolidated variable interest entities and (ii) guarantee arrangements with unconsolidated entities as discussed in the *Guarantees* section of Note 8 to the condensed consolidated financial statements. These lease agreements are established in the ordinary course of our business and are designed to provide us with access to facilities at competitive, market-driven prices. Our third-party guarantee arrangements are generally established to support our financial assurance needs and landfill operations. These arrangements have not materially affected our financial position, results of operations or liquidity during the three or nine-month periods ended September 30, 2004 nor are they expected to have a material impact on our future financial position, results of operations or liquidity.

Seasonal Trends and Inflation

Our operating revenues tend to be somewhat higher in the summer months, primarily due to the higher volume of construction and demolition waste. The volumes of industrial and residential waste in certain regions where we operate also tend to increase during the summer months. Our second and third quarter revenues and results of operations typically reflect these seasonal trends. Additionally, certain destructive weather conditions that tend to occur during the summer, such as the hurricanes experienced during the third quarter of 2004, actually increase our revenues in the areas affected, although, for several reasons, including significant start-up costs, such revenues tend to be low margin. Conversely, harsh winter weather conditions may result in the temporary suspension of our operations, which can significantly affect the operating results of those periods. The operating results of our first quarter also often reflect higher repair and maintenance expenses because we rely on the slower winter months for scheduled maintenance at our waste-to-energy facilities.

We believe that inflation has not had, and in the near future is not expected to have, any material adverse effect on our results of operations. However, management's estimates associated with inflation have had, and will continue to have, an impact on our accounting for landfill and environmental remediation liabilities.

Item 4. Controls and Procedures.

Disclosure Controls and Procedures

We maintain a set of disclosure controls and procedures designed to ensure that information we are required to disclose in reports that we file or submit with the SEC is recorded, processed, summarized and reported within the time periods specified by the SEC. An evaluation was carried out under the supervision and with the participation of the Company's management, including the Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), of the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. Based on that evaluation, the CEO and CFO have concluded that the Company's disclosure controls and procedures are effective to ensure that we are able to collect, process and disclose the information we are required to disclose in the reports we file with the SEC within required time periods.

PART II.

Item 1. Legal Proceedings.

Information regarding our legal proceedings can be found under the “Litigation” section of Note 8, *Commitments and Contingencies*, to the condensed consolidated financial statements.

Item 2. Changes in Securities, Use of Proceeds and Issuer Purchases of Equity Securities.

Issuer Purchases of Equity Securities

Period	Total Number of Shares Purchased	Average Price Paid per Share(a)	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs(b)	Approximate Maximum Dollar Value of Shares that May Yet be Purchased Under the Plans or Programs (c)
July 1 — 31	1,068,000	\$29.41	1,068,000	\$447 million
August 1 — 31	6,780,900	\$27.74	6,780,900	\$259 million
September 1 — 30	738,100	\$28.07	738,100	\$238 million
Total	8,587,000	\$27.98	8,587,000	\$238 million

- a) This amount represents the weighted average price paid per common share and includes a per share commission paid for all repurchases.
- b) In February 2002, we announced that our Board of Directors had approved a stock repurchase program pursuant to which up to \$1 billion of shares of our common stock could be purchased each year through 2004. In August 2003 we announced that beginning in 2004, the \$1 billion approved would be available for stock repurchases and a quarterly dividend program. All of our equity repurchases in 2004 have been made pursuant to that program.
- c) The disclosure of the maximum approximate dollar value of shares yet to be purchased under the program is required by the SEC. These amounts are not necessarily an indication of the amount we intend to repurchase in the remainder of the year they are merely the amounts we are authorized to repurchase pursuant to our current capital allocation program. As discussed in footnote (b), the amount of capital available for share repurchases during 2004 is \$1 billion, net of dividends paid. During the six months ended June 30, 2004, we declared and paid approximately \$218 million in dividends and repurchased approximately \$89 million of our common stock. The dollar amounts yet to be purchased also exclude the impact of the \$108 million of dividend payments during the third quarter of 2004 and the estimated \$107 million dividend payment that we expect to make in December 2004 as a result of our recent dividend declaration.

Item 6. Exhibits.

Exhibit No.	Description
10.1	— \$2.4 Billion Revolving Credit Agreement dated as of October 15, 2004, by and among Waste Management, Inc., Waste Management Holdings, Inc. and Certain Banks and Citibank, N.A. as Administrative Agent, JPMorgan Chase Bank and Bank of America, N.A. as Syndication Agents and Barclays Bank PLC and Deutsche Bank AG as Documentation Agents and J.P. Morgan Securities Inc. and Banc of America Securities LLC as Lead Arrangers and Book Managers.
12	— Computation of Ratio of Earnings to Fixed Charges.
31.1	— Certification Pursuant to Rule 15d — 14(a) under the Securities Exchange Act of 1934, as amended, of David P. Steiner, Chief Executive Officer.
31.2	— Certification Pursuant to Rule 15d — 14(a) under the Securities Exchange Act of 1934, as amended, of Robert G. Simpson, Senior Vice President and Chief Financial Officer.
32.1	— Certification Pursuant to 18 U.S.C. §1350 of David P. Steiner, Chief Executive Officer.
32.2	— Certification Pursuant to 18 U.S.C. §1350 of Robert G. Simpson, Senior Vice President and Chief Financial Officer.

SIGNATURES

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

WASTE MANAGEMENT, INC.

By: /s/ ROBERT G. SIMPSON

Robert G. Simpson
*Senior Vice President and
Chief Financial Officer
(Principal Financial Officer)*

WASTE MANAGEMENT, INC.

By: /s/ GREG A. ROBERTSON

Greg A. Robertson
*Vice President and
Chief Accounting Officer
(Principal Accounting Officer)*

Date: October 28, 2004

INDEX TO EXHIBITS

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\$2,400,000,000

REVOLVING CREDIT AGREEMENT

dated as of October 15, 2004

by and among

WASTE MANAGEMENT, INC.
(the "Borrower")

and

WASTE MANAGEMENT HOLDINGS, INC.
(the "Guarantor")

and

Certain Banks

and

CITIBANK, N.A.,
as Administrative Agent

and

JPMORGAN CHASE BANK and FLEET NATIONAL BANK,
as Syndication Agents

BARCLAYS BANK PLC and DEUTSCHE BANK SECURITIES INC.,
as Documentation Agents

J.P. MORGAN SECURITIES INC. and BANC OF AMERICA SECURITIES LLC
as Lead Arrangers and Book Managers

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REVOLVING CREDIT AGREEMENT

This **REVOLVING CREDIT AGREEMENT** is made as of the 15th day of October, 2004, by and among **WASTE MANAGEMENT, INC.**, a Delaware corporation having its chief executive office at 1001 Fannin Street, Suite 4000, Houston, Texas 77002 (the "Borrower"), **WASTE MANAGEMENT HOLDINGS, INC.**, a wholly-owned Subsidiary of the Borrower (the "Guarantor"), certain financial institutions (the "Banks") and **CITIBANK, N.A.**, as Administrative Agent (in such capacity, the "Administrative Agent").

WHEREAS, the Borrower has requested certain financing arrangements and the Banks have agreed to provide such financing arrangements on the terms set forth herein;

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth herein below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, this Agreement will take effect on the Effective Date, on the following terms:

§1. DEFINITIONS AND RULES OF INTERPRETATION.

§1.1. Definitions. The following terms shall have the meanings set forth in this §1 or elsewhere in the provisions of this Agreement referred to below:

Absolute Competitive Bid Loan(s). Competitive Bid Loans bearing interest at a fixed rate per annum in accordance with §4.5(b)(v).

Accountants. See §7.4(a).

Administrative Agent. See Preamble.

Administrative Agent's Account. The account of the Administrative Agent maintained by the Administrative Agent at Citibank at Two Penns Way, Suite 200, New Castle, Delaware 19720, ABA# 021000089, Account No. 36852248, Account Name: NAIB Agency Medium Term Finance/Reference: Waste Management, Attention: Tara Wooster, or such other account as may from time to time be designated by the Administrative Agent to the Borrower and the Banks in writing.

Affected Bank. See §5.12.

Agreement. This Revolving Credit Agreement, including the Schedules and Exhibits hereto, as from time to time amended and supplemented in accordance with the terms hereof.

Applicable Base Rate. The applicable rate per annum of interest on the Base Rate Loans as set forth in the Pricing Table.

Applicable Eurodollar Rate. The applicable rate per annum of interest on the Eurodollar Loans shall be as set forth in the Pricing Table.

Applicable Facility Fee Rate. The applicable rate per annum with respect to the Facility Fee shall be as set forth in the Pricing Table.

Applicable L/C Rate. The applicable rate per annum on the Maximum Drawing Amount shall be as set forth in the Pricing Table.

Applicable Requirements. See §7.10.

Applicable Spot Rate. On any date, the quoted spot rate for conversion of Canadian Dollars to U.S. Dollars as published on Reuters page 1FED at approximately 10:00 a.m. New York time on such date, and as determined as provided in the definition of "U.S. Dollar Equivalent" herein.

Applicable Swing Line Rate. The annual rate of interest agreed upon from time to time by the Administrative Agent and the Borrower with respect to Swing Line Loans.

Approved Fund. Any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Bank or (b) a Bank Affiliate.

Assignment and Acceptance. See §20.

Balance Sheet Date. December 31, 2003.

Bank Affiliate. (a) With respect to any Bank, (i) a Person that directly, or indirectly through one or more intermediaries, possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Bank, whether through the ability to exercise voting power, by contract or otherwise or is controlled by or is under common control with such Bank (an "Affiliate") or (ii) any entity (whether a corporation, partnership, trust or otherwise) that is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and is administered or managed by a Bank or an Affiliate of such Bank and (b) with respect to any Bank that is a fund which invests in bank loans and similar extensions of credit, any other fund that invests in bank loans and similar extensions of credit and is managed by the same investment advisor as such Bank or by an Affiliate of such investment advisor.

Banks. See Preamble.

Base Rate. A fluctuating interest rate per annum in effect from time to time, which rate per annum shall at all times be equal to the higher of:

- (a) the rate of interest announced publicly by Citibank in New York City from time to time as Citibank's base rate; or
- (b) 0.50% per annum above the Federal Funds Rate in effect from time to time.

Each change in any interest rate provided for herein based upon the Base Rate resulting from a change in the Base Rate shall take effect at the time of such change in the Base Rate.

Base Rate Loans. Syndicated Loans bearing interest calculated by reference to the Base Rate.

Borrower. See Preamble.

Borrowing. (a) Syndicated Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect, (b) a Competitive Bid Loan or group of Competitive Bids Loans of the same Type made on the same date and as to which a single Interest Period is in effect or (c) Swing Line Loans.

Business Day. Any day, other than a Saturday, Sunday or any day on which banking institutions in New York, New York are authorized by law to close, and, when used in connection with a Eurodollar Loan, a Eurodollar Business Day.

Canadian Dollars or C\$. The lawful currency of Canada.

Canadian Dollar Letter of Credit. See §3.1(e).

Canadian Subsidiary. A Subsidiary that is organized under the laws of Canada or any province thereof.

Capitalized Leases or Capital Leases. Leases under which a Person is the lessee or obligor and the discounted future rental payment obligations under which are required to be capitalized on the consolidated balance sheet of the lessee or obligor in accordance with GAAP.

Cash Equivalents. Investments in (i) direct obligations of, or unconditionally guaranteed by, the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof) having maturities of less than one year, (ii) U.S. Dollar-denominated time deposits, certificates of deposit and banker's acceptances of any Bank or any other bank whose short-term commercial paper rating from Standard & Poor's is at least A-1 or from Moody's is at least P-1 (each an "Approved Bank") with maturities of not more than one year from the date of investment, (iii) commercial paper issued by, or guaranteed by, an Approved Bank or by the parent company of an Approved Bank, or issued by, or guaranteed by, any company with a long-term senior unsecured debt rating of at least A+ by Standard & Poor's and A1 by Moody's, in each case maturing within one year from the date of investment, (iv) repurchase agreements with a term of less than one year for underlying securities of the types described in clauses (ii) and (iii) entered into with an Approved Bank, (v) auction rate securities with an auction frequency of not more than 35 days, carrying a credit rating of at least AA by Standard & Poor's or at least Aa from Moody's; (vi) variable rate demand notes with a put option no longer than seven days from date of purchase to the extent backed by letters of credit issued by banks having a credit rating of at least A1 from Moody's or P1 from

Standard & Poor's; and (vii) any fund or funds making substantially all of their Investments in Investments of the kinds described in clauses (i) through (vi) above.

CERCLA. See §6.15(a).

Certified or certified. With respect to the financial statements of any Person, such statements as audited by a firm of independent auditors, whose report expresses the opinion, without qualification, that such financial statements present fairly, in all material respects, the financial position of such Person.

CFO or CAO. See §7.4(b).

Citibank. Citibank, N.A.

Class. When used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Syndicated Loans, Competitive Bid Loans or Swing Line Loans.

Code. The Internal Revenue Code of 1986, as amended and in effect from time to time.

Commitment. With respect to each Bank, such Bank's commitment to make Syndicated Loans to, and to participate in the issuance, extension and renewal of Letters of Credit for the account of, the Borrower, determined by multiplying such Bank's Commitment Percentage by the Total Commitment.

Commitment Percentage. With respect to each Bank, the percentage initially set forth next to such Bank's name on Schedule 1 hereto, as the same may be adjusted in accordance with §20.

Competitive Bid Loan(s). A Borrowing hereunder consisting of one or more loans made by any of the participating Banks whose offer to make a Competitive Bid Loan as part of such Borrowing has been accepted by the Borrower under the auction bidding procedure described in §4 hereof.

Competitive Bid Loan Accounts. See §4.2(a).

Competitive Bid Margin. See §4.5(b)(iv).

Competitive Bid Quote. An offer by a Bank to make a Competitive Bid Loan in accordance with §4.5 hereof.

Competitive Bid Quote Request. See §4.3.

Competitive Bid Rate. See §4.5(b)(v).

Compliance Certificate. See §7.4(c).

Consolidated or consolidated. With reference to any term defined herein, shall mean that term as applied to the accounts of the Borrower, its Subsidiaries and all variable interest entities consolidated in accordance with GAAP.

Consolidated Earnings Before Interest and Taxes or EBIT. For any period, the Consolidated Net Income (or Deficit) of the Borrower on a consolidated basis plus, without duplication, the sum of (1) interest expense, (2) equity in losses (earnings) of unconsolidated entities, (3) income taxes, (4) non-cash writedowns or write-offs of assets, including non-cash losses on the sale of assets outside the ordinary course of business, (5) non-recurring charges for settlement or judgment costs with respect to the shareholder lawsuits and actions brought against the Borrower or the Guarantor related to, arising or resulting from, the restatements of financial statements or results, lowered expected earnings announcements occurring in 1998 and 1999, alleged misrepresentations, misstatements or omissions contained in, or the adequacy of, any disclosure documents filed with the Securities and Exchange Commission in 1998 and 1999, as further described in the Disclosure Documents (collectively, the "Shareholder Suits"), and (6) EBIT of the businesses acquired by the Borrower or any of its Subsidiaries (through asset purchases or otherwise) (each an "Acquired Business") or the Subsidiaries acquired or formed since the beginning of such period (each a "New Subsidiary") provided, that a statement identifying all such Acquired Businesses and the EBIT of such Acquired Businesses is delivered to the Banks with the Compliance Certificate for such period, all to the extent that each of items (1) through (5) was deducted in determining Consolidated Net Income (or Deficit) in the relevant period, minus non-cash extraordinary gains on the sale of assets outside the ordinary course of business to the extent included in Consolidated Net Income (or Deficit).

Consolidated Earnings Before Interest, Taxes, Depreciation and Amortization or EBITDA. For any period, EBIT plus (a) depreciation expense, and (b) amortization expense to the extent the same would be included in the calculation of Consolidated Net Income (or Deficit) for such period, determined in accordance with GAAP.

Consolidated Net Income (or Deficit). The consolidated net income (or deficit) of the Borrower, after deduction of all expenses, taxes, and other proper charges, determined in accordance with GAAP.

Consolidated Tangible Assets. Consolidated Total Assets less the sum of:

(a) the total book value of all assets of the Borrower on a consolidated basis properly classified as intangible assets under GAAP, including such items as goodwill, the purchase price of acquired assets in excess of the fair market value thereof, trademarks, trade names, service marks, customer lists, brand names, copyrights, patents and licenses, and rights with respect to the foregoing; plus

(b) all amounts representing any write-up in the book value of any assets of the Borrower on a consolidated basis resulting from a revaluation thereof subsequent to the Balance Sheet Date.

Consolidated Total Assets. All assets of the Borrower determined on a consolidated basis in accordance with GAAP.

Consolidated Total Interest Expense. For any period, the aggregate amount of interest expense required by GAAP to be paid or (without duplication) accrued during such period on all Indebtedness of the Borrower on a consolidated basis outstanding during all or any part of such period, including capitalized interest expense for such period.

Defaulting Bank. See §5.12.

Defaults. See §12.1.

Disclosure Documents. The Borrower's financial statements referred to in §6.4 and filings made by the Borrower or the Guarantor with the Securities and Exchange Commission that were publicly available prior to the Effective Date which were provided to the Banks.

Disposal or Disposed. See "Release".

Distribution. The declaration or payment of any dividend or other return on equity on or in respect of any shares of any class of capital stock, any partnership interests or any membership interests of any Person (other than dividends or other such returns payable solely in shares of capital stock, partnership interests or membership units of such Person, as the case may be); the purchase, redemption, or other retirement of any shares of any class of capital stock, partnership interests or membership units of such Person, directly or indirectly through a Subsidiary or otherwise; the return of equity capital by any Person to its shareholders, partners or members as such; or any other distribution on or in respect of any shares of any class of capital stock, partnership interest or membership unit of such Person.

Dollars or US\$ or \$ or U.S. Dollars. The lawful currency of the United States of America.

Drawdown Date. The date on which any Loan is made or is to be made, or any amount is paid by an Issuing Bank under a Letter of Credit.

EBIT. See definition of Consolidated Earnings Before Interest and Taxes.

EBITDA. See definition of Consolidated Earnings Before Interest, Taxes, Depreciation and Amortization.

Effective Date. The date on which the conditions precedent set forth in §10.1 hereof are satisfied.

Employee Benefit Plan. Any employee benefit plan within the meaning of §3(3) of ERISA maintained or contributed to by the Borrower, any of its Subsidiaries, or any ERISA Affiliate, other than a Multiemployer Plan.

Environmental Laws. See §6.15(a).

EPA. See §6.15(b).

ERISA. The Employee Retirement Income Security Act of 1974, as amended and in effect from time to time.

ERISA Affiliate. Any Person which is treated as a single employer with the Borrower or any of its Subsidiaries under §414 of the Code.

ERISA Reportable Event. A reportable event within the meaning of §4043 of ERISA and the regulations promulgated thereunder with respect to a Guaranteed Pension Plan as to which the requirement of notice has not been waived.

Eurocurrency Reserve Rate. For any day with respect to a Eurodollar Loan, the maximum rate (expressed as a decimal) at which the bank acting as Administrative Agent would be required to maintain reserves under Regulation D of the Board of Governors of the Federal Reserve System (or any successor or similar regulations relating to such reserve requirements) against "Eurocurrency Liabilities" (as that term is used in Regulation D), if such liabilities were outstanding. The Eurocurrency Reserve Rate shall be adjusted automatically on and as of the effective date of any change in the Eurocurrency Reserve Rate.

Eurodollar Business Day. Any day on which commercial banks are open for international business (including dealings in Dollar deposits) in London or such other eurodollar interbank market as may be selected by the Administrative Agent in its sole discretion acting in good faith.

Eurodollar Competitive Bid Loans. Competitive Bid Loans bearing interest calculated by reference to the Eurodollar Rate in accordance with §4.5(b)(iv).

Eurodollar Lending Office. Initially, the office of each Bank set forth in the administrative materials provided to the Administrative Agent; thereafter, upon notice to the Administrative Agent, such other office of such Bank that shall be making or maintaining Eurodollar Loans.

Eurodollar Loans. Syndicated Loans bearing interest calculated by reference to the Eurodollar Rate.

Eurodollar Rate. For any Interest Period with respect to a Eurodollar Loan, (i)(a) the rate of interest equal to the rate determined by the Administrative Agent at which Dollar deposits for such Interest Period are offered based on information presented on Page 3750 of the Dow Jones Market Service (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, as determined by the Administrative Agent from time to time) as of 11:00 a.m. (London time) two (2) Eurodollar Business Days prior to the first day of such Interest Period, or (b) if such rate is not shown at such place, the rate of interest equal to (i) the rate per annum at which the Administrative Agent's Eurodollar Lending Office is offered Dollar deposits at approximately 10:00 a.m. (New York time) two (2) Eurodollar Business Days prior to the beginning of such Interest Period in the interbank

eurodollar market where the eurodollar operations of such Eurodollar Lending Office are customarily conducted, for delivery on the first day of such Interest Period for the number of days comprised therein and in an amount comparable to the amount of the Eurodollar Loan of the Administrative Agent to which such Interest Period applies, divided by (ii) a number equal to 1.00 minus the Eurocurrency Reserve Rate, if applicable.

Events of Default. See §12.1.

Existing Credit Agreements. The existing \$650,000,000 Three-Year Revolving Credit Agreement dated as of June 27, 2002 of the Borrower, and the existing \$1,750,000,000 Five-Year Revolving Credit Agreement dated as of June 29, 2001 of the Borrower, as amended.

Existing Letters of Credit. Those Letters of Credit that were issued under the Existing Credit Agreements and are outstanding as of the date hereof, and which are identified in Schedule 3.1.2 hereof.

Facility Fee. See §2.2.

Federal Funds Rate. For any day, the rate per annum (rounded upward, if necessary, to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that (i) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average of the quotations received by the Administrative Agent from three Federal funds brokers of recognized standing selected by the Administrative Agent.

Financial Affiliate. A subsidiary of the bank holding company controlling any Bank, which subsidiary is engaging in any of the activities permitted by §4(e) of the Bank Holding Company Act of 1956 (12 U.S.C. §1843).

Generally accepted accounting principles or GAAP. (i) When used in this Agreement, whether directly or indirectly through reference to a capitalized term used therein, means (A) principles that are consistent with the principles promulgated or adopted by the Financial Accounting Standards Board and its predecessors, in effect for the fiscal year ended on the Balance Sheet Date, and (B) to the extent consistent with such principles, the accounting practice of the Borrower reflected in its financial statements for the year ended on the Balance Sheet Date; provided, that in each of (A) and (B), such meaning shall include the application of Financial Accounting Standards Board Interpretation No. 46, *Consolidation of Variable Interest Entities* (revised December 2003) ("FIN 46-R"), provided, further, that in each case referred to in this definition of "generally accepted accounting principles" a certified public accountant would, insofar as the use of such accounting principles is pertinent, be in a position to deliver an unqualified opinion (other than a qualification regarding changes in generally accepted accounting principles) as to financial statements in which such principles have been properly applied.

Guaranteed Obligations. See §28.1.

Guaranteed Pension Plan. Any employee pension benefit plan within the meaning of §3(2) of ERISA maintained or contributed to by the Borrower, its Subsidiaries or any ERISA Affiliate the benefits of which are guaranteed on termination in full or in part by the PBGC pursuant to Title IV of ERISA, other than a Multiemployer Plan.

Guarantor. See Preamble.

Guaranty. Any obligation, contingent or otherwise, of a Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided that the term Guaranty shall not include endorsements for collection or deposit in the ordinary course of business.

Hazardous Substances. See §6.15(b).

Indebtedness. Collectively, without duplication, whether classified as Indebtedness, an Investment or otherwise on the obligor's balance sheet, (a) all indebtedness for borrowed money, (b) all obligations for the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of business which either (i) are not overdue by more than ninety (90) days, or (ii) are being disputed in good faith and for which adequate reserves have been established in accordance with GAAP), (c) all obligations evidenced by notes, bonds, debentures or other similar debt instruments, (d) all obligations created or arising under any conditional sale or other title retention agreement with respect to property acquired (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all obligations, liabilities and indebtedness under Capitalized Leases, (f) all obligations, liabilities or indebtedness arising from the making of a drawing under surety, performance bonds, or any other bonding arrangement, (g) Guaranties with respect to all Indebtedness of others referred to in clauses (a) through (f) above, and (h) all Indebtedness of others referred to in clauses (a) through (f) above secured or supported by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured or supported by) any Lien on the property or assets of the Borrower or any Subsidiary, even though the owner of the property has not assumed or become liable, contractually or otherwise, for the payment of such Indebtedness; provided that if a Permitted Receivables Transaction is outstanding and is accounted for as a sale of accounts receivable under generally accepted accounting principles, Indebtedness shall also include the additional Indebtedness, determined on a

consolidated basis, which would have been outstanding had such Permitted Receivables Transaction been accounted for as a borrowing.

Interest Period. With respect to each Loan (a) initially, the period commencing on the Drawdown Date of such Loan and ending on the last day of one of the periods set forth below, as selected by the Borrower in accordance with this Agreement (i) for any Base Rate Loan or Swing Line Loan, the first day of the following month; (ii) for any Eurodollar Loan, 1, 2, 3, or 6 months; (iii) for any Absolute Competitive Bid Loan, from 7 through 180 days; and (iv) for any Eurodollar Competitive Bid Loan, 1, 2, 3, 4, 5, or 6 months; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Loan and ending on the last day of one of the periods set forth above, as selected by the Borrower in accordance with this Agreement or if such period has no numerically corresponding day, on the last Business Day of such period; provided that any Interest Period which would otherwise end on a day which is not a Business Day shall be deemed to end on the next succeeding Business Day; provided further that for any Interest Period for any Eurodollar Loan or Eurodollar Competitive Bid Loan, if such next succeeding Business Day falls in the next succeeding calendar month, such Interest Period shall be deemed to end on the next preceding Business Day; and provided further that no Interest Period shall extend beyond the Maturity Date.

Interim Balance Sheet Date. June 30, 2004.

Investments. All expenditures made by a Person and all liabilities incurred (contingently or otherwise) by a Person for the acquisition of stock of (other than the stock of Subsidiaries), or Indebtedness of, or for loans, advances, capital contributions or transfers of property to, or in respect of any Guaranties or other commitments as described under Indebtedness, or obligations of, any other Person, including without limitation, the funding of any captive insurance company (other than loans, advances, capital contributions or transfers of property to any Subsidiaries or variable interest entities consolidated in accordance with FIN 46-R, or Guaranties with respect to Indebtedness of any Subsidiary or variable interest entities consolidated in accordance with FIN 46-R). In determining the aggregate amount of Investments outstanding at any particular time: (a) the amount of any Investment represented by a Guaranty shall be taken at not less than the principal amount of the obligations guaranteed and still outstanding; (b) there shall be included as an Investment all interest accrued with respect to Indebtedness constituting an Investment unless and until such interest is paid; (c) there shall be deducted in respect of each such Investment any amount received as a return of capital (but only by partial or full repurchase, redemption, retirement, repayment, liquidating dividend or liquidating distribution); (d) there shall not be deducted in respect of any Investment any amounts received as earnings on such Investment, whether as dividends, interest or otherwise, except that accrued interest included as provided in the foregoing clause (b) may be deducted when paid; and (e) there shall not be deducted from the aggregate amount of Investments any decrease in the value thereof.

Issuance Fee. See §3.6.

Issuing Banks. (i) Fleet National Bank, JPMorgan Chase Bank, Citibank, Wachovia Bank, SunTrust Bank, PNC Bank National Association and BNP Paribas, (ii) solely for

purposes of acting as issuer of Existing Letters of Credit, Deutsche Bank AG and (iii) any other Bank that agrees (in its sole discretion) to act as Issuing Bank pursuant to an instrument in writing in form and substance satisfactory to such Bank, the Borrower and the Administrative Agent and signed by them (which instrument shall set forth the maximum aggregate face amount of all Letters of Credit of such Issuing Bank and shall, as to such maximum amount, automatically be deemed to supplement Schedule 3.1 hereto); provided, that in the case of any Existing Letter of Credit that was issued through an affiliate of an Issuing Bank, such Letter of Credit shall be deemed for purposes of §3.1(a) to have been issued by such Issuing Bank and the provisions of Section 3.1(g) shall apply.

Lead Arrangers and Book Managers. Banc of America Securities LLC and J.P. Morgan Securities Inc., as Lead Arrangers and Book Managers in connection with the credit facility provided herein.

Letter of Credit Applications. Letter of credit applications in such form or forms as may be agreed upon by the Borrower and the relevant Issuing Bank from time to time which are entered into pursuant to §3 hereof, specifically referencing this Agreement, as such Letter of Credit Applications may be amended, varied or supplemented from time to time; provided, however, in the event of any conflict or inconsistency between the terms of any Letter of Credit Application and this Agreement, the terms of this Agreement shall control.

Letter of Credit Fee. See §3.6.

Letter of Credit Participation. See §3.1(c).

Letter of Credit Request. See §3.1(a).

Letters of Credit. Letters of credit issued or to be issued by the Issuing Banks under §3 hereof for the account of the Borrower (including without limitation any Canadian Dollar Letters of Credit), and the Existing Letters of Credit.

Lien. With respect to any asset, (a) any mortgage, deed of trust, lien (statutory or otherwise), pledge, hypothecation, encumbrance, charge, security interest, assignment, deposit arrangement or other restriction in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, Capital Lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

Loan Documents. This Agreement, the Letter of Credit Applications, the Letters of Credit and any documents, instruments or agreements executed in connection with any of the foregoing, each as amended, modified, supplemented, or replaced from time to time.

Loans. Collectively, the Syndicated Loans, the Swing Line Loans and the Competitive Bid Loans.

Majority Banks. At any date, Banks the aggregate amount of whose Commitments is greater than fifty percent (50%) of the Total Commitment; provided that in the event that the

Total Commitment has been terminated, the Majority Banks shall be Banks holding greater than fifty percent (50%) of the aggregate outstanding principal amount of the Obligations on such date.

Material Adverse Effect. A material adverse effect on (a) the business, assets, operations, or financial condition of the Borrower and the Subsidiaries taken as a whole, (b) the ability of the Borrower or the Guarantor to perform any of its obligations under any Loan Document to which it is a party, or (c) the rights of, or remedies or benefits available to, the Administrative Agent or any Bank under any Loan Document.

Maturity Date. October 15, 2009.

Maximum Drawing Amount. At any time, the maximum aggregate amount from time to time that the beneficiaries may draw under outstanding Letters of Credit (using, in the case of Canadian Dollar Letters of Credit, the U.S. Dollar Equivalent of the aggregate undrawn face amount thereof on the relevant date).

Moody's. Moody's Investors Service, Inc.

Multiemployer Plan. Any multiemployer plan within the meaning of §3(37) of ERISA maintained or contributed to by the Borrower, any of its Subsidiaries, or any ERISA Affiliate.

New Lending Office. See §5.1(d).

Non-U.S. Bank. See §5.1(c).

Notes. Notes issued according to §2.4(e).

Obligations. All indebtedness, obligations and liabilities of the Borrower to any of the Banks and the Administrative Agent arising or incurred under this Agreement or any of the other Loan Documents or in respect of any of the Loans made or Reimbursement Obligations incurred or the Letters of Credit, or any other instrument at any time evidencing any thereof, individually or collectively, existing on the date of this Agreement or arising thereafter, whether direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise.

PBGC. The Pension Benefit Guaranty Corporation created by §4002 of ERISA and any successor entity or entities having similar responsibilities.

Permitted Liens. Any of the following Liens:

(a) Liens for taxes not yet due or that are being contested in compliance with §7.8;

(b) carriers', warehousemen's, maritime, mechanics, materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are being contested in good

faith by appropriate proceedings and for which adequate reserves with respect thereto have been set aside as required by GAAP;

(c) pledges and deposits made in the ordinary course of business in compliance with workmen's compensation, unemployment insurance and other social security laws or regulations;

(d) Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capital Leases), statutory obligations, surety and appeal bonds, suretyship, performance and landfill closure bonds and other obligations of a like nature incurred in the ordinary course of business;

(e) zoning restrictions, easements, rights-of-way, restrictions on use of property and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of the Borrower or any of its Subsidiaries;

(f) the Liens on Schedule 1.1 hereto securing the obligations listed on such Schedule and any replacement Lien securing any renewal, extension or refunding of such obligations if the amount secured by such renewal, extension or refunding Lien shall not exceed the amount of the outstanding obligations secured by the Lien being replaced at the time of such renewal, extension or refunding (plus transaction costs, including premiums and fees, related to such renewal, extension or refunding) and if such replacement Lien shall be limited to substantially the same property that secured the Lien so replaced;

(g) legal or equitable encumbrances deemed to exist by reason of the existence of any litigation or other legal proceeding or arising out of a judgment or award with respect to which an appeal is being prosecuted in good faith by appropriate action and with respect to which adequate reserves are being maintained and, in the case of judgment liens, execution thereon is stayed;

(h) rights reserved or vested in any municipality or governmental, statutory or public authority to control or regulate any property of the Borrower or any Subsidiary, or to use such property in a manner that does not materially impair the use of such property for the purposes for which it is held by the Borrower or such Subsidiary;

(i) any obligations or duties affecting the property of the Borrower or any of its Subsidiaries to any municipality, governmental, statutory or public authority with respect to any franchise, grant, license or permit;

(j) Liens filed in connection with sales of receivables by any of the Subsidiaries (other than the Guarantor) to a wholly-owned special purpose financing Subsidiary for purposes of perfecting such sales, provided that no third party has any rights with respect to such Liens or any assets subject thereto;

(k) any interest or title of a lessor under any sale lease-back transaction entered into by the Borrower or any Subsidiary conveying only the assets so leased back to the extent the related Indebtedness is permitted under §8.1 hereof;

(l) Liens created or deemed to be created under Permitted Receivables Transactions at any time provided such Liens do not extend to any property or assets other than the trade receivables sold pursuant to such Permitted Receivables Transactions, interests in the goods or products (including returned goods and products), if any, relating to the sales giving rise to such trade receivables; any security interests or other Liens and property subject thereto (other than on any leases or related lease payment rights or receivables between the Borrower and any of its Subsidiaries, as lessors or sublessors) from time to time purporting to secure the payment by the obligors of such trade receivables (together with any financing statements signed by such obligors describing the collateral securing such trade receivables) pursuant to such Permitted Receivables Transactions; and

(m) Liens securing other Indebtedness, provided that the aggregate amount of all liabilities, including any Indebtedness, of the Borrower and its Subsidiaries secured by all Liens permitted in subsections (k), (l) and (m), when added (without duplication) to the aggregate amount of Indebtedness of the Borrower's Subsidiaries permitted under §8.1(b) and Indebtedness with respect to Permitted Receivables Transactions, shall not exceed 15% of Consolidated Tangible Assets at any time.

Permitted Receivables Transaction. Any sale or sales of, and/or securitization of, any accounts receivable of the Borrower and/or any of its Subsidiaries (the "Receivables") pursuant to which (a) the Borrower and its Subsidiaries realize aggregate net proceeds of not more than \$750,000,000 at any one time outstanding, including, without limitation, any revolving purchase(s) of Receivables where the maximum aggregate uncollected purchase price (exclusive of any deferred purchase price) for such Receivables at any time outstanding does not exceed \$750,000,000, and (b) which Receivables shall not be discounted more than 25%.

Person. Any individual, corporation, partnership, joint venture, limited liability company, trust, unincorporated association, business, or other legal entity, and any government or any governmental agency or political subdivision thereof.

Pricing Table:

Level	Senior Public Debt Rating	Applicable Facility Fee Rate	Applicable L/C Rate	Applicable Base Rate	Applicable Eurodollar Rate
1	Greater than or equal to A- by Standard & Poor's or greater than or equal to A3 by Moody's	0.1000% per annum	0.2750% per annum	Base Rate per annum	Eurodollar Rate plus 0.2750% per annum
2	BBB+ by Standard &	0.1250%	0.3750%	Base Rate	Eurodollar

Level	Senior Public Debt Rating	Applicable Facility Fee Rate	Applicable L/C Rate	Applicable Base Rate	Applicable Eurodollar Rate
	Poor's or Baa1 by Moody's	per annum	per annum	per annum	Rate plus 0.3750% per annum
3	BBB by Standard & Poor's or Baa2 by Moody's	0.1500% per annum	0.4750% per annum	Base Rate per annum	Eurodollar Rate plus 0.4750% per annum
4	BBB- by Standard & Poor's or Baa3 by Moody's	0.1750% per annum	0.7000% per annum	Base Rate per annum	Eurodollar Rate plus 0.7000% per annum
5	BB+ by Standard & Poor's or Ba1 by Moody's	0.2250% per annum	0.9000% per annum	Base Rate per annum	Eurodollar Rate plus 0.9000% per annum
6	Less than or equal to BB by Standard & Poor's or less than or equal to Ba2 by Moody's	0.2500% per annum	1.1250% per annum	Base Rate plus 0.2000% per annum	Eurodollar Rate plus 1.1250% per annum

The applicable rates charged for any day shall be determined by the higher Senior Public Debt Rating in effect as of that day, provided that if the higher Senior Public Debt Rating is more than one level higher than the lower Senior Public Debt Rating, the applicable rate shall be set at one level below the higher Senior Public Debt Rating.

RCRA. See §6.15(a).

Real Property. All real property heretofore, now, or hereafter owned, operated, or leased by the Borrower or any of its Subsidiaries.

Reimbursement Obligation. The Borrower's obligation to reimburse the applicable Issuing Bank and the Banks on account of any drawing under any Letter of Credit, all as provided in §3.2.

Release. Shall have the meaning specified in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§9601 et seq. ("CERCLA") and the term "Disposal" (or "Disposed") shall have the meaning specified in the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§6901 et seq. ("RCRA") and regulations promulgated thereunder; provided, that in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply as of the effective date of such amendment and provided further, to the extent that the laws of Canada or a state, province, territory or other political subdivision thereof wherein the

property lies establish a meaning for “Release” or “Disposal” which is broader than specified in either CERCLA, or RCRA, such broader meaning shall apply to the Borrower’s or any of its Subsidiaries’ activities in that state, province, territory or political subdivision.

Replacement Bank. See §5.12.

Replacement Notice. See §5.12.

Senior Public Debt Rating. The ratings of the Borrower’s public unsecured long-term senior debt, without third party credit enhancement, issued by Moody’s and Standard & Poor’s.

Shareholder Suits. See the definition of “Consolidated Earnings Before Interest and Taxes, or EBIT.”

Significant Subsidiary. At any time, a Subsidiary that at such time meets the definition of “significant subsidiary” contained in Regulation S-X of the Securities and Exchange Commission as in effect on the date hereof, but as if each reference in said definition to the figure “10 percent” were a reference to the figure “3 percent”.

Standard & Poor’s. Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc.

Subsidiary. Any corporation, association, trust, or other business entity of which the designated parent shall at any time own directly or indirectly through a Subsidiary or Subsidiaries at least a majority of the outstanding capital stock or other interest entitled to vote generally and whose financial results are required to be consolidated with the financial results of the designated parent in accordance with GAAP.

Swap Contracts. All obligations in respect of interest rate, currency or commodity exchange, forward, swap, or futures contracts or similar transactions or arrangements entered into to protect or hedge the Borrower and its Subsidiaries against interest rate, exchange rate or commodity price risks or exposure, or to lower or diversify their funding costs.

Swing Line Bank. Citibank.

Swing Line Loans. See §2.11(a).

Swing Line Settlement. The making or receiving of payments, in immediately available funds, by the Banks to or from the Administrative Agent in accordance with §2.11 hereof to the extent necessary to cause each Bank’s actual share of the outstanding amount of the Syndicated Loans to be equal to such Bank’s Commitment Percentage of the outstanding amount of such Syndicated Loans, in any case when, prior to such action, the actual share is not so equal.

Swing Line Settlement Amount. See §2.11(b).

Swing Line Settlement Date. See §2.11(b).

Swing Line Settling Bank. See §2.11(b).

Syndicated Loan Request. See §2.6(a).

Syndicated Loans. A Borrowing hereunder consisting of one or more loans made by the Banks to the Borrower under the procedures described in §2.1(a) and §2.11 hereof.

Terminated Plans. The Waste Management, Inc. Pension Plan and The Waste Management of Alameda County, Inc. Retirement Plan.

Total Commitment. Initially \$2,400,000,000, as such amount may be increased or reduced in accordance with the terms hereof, or, if such Total Commitment has been terminated pursuant to §2.3.1 or §12.2 hereof, zero.

Total Debt. The sum, without duplication, of all (1) Indebtedness of the Borrower on a consolidated basis under subsections (a) through (h) of the definition of "Indebtedness" (provided, however, that Indebtedness with respect to Permitted Receivables Transactions shall not be included in such calculation), plus (2) non-contingent reimbursement obligations of the Borrower and its Subsidiaries with respect to drawings under any letters of credit.

Type. When used in reference to any Loan, refers to whether the rate of interest on such Loan is determined by reference to the Eurodollar Rate, the Base Rate or, in the case of a Competitive Bid Loan, whether it is a Eurodollar Competitive Bid Loan or Absolute Competitive Bid Loan.

U.S. Dollar Equivalent. With respect to any amount denominated in Canadian Dollars on any date, an equivalent amount in U.S. Dollars, computed as follows:

- (i) for purposes of computing the Maximum Drawing Amount as of the date of each borrowing of Loans or the issuance of any Letter of Credit, the equivalent in U.S. Dollars of the aggregate unused face amount of all outstanding Canadian Dollar Letters of Credit, computed by the Administrative Agent on the basis of the Applicable Spot Rate as determined by the Administrative Agent at approximately 10:00 a.m. New York time on such date;
- (ii) for purposes of computing the Maximum Drawing Amount in connection with the computation of Letter of Credit Fee payable under §3.6 hereof, the equivalent in U.S. Dollars of the aggregate unused face amount of all outstanding Canadian Dollar Letters of Credit, computed by the Administrative Agent on the basis of the Applicable Spot Rate as determined by the Administrative Agent at approximately 10:00 a.m. New York time on the relevant quarterly date referred to therein;
- (iii) for purposes of computing the amount of Issuance Fee payable to any Issuing Bank, the equivalent in U.S. Dollars of the face

amount of each relevant Canadian Dollar Letter of Credit, computed by such Issuing Bank on the basis of the Applicable Spot Rate as determined by such Issuing Bank at approximately 10:00 a.m. New York time on the date of issuance of such Letter of Credit;

- (iv) for purposes of computing the amount in U.S. Dollars of any payment made by an Issuing Bank in Canadian Dollars in respect of a drawing under a Canadian Dollar Letter of Credit, the equivalent in U.S. Dollars of the amount of such payment, computed by such Issuing Bank on the basis of the Applicable Spot Rate as determined by such Issuing Bank at the time of such payment; and
- (v) for purposes of determining the amount, if any, required to be prepaid on any date under §5.2 hereof, the equivalent in U.S. Dollars of the aggregate unused face amount of all Canadian Dollar Letters of Credit, computed by the Administrative Agent on the basis of the Applicable Spot Rate as determined by the Administrative Agent at approximately 10:00 a.m. New York time on such date.

§1.2. Rules of Interpretation.

(a) Unless otherwise noted, a reference to any document or agreement (including this Agreement) shall include such document or agreement as amended, modified or supplemented from time to time in accordance with its terms and the terms of this Agreement.

(b) The singular includes the plural and the plural includes the singular.

(c) A reference to any law includes any amendment or modification to such law.

(d) A reference to any Person includes its permitted successors and permitted assigns.

(e) Accounting terms capitalized but not otherwise defined herein have the meanings assigned to them by generally accepted accounting principles applied on a consistent basis by the accounting entity to which they refer.

(f) The words “include”, “includes” and “including” are not limiting.

(g) All terms not specifically defined herein or by generally accepted accounting principles, which terms are defined in the Uniform Commercial Code as in effect in the State of New York, have the meanings assigned to them therein.

(h) Reference to a particular “§” refers to that section of this Agreement unless otherwise indicated.

(i) The words “herein”, “hereof”, “hereunder” and words of like import shall refer to this Agreement as a whole and not to any particular section or subdivision of this Agreement.

§1.3. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Syndicated Loan”) or by Type (e.g., a “Eurodollar Loan”) or by Class and Type (e.g., a “Eurodollar Syndicated Loan”).

§2. THE LOAN FACILITIES.

§2.1. Commitment to Lend.

(a) Subject to the terms and conditions set forth in this Agreement, each of the Banks severally agrees to lend to the Borrower and the Borrower may borrow, repay, and reborrow from time to time between the Effective Date and the Maturity Date, upon notice by the Borrower to the Administrative Agent given in accordance with this §2, its Commitment Percentage of the Syndicated Loans requested by the Borrower; provided that the sum of the outstanding principal amount of the Syndicated Loans (including the Swing Line Loans) and the Maximum Drawing Amount of outstanding Letters of Credit shall not exceed the Total Commitment minus the aggregate amount of Competitive Bid Loans outstanding at such time.

(b) On the date of each request for a Loan or Letter of Credit hereunder, the Borrower shall be deemed to have made a representation and warranty that the conditions set forth in §10 and §11, as the case may be, have been satisfied on the date of such request. Any unpaid Reimbursement Obligation shall be a Base Rate Loan, as set forth in §3.2(a).

§2.2. Facility Fee. The Borrower agrees to pay to the Administrative Agent for the account of the Banks a fee (the “Facility Fee”) on the Total Commitment (whether or not utilized) equal to the Applicable Facility Fee Rate multiplied by the Total Commitment, provided that after the expiry or termination of the Total Commitment, the Facility Fee shall be computed on the sum of (A) the Maximum Drawing Amount of all Letters of Credit, if any, outstanding from time to time and (B) all Loans outstanding from time to time. The Facility Fee shall be payable for the period from and after the Effective Date quarterly in arrears on the first day of each calendar quarter for the immediately preceding calendar quarter with the first such payment commencing on January 1, 2005 and on the Maturity Date (or on the date of termination in full of the Total Commitment, if earlier) and on the date of termination of all Letters of Credit and payment in full of all Loans. The Facility Fee shall be distributed pro rata among the Banks in accordance with each Bank’s Commitment Percentage.

§2.3. Reduction and Increase of Total Commitment.

§2.3.1. Reduction of Total Commitment.

(a) The Borrower shall have the right at any time and from time to time upon three (3) Business Days' prior written notice to the Administrative Agent to reduce by \$25,000,000 or a greater amount, or terminate entirely, the Total Commitment, whereupon each Bank's Commitment shall be reduced pro rata in accordance with such Bank's Commitment Percentage of the amount specified in such notice or, as the case may be, terminated; provided that at no time may the Total Commitment be reduced to an amount less than the sum of (A) the Maximum Drawing Amount of all Letters of Credit, and (B) all Loans then outstanding.

(b) No reduction or termination of the Total Commitment once made may be revoked; the portion of the Total Commitment reduced or terminated may not be reinstated; and amounts in respect of such reduced or terminated portion may not be reborrowed.

(c) The Administrative Agent will notify the Banks promptly after receiving any notice delivered by the Borrower pursuant to this §2.3.1 and will distribute to each Bank a revised Schedule 1 to this Agreement.

§2.3.2. Increase of Total Commitment. Unless a Default or Event of Default has occurred and is continuing, the Borrower may request, subject to the approval of the Administrative Agent, that the Total Commitment be increased, provided that the Total Commitment shall not, except with the consent of the Majority Banks, in any event exceed \$3,000,000,000 hereunder; provided, however, that (i) any Bank which is a party to this Agreement prior to such increase shall have the first option, and may elect, to fund its pro rata share of the increase, thereby increasing its Commitment hereunder, but no Bank shall have any obligation to do so, (ii) in the event that it becomes necessary to include a new Bank to provide additional funding under this §2.3.2, such new Bank must be reasonably acceptable to the Administrative Agent and the Borrower, and (iii) the Banks' Commitment Percentages shall be correspondingly adjusted, as necessary, to reflect any increase in the Total Commitment and Schedule 1 shall be amended to reflect such adjustments. Any such increase in the Total Commitment shall require, among other things, the satisfaction of such conditions precedent as the Administrative Agent may reasonably require, including, without limitation, the Administrative Agent's receipt of evidence of applicable corporate authorization and other corporate documentation from the Borrower and the Guarantor and the legal opinion of counsel to the Borrower and the Guarantor, each in form and substance satisfactory to the Administrative Agent and such Banks as are participating in such increase.

§2.4. Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the pro rata account of the Banks, the then unpaid principal amount of the Syndicated Loans on the Maturity Date, (ii) to the Administrative Agent for the account of the applicable Bank, the then unpaid principal amount of such Bank's Competitive Bid Loan on the last day of the Interest Period applicable to such Loan, and (iii) to the Swing Line Bank, for its account, the then unpaid principal amount of each Swing Line Loan on the earlier of the Maturity Date and the first date after such Swing Line Loan is made that is the 15th or last day of a calendar month and is at least two

Business Days after such Swing Line Loan is made; provided that on each date that a Syndicated Loan or Competitive Bid Loan is made, the Borrower shall repay all Swing Line Loans then outstanding.

(b) Each Bank shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Bank resulting from each Loan made by such Bank, including the amounts of principal and interest payable and paid to such Bank from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Bank hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Banks and each Bank's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this §2.4 shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Bank or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Bank may request that any Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Bank a promissory note payable to the order of such Bank (or, if requested by Bank, to such Bank and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to §20) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

§2.5. Interest on Loans.

(a) The outstanding principal amount of the Syndicated Loans shall bear interest at the rate per annum equal to (i) the Applicable Base Rate on Base Rate Loans, (ii) the Applicable Eurodollar Rate on Eurodollar Loans and (iii) the Applicable Swing Line Rate on Swing Line Loans.

(b) Interest shall be payable (i) quarterly in arrears on the first Business Day of each quarter, with the first such payment commencing January 1, 2005, on Base Rate Loans, (ii) on the last day of the applicable Interest Period, and if such Interest Period is longer than three months, also on the last day of each three month period following the commencement of such Interest Period, on Eurodollar Loans, and (iii) on the Maturity Date for all Loans.

§2.6. Requests for Syndicated Loans.

(a) The Borrower shall give to the Administrative Agent written notice in the form of Exhibit A hereto (or telephonic notice confirmed in writing or a facsimile in the form of Exhibit A hereto) of each Syndicated Loan requested hereunder (a "Syndicated Loan Request") not later than (a) 11:00 a.m. (New York time) on the proposed Drawdown Date of any Base Rate Loan, or (b) 11:00 a.m. (New York time) three (3) Eurodollar Business Days prior to the proposed Drawdown Date of any Eurodollar Loan. Each such Syndicated Loan Request shall specify (A) the principal amount of the Syndicated Loan requested, (B) the proposed Drawdown Date of such Syndicated Loan, (C) whether such Syndicated Loan requested is to be a Base Rate Loan or a Eurodollar Loan, and (D) the Interest Period for such Syndicated Loan, if a Eurodollar Loan. Each Syndicated Loan requested shall be in a minimum amount of \$10,000,000. Each such Syndicated Loan Request shall reflect the Maximum Drawing Amount of all Letters of Credit outstanding and the amount of all Loans outstanding (including Competitive Bid Loans and Swing Line Loans). Syndicated Loan Requests made hereunder shall be irrevocable and binding on the Borrower, and shall obligate the Borrower to accept the Syndicated Loan requested from the Banks on the proposed Drawdown Date.

(b) Each of the representations and warranties made by the Borrower to the Banks or the Administrative Agent in this Agreement or any other Loan Document shall be true and correct in all material respects when made and shall, for all purposes of this Agreement, be deemed to be repeated by the Borrower on and as of the date of the submission of a Syndicated Loan Request, Competitive Bid Quote Request, or Letter of Credit Application and on and as of the Drawdown Date of any Loan or the date of issuance of any Letter of Credit (except to the extent (i) of changes resulting from transactions contemplated or permitted by this Agreement and the other Loan Documents, (ii) of changes occurring in the ordinary course of business that either individually or in the aggregate do not result in a Material Adverse Effect, or (iii) that such representations and warranties expressly relate only to an earlier date).

(c) The Administrative Agent shall promptly notify each Bank of each Syndicated Loan Request received by the Administrative Agent (i) on the proposed Drawdown Date of any Base Rate Loan, or (ii) three (3) Eurodollar Business Days prior to the proposed Drawdown Date of any Eurodollar Loan.

§2.7. Election of Eurodollar Rate; Notice of Election; Interest Periods; Minimum Amounts.

(a) At the Borrower's option, so long as no Default or Event of Default has occurred and is then continuing, the Borrower may (i) elect to convert any Base Rate Loan or a portion thereof to a Eurodollar Loan, (ii) at the time of any Syndicated Loan Request, specify that such requested Loan shall be a Eurodollar Loan, or (iii) upon expiration of the applicable Interest Period, elect to maintain an existing Eurodollar Loan as such, provided that the Borrower give notice to the Administrative Agent pursuant to §2.7(b) hereof. Upon determining any Eurodollar Rate, the Administrative Agent shall forthwith provide notice thereof to the Borrower and the Banks, and each such notice to the Borrower shall be considered prima facie correct and binding, absent manifest error.

(b) Three (3) Eurodollar Business Days prior to the making of any Eurodollar Loan or the conversion of any Base Rate Loan to a Eurodollar Loan, or, in the case of an outstanding Eurodollar Loan, the expiration date of the applicable Interest Period, the Borrower shall give written, telex or facsimile notice (or telephonic notice promptly confirmed in a writing or a facsimile) received by the Administrative Agent not later than 11:00 a.m. (New York time) of its election pursuant to §2.7(a). Each such notice delivered to the Administrative Agent shall specify the aggregate principal amount of the Syndicated Loans to be borrowed or maintained as or converted to Eurodollar Loans and the requested duration of the Interest Period that will be applicable to such Eurodollar Loan, and shall be irrevocable and binding upon the Borrower. If the Borrower shall fail to give the Administrative Agent notice of its election hereunder together with all of the other information required by this §2.7(b) with respect to any Syndicated Loan, whether at the end of an Interest Period or otherwise, such Syndicated Loan shall be deemed a Base Rate Loan. The Administrative Agent shall promptly notify the Banks in writing (or by telephone confirmed in writing or by facsimile) of such election.

(c) Notwithstanding anything herein to the contrary, the Borrower may not specify an Interest Period that would extend beyond the Maturity Date.

(d) No conversion of Loans pursuant to this §2.7 may result in any Eurodollar Borrowing that is less than \$5,000,000. In no event shall the Borrower have more than ten (10) different Interest Periods for Borrowings of Eurodollar Loans outstanding at any time.

(e) Subject to the terms and conditions of §5.8 hereof, if any Affected Bank demands compensation under §5.5(c) or (d) with respect to any Eurodollar Loan, the Borrower may at any time, upon at least three (3) Business Days' prior written notice to the applicable Administrative Agent, elect to convert such Eurodollar Loan into a Base Rate Loan (on which interest and principal shall be payable contemporaneously with the related Eurodollar Loans of the other Banks). Thereafter, and until such time as the Affected Bank notifies the Administrative Agent that the circumstances giving rise to the demand for compensation under §5.5(c) or (d) no longer exist, all requests for Eurodollar Loans from such Affected Bank shall be deemed to be requests for Base Rate Loans. Once the Affected Bank notifies the Administrative Agent that such circumstances no longer exist, the Borrower may elect that the principal amount of each such Loan converted hereunder shall again bear interest as Eurodollar Loans beginning on the first day of the next succeeding Interest Period applicable to the related Eurodollar Loans of the other Banks.

§2.8. Funds for Syndicated Loans. Not later than 1:00 p.m. (New York time) on the proposed Drawdown Date of Syndicated Loans, each of the Banks will make available to the Administrative Agent at the Administrative Agent's Account, in immediately available funds, the amount of its Commitment Percentage of the amount of the requested Loan. Upon receipt from each Bank of such amount, and upon receipt of the documents required by §10 and §11 and the satisfaction of the other conditions set forth therein, the Administrative Agent will make available to the Borrower the aggregate amount of such Syndicated Loans made available by the Banks. The failure or refusal of any Bank to make available to the

Administrative Agent at the aforesaid time and place on any Drawdown Date the amount of its Commitment Percentage of the requested Syndicated Loan shall not relieve any other Bank from its several obligations hereunder to make available to the Administrative Agent the amount of such Bank's Commitment Percentage of the requested Loan.

§2.9. Maturity of the Loans and Reimbursement Obligations. The Borrower promises to pay on the Maturity Date, and there shall become absolutely due and payable on the Maturity Date, all of the Loans and unpaid Reimbursement Obligations outstanding on such date, together with any and all accrued and unpaid interest thereon and any fees and other amounts owing hereunder.

§2.10. Optional Prepayments or Repayments of Loans. Subject to the terms and conditions of §5.8, the Borrower shall have the right, at its election, to repay or prepay the outstanding amount of the Loans, as a whole or in part, at any time without penalty or premium. The Borrower shall give the Administrative Agent no later than 11:00 a.m. (New York time) (a) on the proposed date of prepayment or repayment of Base Rate Loans, and (b) three (3) Eurodollar Business Day prior to the proposed date of prepayment or repayment of all other Loans, written notice (or telephonic notice confirmed in writing or by facsimile) of any proposed prepayment or repayment pursuant to this §2.10, specifying the proposed date of prepayment or repayment of Loans and the principal amount to be paid. Notwithstanding the foregoing, the Borrower may not prepay any Competitive Bid Loans without the consent of the applicable Bank. The Administrative Agent shall promptly notify each Bank by written notice (or telephonic notice confirmed in writing or by facsimile) of such notice of payment.

§2.11. Swing Line Loans; Settlements.

(a) Notwithstanding the notice and minimum amount requirements set forth in §2.6 but otherwise in accordance with the terms and conditions of this Agreement, and solely for ease of administration of the Syndicated Loans, the Swing Line Bank may, but shall not be required to, fund Base Rate Loans made in accordance with the provisions of this Agreement ("Swing Line Loans").

At the discretion of the Swing Line Bank, Swing Line Loans may be in amounts less than \$10,000,000 provided that the outstanding amount of Swing Line Loans advanced by the Swing Line Bank hereunder shall not exceed \$100,000,000 at any time. Each Bank shall remain severally and unconditionally liable to fund its pro rata share (based upon each Bank's Commitment Percentage) of such Swing Line Loans on each Swing Line Settlement Date and, in the event the Swing Line Bank chooses not to fund any Swing Line Loans requested on any date, to fund its Commitment Percentage of the Base Rate Loans requested, subject to satisfaction of the provisions hereof relating to such Bank's Commitment to make the Base Rate Loans. Prior to each Swing Line Settlement, all payments or repayments of the principal of, and interest on, Swing Line Loans shall be credited to the account of the Swing Line Bank.

(b) The Banks shall effect Swing Line Settlements on (i) the Business Day immediately following any day which the Administrative Agent gives written notice to

effect a Swing Line Settlement, (ii) the Business Day immediately following the Administrative Agent's becoming aware of the existence of any Default or Event of Default and (iii) the Maturity Date (each such date, a "Swing Line Settlement Date"). One (1) Business Day prior to each such Swing Line Settlement Date, the Administrative Agent shall give telephonic notice to the Banks of (A) the respective outstanding amount of Syndicated Loans made by each Bank as at the close of business on the prior day, (B) the amount that any Bank, as applicable (a "Swing Line Settling Bank"), shall pay to effect a Swing Line Settlement (a "Swing Line Settlement Amount") and (C) the portion (if any) of the aggregate Swing Line Settlement Amount to be paid to each Bank. A statement of the Administrative Agent submitted to the Banks with respect to any amounts owing hereunder shall be prima facie evidence of the amount due and owing. Each Swing Line Settling Bank shall, not later than 1:00 p.m. (New York time) on each Swing Line Settlement Date, effect a wire transfer of immediately available funds to the Administrative Agent at its Loan Office in the amount of such Bank's Swing Line Settlement Amount. The Administrative Agent shall, as promptly as practicable during normal business hours on each Swing Line Settlement Date, effect a wire transfer of immediately available funds to each Bank of the Swing Line Settlement Amount to be paid to such Bank. All funds advanced by any Bank as a Swing Line Settling Bank pursuant to this §2.11 (b) shall for all purposes be treated as a Base Rate Loan made by such Swing Line Settling Bank to the Borrower, and all funds received by any Bank pursuant to this §2.11 (b) shall for all purposes be treated as repayment of amounts owed by the Borrower with respect to Base Rate Loans made by such Bank.

(c) The Administrative Agent may (unless notified to the contrary by any Swing Line Settling Bank by 12:00 noon (New York time) one (1) Business Day prior to the Settlement Date) assume that each Swing Line Settling Bank has made available (or will make available by the time specified in §2.11(b)) to the Administrative Agent its Swing Line Settlement Amount, and the Administrative Agent may (but shall not be required to), in reliance upon such assumption, make available to each applicable Bank its share (if any) of the aggregate Swing Line Settlement Amount. If the Swing Line Settlement Amount of such Swing Line Settling Bank is made available to the Administrative Agent by such Swing Line Settling Bank on a date after such Swing Line Settlement Date, such Swing Line Settling Bank shall pay the Swing Line Bank on demand an amount equal to the product of (i) the average, computed for the period referred to in clause (iii) below, of the weighted average annual interest rate paid by the Swing Line Bank for federal funds acquired by the Swing Line Bank during each day included in such period times (ii) such Swing Line Settlement Amount times (iii) a fraction, the numerator of which is the number of days that elapse from and including such Swing Line Settlement Date to but not including the date on which such Swing Line Settlement Amount shall become immediately available to the Swing Line Bank, and the denominator of which is 365. Upon payment of such amount such Swing Line Settling Bank shall be deemed to have delivered its Swing Line Settlement Amount on the Swing Line Settlement Date and shall become entitled to interest payable by the Borrower with respect to such Swing Line Settling Bank's Swing Line Settlement Amount as if such share were delivered on the Swing Line Settlement Date. If such Swing Line Settlement Amount is not in fact made available to the Swing Line Bank by such Swing Line Settling Bank within three (3) Business

Days of such Swing Line Settlement Date, the Swing Line Bank shall be entitled to recover such amount from the Borrower, with interest thereon at the Applicable Base Rate.

(d) After any Swing Line Settlement Date, any payment by the Borrower of Swing Line Loans hereunder shall be allocated among the Banks, in amounts determined so as to provide that after such application and the related Swing Line Settlement, the outstanding amount of Syndicated Loans of each Bank equals, as nearly as practicable, such Bank's Commitment Percentage of the aggregate amount of Syndicated Loans.

§3. LETTERS OF CREDIT.

§3.1. Letter of Credit Commitments.

(a) Subject to the terms and conditions hereof and the receipt by the Administrative Agent of a written notice in the form of Exhibit B hereto (a "Letter of Credit Request") reflecting the Maximum Drawing Amount of all Letters of Credit (including the requested Letter of Credit), and receipt by an Issuing Bank, with a copy to the Administrative Agent, of a Letter of Credit Application, such Issuing Bank, on behalf of the Banks and in reliance upon the representations and warranties of the Borrower contained herein and the agreement of the Banks contained in §3.1(c) hereof, agrees to issue standby Letters of Credit (including so-called "direct pay" standby Letters of Credit) for the account of the Borrower (which may, with such Issuing Bank's consent, incorporate automatic renewals for periods of up to twelve (12) months), in such form as may be requested from time to time by the Borrower and agreed to by such Issuing Bank; provided, however, that, after giving effect to such request, the aggregate Maximum Drawing Amount of all Letters of Credit issued at any time shall not exceed the Total Commitment minus the aggregate outstanding amount of the Loans; provided further, that no Letter of Credit shall have an expiration date later than the earlier of (i) eighteen (18) months after the date of issuance (which may incorporate automatic renewals for periods of up to twelve (12) months), or (ii) five (5) Business Days prior to the Maturity Date; and provided further, that the aggregate face amount of all Letters of Credit issued by any one Issuing Bank shall not at any time exceed the amount set forth opposite the name of such Issuing Bank on Schedule 3.1 hereto, as such amount may be increased (in the sole discretion of such Issuing Bank) or decreased (if so agreed by such Issuing Bank and the Borrower) by the execution and delivery by such Issuing Bank, the Borrower, the Guarantor and the Administrative Agent of an instrument in substantially the form of Schedule 3.1.1 hereto. Each Issuing Bank will promptly confirm to the Administrative Agent the issuance of each Letter of Credit specifying the face amount thereof, and the Administrative Agent will transmit such information to the Banks.

(b) Each Letter of Credit shall be denominated in Dollars or, in accordance with and subject to the terms of §3.1(e) hereof, in Canadian Dollars.

(c) Each Bank severally agrees that it shall be absolutely liable, without regard to the occurrence of any Default or Event of Default, the termination of the Total

Commitment pursuant to §12.2, or any other condition precedent or circumstance whatsoever (other than as stated in the next sentence hereof), to the extent of such Bank's Commitment Percentage to reimburse each Issuing Bank on demand for the amount of each draft paid by such Issuing Bank under each Letter of Credit issued by such Issuing Bank to the extent that such amount is not reimbursed by the Borrower pursuant to §3.2 (such agreement of a Bank being called herein the "Letter of Credit Participation" of such Bank). Each Bank agrees that its obligation to reimburse each Issuing Bank pursuant to this §3.1(c) shall not be affected in any way by any circumstance whatsoever other than the gross negligence or willful misconduct of such Issuing Bank, provided that the making of a payment under a Letter of Credit against documents that appear on their face to substantially comply with the terms and conditions of such Letter of Credit shall not be deemed to be gross negligence or willful misconduct.

(d) Each such reimbursement payment made by a Bank to an Issuing Bank shall be made to an account of such Issuing Bank in the United States of America and shall be treated as the purchase by such Bank of a participating interest in the applicable Reimbursement Obligation under §3.2 in an amount equal to such payment. Each Bank shall share in accordance with its participating interest in any interest which accrues pursuant to §3.2.

(e) (i) The Borrower shall be entitled to request that one or more Letters of Credit be denominated in Canadian Dollars for the account of any Canadian Subsidiary of the Borrower (each a "Canadian Dollar Letter of Credit"); provided that (i) the aggregate undrawn face amount of all Canadian Dollar Letters of Credit may not exceed C\$200,000,000 at any time and (ii) each Canadian Dollar Letter of Credit shall provide for payment of any drawing thereunder on a date not earlier than three Business Days after the relevant Issuing Bank determines that the documents submitted in connection with such drawing appear on their face to substantially comply with the terms and conditions of such Letter of Credit.

(ii) The Letter of Credit Application in respect of each Canadian Dollar Letter of Credit shall be signed by the Borrower; provided that nothing therein shall be deemed to alter the obligations of the Borrower under this Agreement in respect of any drawing under any such Letter of Credit.

(iii) If an Issuing Bank makes a payment in Canadian Dollars pursuant to a Canadian Dollar Letter of Credit, the amount of such payment shall, for all purposes of this Agreement (but without prejudice to the terms of such Letter of Credit), immediately be deemed converted into the U.S. Dollar Equivalent thereof and shall for all purposes hereof be deemed to have been made in U.S. Dollars in said amount.

(f) As of the Effective Date, the Existing Letters of Credit shall automatically be deemed to be Letters of Credit for all purposes of this Agreement, having the respective face amounts specified in Schedule 3.1.2 hereof.

(g) In the case of an Issuing Bank that has issued an Existing Letter of Credit through an affiliate of such Issuing Bank, the obligations of the other parties hereunder to

such Issuing Bank shall to such extent inure to the benefit of such affiliate and be enforceable by such Issuing Bank on behalf of such affiliate.

§3.2. Reimbursement Obligation of the Borrower. In order to induce the Issuing Banks to issue, extend and renew each Letter of Credit, the Borrower hereby agrees to reimburse or pay to each Issuing Bank, with respect to each Letter of Credit issued, extended or renewed by such Issuing Bank hereunder, as follows:

(a) if any draft presented under any Letter of Credit is honored by such Issuing Bank or such Issuing Bank otherwise makes payment with respect thereto, the sum of (i) the amount paid by such Issuing Bank under or with respect to such Letter of Credit (except that in the case of a payment in Canadian Dollars, it shall reimburse or pay the U.S. Dollar Equivalent thereof), and (ii) the amount of any taxes, fees, charges or other costs and expenses whatsoever incurred by such Issuing Bank in connection with any payment made by such Issuing Bank under, or with respect to, such Letter of Credit; provided, however, if the Borrower does not reimburse such Issuing Bank on the Drawdown Date, such amount shall, provided that no Event of Default under §§12.1(g) or 12.1(h) has occurred, become automatically a Syndicated Loan which is a Base Rate Loan advanced hereunder in an amount equal to such sum; and

(b) upon the Maturity Date or the acceleration of the Reimbursement Obligations with respect to all Letters of Credit in accordance with §12, an amount equal to the then Maximum Drawing Amount of all outstanding Letters of Credit shall be paid by the Borrower to the Administrative Agent to be held as cash collateral for the applicable Reimbursement Obligations, and the Borrower hereby grants to the Administrative Agent a security interest therein.

§3.3. Obligations Absolute. The Borrower's obligations under this §3 shall be absolute and unconditional under any and all circumstances and irrespective of the occurrence of any Default or Event of Default or any condition precedent whatsoever or any setoff, counterclaim or defense to payment which the Borrower may have or have had against any Issuing Bank, any Bank or any beneficiary of a Letter of Credit, and the Borrower expressly waives any such rights that it may have with respect thereto. The Borrower further agrees with each Issuing Bank and the Banks that such Issuing Bank and the Banks (i) shall not be responsible for, and the Borrower's Reimbursement Obligations under §3.2 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even if such documents should in fact prove to be in any or all respects invalid, fraudulent or forged (unless due to the willful misconduct of such Issuing Bank or any other Bank), or any dispute between or among the Borrower and the beneficiary of any Letter of Credit or any financing institution or other party to which any Letter of Credit may be transferred or any claims or defenses whatsoever of the Borrower against the beneficiary of any Letter of Credit or any such transferee, and (ii) shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit except to the extent of their own willful misconduct. The Borrower agrees that any action taken or omitted by any Issuing Bank or any Bank in good faith under or in connection with any Letter of Credit and the related drafts and documents shall be binding upon the Borrower and shall not result in

any liability on the part of such Issuing Bank or any Bank (or their respective affiliates) to the Borrower. Nothing herein shall constitute a waiver by the Borrower of any of its rights against any beneficiary of a Letter of Credit.

§3.4. Reliance by the Issuing Banks. To the extent not inconsistent with §3.3, each Issuing Bank shall be entitled to rely, and shall be fully protected in relying, upon any Letter of Credit, draft, writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, facsimile, telex or teletype message, statement, order or other document believed by such Issuing Bank in good faith to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel, independent accountants and other experts selected by such Issuing Bank.

§3.5. Notice Regarding Letters of Credit. One (1) Business Day prior to the issuance of any Letter of Credit or any amendment, extension or termination thereof, the applicable Issuing Bank shall notify the Administrative Agent of the terms of such Letter of Credit, amendment, extension or termination. In the case of any such issuance, amendment or extension, the Administrative Agent will promptly notify such Issuing Bank whether such issuance, amendment or extension is permissible under the limitation set forth in the proviso to §2.1(a). On the day of any drawing under any Letter of Credit, such Issuing Bank shall notify the Administrative Agent of such drawing, specifying the amount thereof, and on the day of any payment under any Letter of Credit, such Issuing Bank shall notify the Administrative Agent of such payment, specifying the amount thereof and, in the case of a payment under a Canadian Dollar Letter of Credit, the U.S. Dollar Equivalent thereof.

§3.6. Letter of Credit Fee; Issuance Fee. The Borrower shall pay a fee (the "Letter of Credit Fee") equal to the Applicable L/C Rate on the Maximum Drawing Amount to the Administrative Agent for the account of the Banks, to be shared pro rata by the Banks in accordance with their respective Commitment Percentages. The Letter of Credit Fee shall be payable quarterly in arrears on the third Business Day of each calendar quarter for the quarter just ended, with the first such payment being due on January 4, 2005, and on the Maturity Date. In addition, an issuing fee (the "Issuance Fee") with respect to each Letter of Credit to be agreed upon annually between the Borrower and each Issuing Bank shall be payable by the Borrower to such Issuing Bank for its account.

§4. COMPETITIVE BID LOANS.

§4.1. The Competitive Bid Option. In addition to the Syndicated Loans made pursuant to §2 hereof, the Borrower may request Competitive Bid Loans pursuant to the terms of this §4. The Banks may, but shall have no obligation to, make offers for Competitive Bid Loans and the Borrower may, but shall have no obligation to, accept such offers in the manner set forth in this §4. Notwithstanding any other provision herein to the contrary, at no time shall the aggregate principal amount of Competitive Bid Loans outstanding at any time exceed the Total Commitment minus the sum of (a) the aggregate outstanding principal amount of Syndicated Loans (including the Swing Loans) plus (b) the Maximum Drawing Amount of Letters of Credit, outstanding at such time.

§4.2. Competitive Bid Loan Accounts; Competitive Bid Loans.

(a) The obligation of the Borrower to repay the outstanding principal amount of any and all Competitive Bid Loans, plus interest at the applicable rate accrued thereon, shall be evidenced by this Agreement and by individual loan accounts (the "Competitive Bid Loan Accounts" and individually, a "Competitive Bid Loan Account") maintained by the Administrative Agent on its books for each of the Banks, it being the intention of the parties hereto that, except as provided for in paragraph (b) of this §4.2, the Borrower's obligations with respect to Competitive Bid Loans are to be evidenced only as stated herein and not by separate promissory notes.

(b) Any Bank may at any time, and from time to time, request that any Competitive Bid Loans outstanding to such Bank be evidenced by a promissory note of the Borrower in the form approved by the Administrative Agent, dated as of the Effective Date and completed with appropriate insertions.

(c) The Borrower irrevocably authorizes the Administrative Agent to make or cause to be made, in connection with a Drawdown Date of any Competitive Bid Loan or at the time of receipt of any payment of principal on the applicable Bank's Competitive Bid Loan Account, an appropriate notation on the Administrative Agent's records, reflecting the making of the Competitive Bid Loan, or the receipt of such payment (as the case may be). The outstanding amount of the Competitive Bid Loans set forth on the Administrative Agent's records, shall be prima facie evidence of the principal amount thereof owing and unpaid to such Bank, but the failure to record, or any error in so recording, any such amount shall not limit or otherwise affect the obligations of the Borrower hereunder to make payments of principal of or interest on any Competitive Bid Loan when due.

§4.3. Competitive Bid Quote Request; Invitation for Competitive Bid Quotes.

(a) When the Borrower wishes to request offers to make Competitive Bid Loans under this §4, it shall transmit to the Administrative Agent by telex or facsimile a Competitive Bid Quote Request substantially in the form of Exhibit E hereto (a "Competitive Bid Quote Request") so as to be received no later than 1:00 p.m. (New York time) (x) five (5) Eurodollar Business Days prior to the requested Drawdown Date in the case of a Eurodollar Competitive Bid Loan or (y) one (1) Business Day prior to the requested Drawdown Date in the case of an Absolute Competitive Bid Loan, specifying:

- (i) the requested Drawdown Date (which must be a Eurodollar Business Day in the case of a Eurodollar Competitive Bid Loan or a Business Day in the case of an Absolute Competitive Bid Loan);
- (ii) the aggregate amount of such Competitive Bid Loans, which shall be \$10,000,000 or larger multiple of \$1,000,000;
- (iii) the duration of the Interest Period(s) applicable thereto, subject to the provisions of the definition of Interest Period; and

(iv) whether the Competitive Bid Quotes requested are for Eurodollar Competitive Bid Loans or Absolute Competitive Bid Loans.

The Borrower may request offers to make Competitive Bid Loans for more than one Interest Period in a single Competitive Bid Quote Request. No new Competitive Bid Quote Request shall be given until the Borrower has notified the Administrative Agent of its acceptance or non-acceptance of the Competitive Bid Quotes relating to any outstanding Competitive Bid Quote Request.

(b) Promptly upon receipt of a Competitive Bid Quote Request, the Administrative Agent shall send to the Banks by telecopy or facsimile transmission an Invitation for Competitive Bid Quotes substantially in the form of Exhibit F hereto, which shall constitute an invitation by the Borrower to each Bank to submit Competitive Bid Quotes in accordance with this §4.

§4.4. Alternative Manner of Procedure. If, after receipt by the Administrative Agent and each of the Banks of a Competitive Bid Quote Request from the Borrower in accordance with §4.3, the Administrative Agent or any Bank shall be unable to complete any procedure of the auction process described in §§4.5 through 4.6 (inclusive) due to the inability of such Person to transmit or receive communications through the means specified therein, such Person may rely on telephonic notice for the transmission or receipt of such communications. In any case where such Person shall rely on telephone transmission or receipt, any communication made by telephone shall, as soon as possible thereafter, be followed by written confirmation thereof.

§4.5. Submission and Contents of Competitive Bid Quotes.

(a) Each Bank may, but shall be under no obligation to, submit a Competitive Bid Quote containing an offer or offers to make Competitive Bid Loans in response to any Competitive Bid Quote Request. Each Competitive Bid Quote must comply with the requirements of this §4.5 and must be submitted to the Administrative Agent by telex or facsimile transmission at its offices as specified in or pursuant to §22 not later than (x) 2:00 p.m. (New York time) on the fourth Eurodollar Business Day prior to the proposed Drawdown Date, in the case of a Eurodollar Competitive Bid Loan or (y) 10:00 a.m. (New York time) on the proposed Drawdown Date, in the case of an Absolute Competitive Bid Loan; provided that Competitive Bid Quotes may be submitted by the Administrative Agent in its capacity as a Bank only if it submits its Competitive Bid Quote to the Borrower not later than (x) one hour prior to the deadline for the other Banks, in the case of a Eurodollar Competitive Bid Loan or (y) 15 minutes prior to the deadline for the other Banks, in the case of an Absolute Competitive Bid Loan. Subject to the provisions of §§10 and 11 hereof, any Competitive Bid Quote so made shall be irrevocable except with the written consent of the Administrative Agent given on the instructions of the Borrower.

(b) Each Competitive Bid Quote shall be in substantially the form of Exhibit G hereto and shall in any case specify:

(i) the proposed Drawdown Date;

(ii) the principal amount of the Competitive Bid Loan for which each proposal is being made, which principal amount (w) may be greater than or less than the Commitment of the quoting Bank, (x) must be \$5,000,000 or a larger multiple of \$1,000,000, (y) may not exceed the aggregate principal amount of Competitive Bid Loans for which offers were requested and (z) may be subject to an aggregate limitation as to the principal amount of Competitive Bid Loans for which offers being made by such quoting Bank may be accepted;

(iii) the Interest Period(s) for which Competitive Bid Quotes are being submitted;

(iv) in the case of a Eurodollar Competitive Bid Loan, the margin above or below the applicable Eurodollar Rate (the "Competitive Bid Margin") offered for each such Competitive Bid Loan, expressed as a percentage (specified to the nearest 1/10,000th of 1%) to be added to or subtracted from such Eurodollar Rate;

(v) in the case of an Absolute Competitive Bid Loan, the rate of interest per annum (specified to the nearest 1/10,000th of 1%) (the "Competitive Bid Rate") offered for each such Absolute Competitive Bid Loan; and

(vi) the identity of the quoting Bank.

A Competitive Bid Quote may include up to five separate offers by the quoting Bank with respect to each Interest Period specified in the related Invitation for Competitive Bid Quotes.

(c) Any Competitive Bid Quote shall be disregarded if it:

(i) is not substantially in the form of Exhibit G hereto;

(ii) contains qualifying, conditional or similar language;

(iii) proposes terms other than or in addition to those set forth in the applicable Invitation for Competitive Bid Quotes; or

(iv) arrives after the time set forth in §4.5(a) hereof.

§4.6. Notice to Borrower. The Administrative Agent shall promptly notify the Borrower of the terms (x) of any Competitive Bid Quote submitted by a Bank that is in accordance with §4.5 and (y) of any Competitive Bid Quote that amends, modifies or is otherwise inconsistent with a previous Competitive Bid Quote submitted by such Bank with respect to the same Competitive Bid Quote Request. Any such subsequent Competitive Bid Quote shall be disregarded by the Administrative Agent unless such subsequent Competitive Bid Quote is submitted solely to correct a manifest error in such former Competitive Bid Quote. The Administrative Agent's notice to the Borrower shall specify (A) the aggregate principal amount

of Competitive Bid Loans for which offers have been received for each Interest Period specified in the related Competitive Bid Quote Request, (B) the respective principal amounts and Competitive Bid Margins or Competitive Bid Rates, as the case may be, so offered, and the identity of the respective Banks submitting such offers, and (C) if applicable, limitations on the aggregate principal amount of Competitive Bid Loans for which offers in any single Competitive Bid Quote may be accepted.

§4.7. Acceptance and Notice by Borrower and Administrative Agent. Not later than 11:00 a.m. (New York time) on (x) the third Eurodollar Business Day prior to the proposed Drawdown Date, in the case of a Eurodollar Competitive Bid Loan or (y) the proposed Drawdown Date, in the case of an Absolute Competitive Bid Loan, the Borrower shall notify the Administrative Agent of its acceptance or non-acceptance of each Competitive Bid Quote in substantially the form of Exhibit H hereto. The Borrower may accept any Competitive Bid Quote in whole or in part; provided that:

(i) the aggregate principal amount of each Competitive Bid Loan may not exceed the applicable amount set forth in the related Competitive Bid Quote Request;

(ii) acceptance of offers may only be made on the basis of ascending Competitive Bid Margins or Competitive Bid Rates, as the case may be, and

(iii) the Borrower may not accept any offer that is described in subsection 4.5(c) or that otherwise fails to comply with the requirements of this Agreement.

The Administrative Agent shall promptly notify each Bank which submitted a Competitive Bid Quote of the Borrower's acceptance or non-acceptance thereof. At the request of any Bank which submitted a Competitive Bid Quote and with the consent of the Borrower, the Administrative Agent will promptly notify all Banks which submitted Competitive Bid Quotes of (a) the aggregate principal amount of, and (b) the range of Competitive Bid Rates or Competitive Bid Margins of, the accepted Competitive Bid Loans for each requested Interest Period.

§4.8. Allocation by Administrative Agent. If offers are made by two or more Banks with the same Competitive Bid Margin or Competitive Bid Rate, as the case may be, for a greater aggregate principal amount than the amount in respect of which offers are accepted for the related Interest Period, the principal amount of Competitive Bid Loans in respect of which such offers are accepted shall be allocated by the Administrative Agent among such Banks as nearly as possible (in such multiples, not less than \$1,000,000, as the Administrative Agent may deem appropriate) in proportion to the aggregate principal amounts of such offers. Determination by the Administrative Agent of the amounts of Competitive Bid Loans shall be conclusive in the absence of manifest error.

§4.9. Funding of Competitive Bid Loans. If, on or prior to the Drawdown Date of any Competitive Bid Loan, the Total Commitment has not terminated in full and if, on such Drawdown Date, the applicable conditions of §§10 and 11 hereof are satisfied, the Bank or Banks whose offers the Borrower has accepted will fund each Competitive Bid Loan so accepted. Such Bank or Banks will make such Competitive Bid Loans by crediting the

Administrative Agent for further credit to the Borrower's specified account with the Administrative Agent, in immediately available funds not later than 1:00 p.m. (New York time) on such Drawdown Date.

§4.10. Funding Losses. If, after acceptance of any Competitive Bid Quote pursuant to §4, the Borrower (i) fails to borrow any Competitive Bid Loan so accepted on the date specified therefor, or (ii) repays the outstanding amount of the Competitive Bid Loan prior to the last day of the Interest Period relating thereto, the Borrower shall indemnify the Bank making such Competitive Bid Quote or funding such Competitive Bid Loan against any loss or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Bank to fund or maintain such unborrowed Competitive Bid Loans, including, without limitation compensation as provided in §5.8.

§4.11. Repayment of Competitive Bid Loans; Interest. The principal of each Competitive Bid Loan shall become absolutely due and payable by the Borrower on the last day of the Interest Period relating thereto, and the Borrower hereby absolutely and unconditionally promises to pay to the Administrative Agent for the account of the relevant Banks at or before 1:00 p.m. (New York time) on the last day of the Interest Periods relating thereto the principal amount of all such Competitive Bid Loans, plus interest thereon at the applicable rates. The Competitive Bid Loans shall bear interest at the rate per annum specified in the applicable Competitive Bid Quotes. Interest on the Competitive Bid Loans shall be payable (a) on the last day of the applicable Interest Periods, and if any such Interest Period is longer than three months, also on the last day of the third month following the commencement of such Interest Period, and (b) on the Maturity Date for all Loans. Subject to the terms of this Agreement, the Borrower may make Competitive Bid Quote Requests with respect to new Borrowings of any amounts so repaid prior to the Maturity Date.

§5. PROVISIONS RELATING TO ALL LOANS AND LETTERS OF CREDIT.

§5.1. Payments.

(a) All payments of principal, interest, Reimbursement Obligations, fees (other than the Issuance Fee) and any other amounts due hereunder or under any of the other Loan Documents shall be made to the Administrative Agent at the Administrative Agent's Account in immediately available funds by 11:00 a.m. (New York time) on any due date. Subject to the provisions of §29, if a payment is received by the Administrative Agent at or before 1:00 p.m. (New York time) on any Business Day, the Administrative Agent shall on the same Business Day transfer in immediately available funds, as applicable, to (1) each of the Banks, their pro rata portion of such payment in accordance with their respective Commitment Percentages, in the case of payments with respect to Syndicated Loans and Letters of Credit, (2) the Swing Line Bank in the case of payments with respect to Swing Line Loans, and (3) the appropriate Bank(s), in the case of payments with respect to Competitive Bid Loans. If such payment is received by the Administrative Agent after 1:00 p.m. (New York time) on any Business Day, such transfer shall be made by the Administrative Agent to the applicable Bank(s) on the next Business Day.

(b) All payments by the Borrower and the Guarantor hereunder and under any of the other Loan Documents shall be made without recoupment, setoff or counterclaim and free and clear of and without deduction for any taxes, levies, imposts, duties, charges, fees, deductions, withholdings, compulsory loans, restrictions or conditions of any nature now or hereafter imposed or levied by any jurisdiction or any political subdivision thereof or taxing or other authority therein unless the Borrower or the Guarantor is compelled by law to make such deduction or withholding. If any such obligation is imposed upon the Borrower or the Guarantor with respect to any amount payable by it hereunder or under any of the other Loan Documents, the Borrower or the Guarantor, as the case may be, will pay to the Administrative Agent, for the account of the Banks or (as the case may be) the Administrative Agent, on the date on which such amount is due and payable hereunder or under such other Loan Document, such additional amount in Dollars as shall be necessary to enable the Banks or the Administrative Agent to receive the same net amount which the Banks or the Administrative Agent would have received on such due date had no such obligation been imposed upon the Borrower or the Guarantor. The Borrower and the Guarantor will deliver promptly to the Administrative Agent certificates or other valid vouchers for all taxes or other charges deducted from or paid with respect to payments made by it hereunder or under such other Loan Document.

(c) Each Bank that is not incorporated or organized under the laws of the United States of America or a state thereof or the District of Columbia (a "Non-U.S. Bank") agrees that, prior to the first date on which any payment is due to it hereunder, it will deliver to the Borrower and the Administrative Agent two duly completed copies of United States Internal Revenue Service Form W-8BEN or W-8ECI or successor applicable form, as the case may be, certifying in each case that such Non-U.S. Bank is entitled to receive payments under this Agreement, without deduction or withholding of any United States federal income taxes. Each Non-U.S. Bank that so delivers a Form W-8BEN or W-8ECI pursuant to the preceding sentence further undertakes to deliver to each of the Borrower and the Administrative Agent two further copies of Form W-8BEN or W-8ECI or successor applicable form, or other manner of certification, as the case may be, on or before the date that any such letter or form expires or becomes obsolete or after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower, and such extensions or renewals thereof as may reasonably be requested by the Borrower, certifying in the case of a Form W-8BEN or W-8ECI that such Non-U.S. Bank is entitled to receive payments under this Agreement without deduction or withholding of any United States federal income taxes, unless in any such case an event (including, without limitation, any change in treaty, law or regulation) has occurred prior to the date on which any such delivery would otherwise be required which renders all such forms inapplicable or which would prevent such Non-U.S. Bank from duly completing and delivering any such form with respect to it and such Non-U.S. Bank advises the Borrower that it is not capable of receiving payments without any deduction or withholding of United States federal income tax.

(d) The Borrower shall not be required to pay any additional amounts to any Non-U.S. Bank in respect of United States Federal withholding tax pursuant to §17 to the extent that (i) the obligation to withhold amounts with respect to United States Federal

withholding tax existed on the date such Non-U.S. Bank became a party to this Agreement or, with respect to payments to a different lending office designated by the Non-U.S. Bank as its applicable lending office (a "New Lending Office"), the date such Non-U.S. Bank designated such New Lending Office with respect to a Loan; provided, however, that this clause (i) shall not apply to any transferee or New Lending Office as a result of an assignment, transfer or designation made at the request of the Borrower; and provided further, however, that this clause (i) shall not apply to the extent the indemnity payment or additional amounts any transferee, or Bank through a New Lending Office, would be entitled to receive without regard to this clause (i) do not exceed the indemnity payment or additional amounts that the Person making the assignment or transfer to such transferee, or Bank making the designation of such New Lending Office, would have been entitled to receive in the absence of such assignment, transfer or designation; or (ii) the obligation to pay such additional amounts would not have arisen but for a failure by such Non-U.S. Bank to comply with the provisions of paragraph (b) above.

(e) Notwithstanding the foregoing, each Bank agrees to use reasonable efforts (consistent with legal and regulatory restrictions) to change its lending office to avoid or to minimize any amounts otherwise payable under §17 in each case solely if such change can be made in a manner so that such Bank, in its sole determination, suffers no legal, economic or regulatory disadvantage.

§5.2. Mandatory Repayments of the Loans. If at any time (including without limitation by reason of fluctuation in the rate of exchange between the Canadian Dollar and the U.S. Dollar) the sum of the outstanding principal amount of the Loans plus the Maximum Drawing Amount of all outstanding Letters of Credit exceeds the Total Commitment, whether by reduction of the Total Commitment or otherwise, then the Borrower shall immediately pay the amount of such excess to the Administrative Agent, (i) for application to the Loans, first to Syndicated Loans, then to Competitive Bid Loans, subject to §5.8, or (ii) if no Loans shall be outstanding, to be held by the Administrative Agent for the benefit of the Banks as collateral security for such excess Maximum Drawing Amount and the Borrower hereby grants a security interest in such amount to the Administrative Agent for the benefit of the Banks; provided, however, that if the amount of cash collateral held by the Administrative Agent pursuant to this §5.2(a) exceeds the Maximum Drawing Amount required to be collateralized from time to time, the Administrative Agent shall return such excess to the Borrower.

§5.3. Computations. Except as otherwise expressly provided herein, all computations of interest, Facility Fees, Letter of Credit Fees or other fees shall be based on a 360-day year and paid for the actual number of days elapsed, except that computations based on the Base Rate shall be based on a 365 or 366, as applicable, day year and paid for the actual number of days elapsed. Whenever a payment hereunder or under any of the other Loan Documents becomes due on a day that is not a Business Day, the due date for such payment shall be extended to the next succeeding Business Day, and interest shall accrue during such extension; provided that for any Interest Period for any Eurodollar Loan if such next succeeding Business Day falls in the next succeeding calendar month or after the Maturity Date, it shall be deemed to end on the next preceding Business Day.

§5.4. Illegality; Inability to Determine Eurodollar Rate. Notwithstanding any other provision of this Agreement (other than §5.10), if (a) the introduction of, any change in, or any change in the interpretation of, any law or regulation applicable to any Bank or the Administrative Agent shall make it unlawful, or any central bank or other governmental authority having jurisdiction thereof shall assert that it is unlawful, for any Bank or the Administrative Agent to perform its obligations in respect of any Eurodollar Loans, or (b) if any Bank or the Administrative Agent, as applicable, shall reasonably determine with respect to Eurodollar Loans that (i) by reason of circumstances affecting any Eurodollar interbank market, adequate and reasonable methods do not exist for ascertaining the Eurodollar Rate which would otherwise be applicable during any Interest Period, or (ii) deposits of Dollars in the relevant amount for the relevant Interest Period are not available to such Bank or the Administrative Agent in any Eurodollar interbank market, or (iii) the Eurodollar Rate does not or will not accurately reflect the cost to such Bank or the Administrative Agent of obtaining or maintaining the Eurodollar Loans during any Interest Period, then such Bank or the Administrative Agent shall promptly give telephonic, telex or cable notice of such determination to the Borrower (which notice shall be conclusive and binding upon the Borrower). Upon such notification by the Bank or the Administrative Agent, the obligation of the Banks and the Administrative Agent to make Eurodollar Loans shall be suspended until the Banks or the Administrative Agent, as the case may be, determine that such circumstances no longer exist, and to the extent permitted by law the outstanding Eurodollar Loans shall continue to bear interest at the applicable rate based on the Eurodollar Rate until the end of the applicable Interest Period, and thereafter shall be deemed converted to Base Rate Loans in equal principal amounts to such former Eurodollar Loans.

§5.5. Additional Costs, Etc. If any present or future applicable law (which expression, as used herein, includes statutes, rules and regulations thereunder and interpretations thereof by any competent court or by any governmental or other regulatory body or official charged with the administration or the interpretation thereof and requests, directives, instructions and notices at any time or from time to time hereafter made upon or otherwise issued to any Bank by any central bank or other fiscal, monetary or other authority, whether or not having the force of law) shall:

(a) subject such Bank to any tax, levy, impost, duty, charge, fee, deduction or withholding of any nature with respect to this Agreement, the other Loan Documents, such Bank's Commitment or the Loans (other than taxes based upon or measured by the income or profits of such Bank imposed by the jurisdiction of its incorporation or organization, or the location of its lending office); or

(b) materially change the basis of taxation (except for changes in taxes on income or profits of such Bank imposed by the jurisdiction of its incorporation or organization, or the location of its lending office) of payments to such Bank of the principal or of the interest on any Loans or any other amounts payable to such Bank under this Agreement or the other Loan Documents; or

(c) except as provided in §5.6 or as otherwise reflected in the Base Rate, the Eurodollar Rate, or the applicable rate for Competitive Bid Loans, impose or increase or render applicable (other than to the extent specifically provided for elsewhere in this

Agreement) any special deposit, reserve, assessment, liquidity, capital adequacy or other similar requirements (whether or not having the force of law) against assets held by, or deposits in or for the account of, or loans by, or commitments of, an office of any Bank with respect to this Agreement, the other Loan Documents, such Bank's Commitment or the Loans; or

(d) impose on such Bank any other conditions or requirements with respect to this Agreement, the other Loan Documents, the Loans, such Bank's Commitment or any class of loans or commitments of which any of the Loans or such Bank's Commitment forms a part, and the result of any of the foregoing is:

(i) to increase the cost to such Bank of making, funding, issuing, renewing, extending or maintaining the Loans or such Bank's Commitment or issuing or participating in Letters of Credit;

(ii) to reduce the amount of principal, interest or other amount payable to such Bank hereunder on account of such Bank's Commitment, the Loans or the Reimbursement Obligations; or

(iii) to require such Bank to make any payment or to forego any interest or other sum payable hereunder, the amount of which payment or foregone interest or other sum is calculated by reference to the gross amount of any sum receivable or deemed received by such Bank from the Borrower hereunder,

then, and in each such case, the Borrower will, upon demand made by such Bank at any time and from time to time as often as the occasion therefor may arise (which demand shall be accompanied by a statement setting forth the basis of such demand which shall be conclusive absent manifest error), pay such reasonable additional amounts as will be sufficient to compensate such Bank for such additional costs, reduction, payment or foregone interest or other sum; provided that the determination and allocation of amounts, if any, claimed by any Bank under this Section 5.5 are made on a reasonable basis in a manner consistent with such Bank's treatment of customers of such Bank that such Bank considers, in its reasonable discretion, to be similar to the Borrower and having generally similar provisions in their agreements with such Bank.

§5.6. Capital Adequacy. If any Bank shall have determined that, after the date hereof, (a) the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change in any such law, rule, or regulation, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, or (b) compliance by such Bank or the Administrative Agent or any corporation controlling such Bank or the Administrative Agent with any law, governmental rule, regulation, policy, guideline or directive (whether or not having the force of law) of any such entity regarding capital adequacy, has or would have the effect of reducing the rate of return on capital of such Bank (or any corporation controlling such Bank) as a consequence of such Bank's

obligations hereunder to a level below that which such Bank (or any corporation controlling such Bank) could have achieved but for such adoption, change, request or directive (taking into consideration its policies with respect to capital adequacy) by an amount deemed by such Bank to be material, then from time to time, within 15 days after demand by such Bank, the Borrower shall pay to such Bank such additional amount or amounts as will, in such Bank's reasonable determination, fairly compensate such Bank (or any corporation controlling such Bank) for such reduction. Each Bank shall allocate such cost increases among its customers in good faith and on an equitable basis.

§5.7. Certificate. A certificate setting forth the additional amounts payable pursuant to §5.5 or §5.6 and a reasonable explanation of such amounts which are due, submitted by any Bank to the Borrower, shall be conclusive, absent manifest error, that such amounts are due and owing; provided that no Bank shall be entitled to additional amounts with respect to events or circumstances occurring more than one hundred and twenty (120) days prior to the delivery of such certificate.

§5.8. Eurodollar and Competitive Bid Indemnity. The Borrower agrees to indemnify the Banks and the Administrative Agent and to hold them harmless from and against any reasonable loss, cost or expense that any such Bank and the Administrative Agent may sustain or incur as a consequence of (a) the default by the Borrower in payment of the principal amount of or any interest on any Eurodollar Loans or Competitive Bid Loans as and when due and payable, including any such loss or expense arising from interest or fees payable by any Bank or the Administrative Agent to lenders of funds obtained by it in order to maintain its Eurodollar Loans or Competitive Bid Loans, (b) the default by the Borrower in making a Borrowing of a Eurodollar Loan or Competitive Bid Loan or conversion of a Eurodollar Loan or a prepayment of a Eurodollar or Competitive Bid Loan after the Borrower has given (or is deemed to have given) a Syndicated Loan Request, a notice pursuant to §2.7 or a Notice of Acceptance/Rejection of Competitive Bid Quote(s), or a notice pursuant to §2.10, and (c) the making of any payment of a Eurodollar Loan or Competitive Bid Loan, or the making of any conversion of any Eurodollar Loan to a Base Rate Loan on a day that is not the last day of the applicable Interest Period with respect thereto. Such loss, cost, or reasonable expense shall include an amount equal to the excess, if any, as reasonably determined by each Bank of (i) its cost of obtaining the funds for (A) the Eurodollar Loan being paid, prepaid, converted, not converted, reallocated, or not borrowed, as the case may be (based on the Eurodollar Rate), or (B) the Competitive Bid Loan being paid, prepaid, or not borrowed, as the case may be (based on the applicable interest rate) for the period from the date of such payment, prepayment, conversion, or failure to borrow or convert, as the case may be, to the last day of the Interest Period for such Loan (or, in the case of a failure to borrow, the Interest Period for the Loan which would have commenced on the date of such failure to borrow) over (ii) the amount of interest (as reasonably determined by such Bank) that would be realized by such Bank in reemploying the funds so paid, prepaid, converted, or not borrowed, converted, or prepaid for such period or Interest Period, as the case may be, which determinations shall be conclusive absent manifest error.

§5.9. Interest on Overdue Amounts. Overdue principal and (to the extent permitted by applicable law) interest on the Loans and all other overdue amounts payable hereunder or under any of the other Loan Documents shall bear interest compounded monthly

and payable on demand at a rate per annum equal to the Applicable Base Rate plus 2% per annum, until such amount shall be paid in full (after as well as before judgment).

§5.10. Interest Limitation. Notwithstanding any other term of this Agreement, any other Loan Document or any other document referred to herein or therein, the maximum amount of interest which may be charged to or collected from any Person liable hereunder by any Bank shall be absolutely limited to, and shall in no event exceed, the maximum amount of interest which could lawfully be charged or collected by such Bank under applicable laws (including, to the extent applicable, the provisions of §5197 of the Revised Statutes of the United States of America, as amended, and 12 U.S.C. §85, as amended, and without prejudice to the first sentence of §26 hereof).

§5.11. Reasonable Efforts to Mitigate. Each Bank agrees that as promptly as practicable after it becomes aware of the occurrence of an event or the existence of a condition that would cause it to be affected under §§5.4, 5.5 or 5.6, such Bank will give notice thereof to the Borrower, with a copy to the Administrative Agent and, to the extent so requested by the Borrower and not inconsistent with such Bank's internal policies, such Bank shall use reasonable efforts and take such actions as are reasonably appropriate if as a result thereof the additional moneys which would otherwise be required to be paid to such Bank pursuant to such sections would be materially reduced, or the illegality or other adverse circumstances which would otherwise require a conversion of such Loans or result in the inability to make such Loans pursuant to such sections would cease to exist, and in each case if, as determined by such Bank in its sole discretion, the taking of such actions would not adversely affect such Loans or such Bank or otherwise be disadvantageous to such Bank.

§5.12. Replacement of Banks. If any Bank (an "Affected Bank") (1) makes demand upon the Borrower for (or if the Borrower is otherwise required to pay) amounts pursuant to §§5.5 or 5.6, (ii) is unable to make or maintain Eurodollar Loans as a result of a condition described in §5.4 or (iii) defaults in its obligation to make Loans or to participate in Letters of Credit in accordance with the terms of this Agreement (such Bank being referred to as a "Defaulting Bank"), the Borrower may, within 90 days of receipt of such demand, notice (or the occurrence of such other event causing the Borrower to be required to pay such compensation or causing §5.4 to be applicable), or default, as the case may be, by notice (a "Replacement Notice") in writing to the Administrative Agent and such Affected Bank (A) request the Affected Bank to cooperate with the Borrower in obtaining a replacement bank satisfactory to the Administrative Agent and the Borrower (the "Replacement Bank") as provided herein, but none of such Banks shall be under an obligation to find a Replacement Bank; (B) request the non-Affected Banks to acquire and assume all of the Affected Bank's Loans and Commitment, and to participate in Letters of Credit as provided herein, but none of such Banks shall be under an obligation to do so; or (C) designate a Replacement Bank reasonably satisfactory to the Administrative Agent. If any satisfactory Replacement Bank shall be obtained, and/or any of the non-Affected Banks shall agree to acquire and assume all of the Affected Bank's Loans and Commitment, and to participate in Letters of Credit, then such Affected Bank shall, so long as no Event of Default shall have occurred and be continuing, assign, in accordance with §20, all of its Commitment, Loans, and other rights and obligations under this Agreement and all other Loan Documents to such Replacement Bank or non-Affected Banks, as the case may be, in

exchange for payment of the principal amount so assigned and all interest and fees accrued on the amount so assigned, plus all other Obligations then due and payable to the Affected Bank; provided, however, that (x) such assignment shall be without recourse, representation or warranty and shall be on terms and conditions reasonably satisfactory to such Affected Bank and such Replacement Bank and/or non-Affected Banks, as the case may be, and (y) prior to any such assignment, the Borrower shall have paid to such Affected Bank all amounts properly demanded and unreimbursed under §§5.5, 5.6 and 5.8. Upon the effective date of such assignment, such Replacement Bank shall become a “Bank” for all purposes under this Agreement and the other Loan Documents.

§5.13. Advances by Administrative Agent. Unless the Administrative Agent shall have been notified in writing by any Bank prior to a borrowing hereunder that such Bank will not make the amount that would constitute its allocable share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Bank is making such amount available to the Administrative Agent, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such amount is not made available to the Administrative Agent by the required time on the borrowing date therefor, such Bank shall pay to the Administrative Agent, on demand, such amount with interest thereon at a rate equal to the daily average Federal Funds Rate for the period until such Bank makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Bank with respect to any amounts owing under this Section shall be conclusive in the absence of manifest error. If such Bank’s Commitment Percentage of such borrowing is not made available to the Administrative Agent by such Bank within three Business Days of such borrowing date, the Administrative Agent shall be entitled to recover such amount with interest thereon at the rate per annum applicable to such Loan hereunder, on demand, from the Borrower.

§6. REPRESENTATIONS AND WARRANTIES. The Borrower (and the Guarantor, where applicable) represents and warrants to the Banks that:

§6.1. Corporate Authority.

(a) Incorporation; Good Standing. The Borrower and each of its Significant Subsidiaries (i) is duly organized, validly existing and in good standing under the laws of its respective jurisdiction of formation, (ii) has all requisite corporate power to own its property and conduct its business as now conducted and as presently contemplated, and (iii) is in good standing and is duly authorized to do business in each jurisdiction in which its property or business as presently conducted or contemplated makes such qualification necessary, except where a failure to be so qualified could not reasonably be expected to have a Material Adverse Effect.

(b) Authorization. The execution, delivery and performance of its Loan Documents and the transactions contemplated hereby and thereby (i) are within the corporate authority of the Borrower and the Guarantor, (ii) have been duly authorized by all necessary corporate proceedings on the part of each of the Borrower and the Guarantor, (iii) do not conflict with or result in any breach or contravention of any provision of law, statute, rule or regulation to which any of the Borrower or the

Guarantor or any of their Subsidiaries is subject, (iv) do not contravene any judgment, order, writ, injunction, license or permit applicable to the Borrower, the Guarantor or any of their Subsidiaries so as to have a Material Adverse Effect, and (v) do not conflict with any provision of the corporate charter or bylaws of the Borrower, the Guarantor or any Significant Subsidiary or any agreement or other instrument binding upon the Borrower, the Guarantor or any of their Significant Subsidiaries, except for those conflicts with any such agreement or instrument which could not reasonably be expected to have a Material Adverse Effect.

(c) **Enforceability.** The execution, delivery and performance of the Loan Documents by the Borrower and the Guarantor will result in valid and legally binding obligations of the Borrower and the Guarantor enforceable against them in accordance with the respective terms and provisions hereof and thereof, except as enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights generally and general principles of equity.

§6.2. Governmental and Other Approvals. The execution, delivery and performance of the Loan Documents by the Borrower and the Guarantor and the consummation by the Borrower and the Guarantor of the transactions contemplated hereby and thereby do not require any approval or consent of, or filing with, any governmental agency or authority or other third party other than those already obtained and those required after the date hereof in connection with the Borrower's performance of the covenants contained in §§7, 8 and 9 hereof.

§6.3. Title to Properties; Leases. The Borrower and its Subsidiaries own all of the assets reflected in the consolidated balance sheet as at the Interim Balance Sheet Date or acquired since that date (except property and assets operated under Capital Leases or sold or otherwise disposed of in the ordinary course of business since that date), subject to no Liens except Permitted Liens.

§6.4. Financial Statements; Solvency.

(a) There have been furnished to the Banks consolidated balance sheets of the Borrower dated the Balance Sheet Date and consolidated statements of operations for the fiscal periods then ended, certified by the Accountants. In addition, there have been furnished to the Banks consolidated balance sheets of the Borrower and its Subsidiaries dated the Interim Balance Sheet Date and the related consolidated statements of operations for the fiscal quarter ending on the Interim Balance Sheet Date. All said balance sheets and statements of operations have been prepared in accordance with GAAP (but, in the case of any of such financial statements which are unaudited, only to the extent GAAP is applicable to interim unaudited reports), and fairly present, in all material respects, the financial condition of the Borrower on a consolidated basis as at the close of business on the dates thereof and the results of operations for the periods then ended, subject, in the case of unaudited interim financial statements, to changes resulting from audit and normal year-end adjustments and to the absence of complete footnotes. There are no contingent liabilities of the Borrower and its Subsidiaries involving material

amounts, known to the officers of the Borrower or the Guarantor, which have not been disclosed in said balance sheets and the related notes thereto or otherwise in writing to the Banks.

(b) The Borrower on a consolidated basis (both before and after giving effect to the transactions contemplated by this Agreement) is solvent (i.e., it has assets having a fair value in excess of the amount required to pay its probable liabilities on its existing debts as they become absolute and matured) and has, and expects to have, the ability to pay its debts from time to time incurred in connection therewith as such debts mature.

§6.5. No Material Changes, Etc. Since the Balance Sheet Date, there have been no material adverse changes in the consolidated financial condition, business, assets or liabilities (contingent or otherwise) of the Borrower and its Subsidiaries, taken as a whole, other than changes in the ordinary course of business which have not had a Material Adverse Effect.

§6.6. Franchises, Patents, Copyrights, Etc. The Borrower and each of its Subsidiaries possess all franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in respect of the foregoing, adequate for the conduct of their business substantially as now conducted (other than those the absence of which would not have a Material Adverse Effect) without known conflict with any rights of others other than a conflict which would not have a Material Adverse Effect.

§6.7. Litigation. Except as set forth on Schedule 6.7 or in the Disclosure Documents, there are no actions, suits, proceedings or investigations of any kind pending or, to the knowledge of the Borrower, threatened against the Borrower or any of its Subsidiaries before any court, tribunal or administrative agency or board which, either in any case or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

§6.8. No Materially Adverse Contracts, Etc. Neither the Borrower nor any of its Subsidiaries is subject to any charter, corporate or other legal restriction, or any judgment, decree, order, rule or regulation which in the judgment of the Borrower's or such Subsidiary's officers has or could reasonably be expected in the future to have a Material Adverse Effect. Neither the Borrower nor any of its Subsidiaries is a party to any contract or agreement which in the judgment of the Borrower's or its Subsidiary's officers has or could reasonably be expected to have any Material Adverse Effect, except as otherwise reflected in adequate reserves as required by GAAP.

§6.9. Compliance With Other Instruments, Laws, Etc. Neither the Borrower nor any of its Subsidiaries is (a) violating any provision of its charter documents or bylaws or (b) violating any agreement or instrument to which any of them may be subject or by which any of them or any of their properties may be bound or any decree, order, judgment, or any statute, license, rule or regulation, in a manner which could (in the case of such agreements or such instruments) reasonably be expected to result in a Material Adverse Effect.

§6.10. Tax Status. The Borrower and its Subsidiaries have filed all federal, state, provincial and territorial income and all other tax returns, reports and declarations (or obtained extensions with respect thereto) required by applicable law to be filed by them (unless and only to the extent that the Borrower or such Subsidiary has set aside on its books provisions reasonably adequate for the payment of all unpaid and unreported taxes as required by GAAP); and have paid all taxes and other governmental assessments and charges (other than taxes, assessments and other governmental charges imposed by jurisdictions other than the United States, Canada or any political subdivision thereof which in the aggregate are not material to the financial condition, business or assets of the Borrower or such Subsidiary on an individual basis or of the Borrower on a consolidated basis) that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith; and, as required by GAAP, have set aside on their books provisions reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. Except to the extent contested in the manner permitted in the preceding sentence, there are no unpaid taxes in any material amount claimed by the taxing authority of any jurisdiction to be due and owing by the Borrower or any Subsidiary, nor do the officers of the Borrower or any of its Subsidiaries know of any basis for any such claim.

§6.11. No Event of Default. No Default or Event of Default has occurred hereunder and is continuing.

§6.12. Holding Company and Investment Company Acts. Neither the Borrower nor any of its Subsidiaries is a “holding company”, or a “subsidiary company” of a “holding company”, or an “affiliate” of a “holding company”, as such terms are defined in the Public Utility Holding Company Act of 1935; nor is any of them a “registered investment company”, or an “affiliated company” or a “principal underwriter” of a “registered investment company”, as such terms are defined in the Investment Company Act of 1940.

§6.13. Absence of Financing Statements, Etc. Except as permitted by §8.1 of this Agreement, there is no Indebtedness senior to the Obligations, and except for Permitted Liens, there are no Liens, or any effective financing statement, security agreement, chattel mortgage, real estate mortgage or other document filed or recorded with any filing records, registry, or other public office, which purports to cover, affect or give notice of any present or possible future Lien on any assets or property of the Borrower or any of its Subsidiaries or right thereunder.

§6.14. Employee Benefit Plans.

§6.14.1. In General. Each Employee Benefit Plan has been maintained and operated in compliance with the provisions of ERISA and, to the extent applicable, the Code, including but not limited to the provisions thereunder respecting prohibited transactions. Promptly upon the request of any Bank or the Administrative Agent, the Borrower will furnish to the Administrative Agent the most recently completed annual report, Form 5500, with all required attachments, and actuarial statement required to be submitted under §103(d) of ERISA, with respect to each Guaranteed Pension Plan.

§6.14.2. Terminability of Welfare Plans. Under each Employee Benefit Plan which is an employee welfare benefit plan within the meaning of §3(1) or §3(2)(B) of ERISA, no benefits are due unless the event giving rise to the benefit entitlement occurs prior to plan termination (except as required by Title 1, Part 6 of ERISA) . The Borrower or an ERISA Affiliate, as appropriate, may terminate each such Plan at any time (or at any time subsequent to the expiration of any applicable bargaining agreement) in the discretion of the Borrower or such ERISA Affiliate without material liability to any Person.

§6.14.3. Guaranteed Pension Plans. Each contribution required to be made to a Guaranteed Pension Plan, whether required to be made to avoid the incurrence of an accumulated funding deficiency, the notice or lien provisions of §302(f) of ERISA, or otherwise, has been timely made. No waiver of an accumulated funding deficiency or extension of amortization periods has been received with respect to any Guaranteed Pension Plan. No liability to the PBGC (other than required insurance premiums, all of which have been paid) has been incurred by the Borrower or any ERISA Affiliate with respect to any Guaranteed Pension Plan (other than Terminated Plans) and there has not been any ERISA Reportable Event, or any other event or condition which presents a material risk of termination of any Guaranteed Pension Plan by the PBGC. Other than with respect to the Terminated Plans, based on the latest valuation of each Guaranteed Pension Plan (which in each case occurred within twelve months of the date of this representation), and on the actuarial methods and assumptions employed for that valuation, the aggregate benefit liabilities of all such Guaranteed Pension Plans within the meaning of §4001 of ERISA did not exceed the aggregate value of the assets of all such Guaranteed Pension Plans, disregarding for this purpose the benefit liabilities and assets of any Guaranteed Pension Plan with assets in excess of benefit liabilities.

§6.14.4. Multiemployer Plans. Neither the Borrower nor any ERISA Affiliate has incurred any material liability (including secondary liability) to any Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan under §4201 of ERISA or as a result of a sale of assets described in §4204 of ERISA. Neither the Borrower nor any ERISA Affiliate has been notified that any Multiemployer Plan is in reorganization or insolvent under and within the meaning of §4241 or §4245 of ERISA or that any Multiemployer Plan intends to terminate or has been terminated under §4041A of ERISA.

§6.15. Environmental Compliance. The Borrower and its Subsidiaries have taken all steps that they have deemed reasonably necessary to investigate the past and present condition and usage of the Real Property and the operations conducted by the Borrower and its Subsidiaries and, based upon such diligent investigation, have determined that, except as set forth on Schedule 6.15 or in the Disclosure Documents:

(a) Neither the Borrower, its Significant Subsidiaries, nor any operator of their properties, is in violation, or alleged violation, of any judgment, decree, order, law, permit, license, rule or regulation pertaining to environmental matters, including without limitation, those arising under the Resource Conservation and Recovery Act (“RCRA”),

the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (“CERCLA”), the Superfund Amendments and Reauthorization Act of 1986 (“SARA”), the Federal Clean Water Act, the Federal Clean Air Act, the Toxic Substances Control Act, or any applicable international, federal, state, provincial, territorial or local statute, regulation, ordinance, order or decree relating to health, safety, waste transportation or disposal, or the environment (the “Environmental Laws”), which violation, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(b) Except with respect to any such matters that could not reasonably be expected to have a Material Adverse Effect, neither the Borrower nor any of its Significant Subsidiaries has received notice from any third party including, without limitation: any federal, state, provincial, territorial or local governmental authority, (i) that any one of them has been identified by the United States Environmental Protection Agency (“EPA”) as a potentially responsible party under CERCLA with respect to a site listed on the National Priorities List, 40 C.F.R. Part 300 Appendix B; (ii) that any hazardous waste, as defined by 42 U.S.C. §6903(5), any hazardous substances as defined by 42 U.S.C. §9601(14), any pollutant or contaminant as defined by 42 U.S.C. §9601(33) or any toxic substance, oil or hazardous materials or other chemicals or substances regulated by any Environmental Laws, excluding household hazardous waste (“Hazardous Substances”), which any one of them has generated, transported or disposed of, has been found at any site at which a federal, state, provincial, territorial or local agency or other third party has conducted or has ordered that the Borrower or any of its Significant Subsidiaries conduct a remedial investigation, removal or other response action pursuant to any Environmental Law; or (iii) that it is or shall be a named party to any claim, action, cause of action, complaint, legal or administrative proceeding arising out of any third party’s incurrence of costs, expenses, losses or damages of any kind whatsoever in connection with the Release of Hazardous Substances.

(c) Except for those occurrences or situations that could not reasonably be expected to have a Material Adverse Effect, (i) no portion of the Real Property or other assets of the Borrower and its Significant Subsidiaries has been used for the handling, processing, storage or disposal of Hazardous Substances except in accordance with applicable Environmental Laws; (ii) in the course of any activities conducted by the Borrower, its Significant Subsidiaries, or operators of the Real Property or other assets of the Borrower and its Significant Subsidiaries, no Hazardous Substances have been generated or are being used on such properties except in accordance with applicable Environmental Laws; (iii) there have been no unpermitted Releases or threatened Releases of Hazardous Substances on, upon, into or from the Real Property or other assets of the Borrower or its Significant Subsidiaries; and (iv) any Hazardous Substances that have been generated on the Real Property or other assets of the Borrower or its Significant Subsidiaries have been transported offsite only by carriers having an identification number issued by the EPA, treated or disposed of only by treatment or disposal facilities maintaining valid permits as required under applicable Environmental Laws, which transporters and facilities have been and are, to the Borrower’s knowledge, operating in compliance with such permits and applicable Environmental Laws.

§6.16. Disclosure. No representation or warranty made by the Borrower or the Guarantor in this Agreement or in any agreement, instrument, document, certificate, or financial statement furnished to the Banks or the Administrative Agent by or on behalf of or at the request of the Borrower and the Guarantor in connection with any of the transactions contemplated by the Loan Documents contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein, taken as a whole, not misleading in light of the circumstances in which they are made.

§6.17. Permits and Governmental Authority. All permits (other than those the absence of which could not reasonably be expected to have a Material Adverse Effect) required for the construction and operation of all landfills currently owned or operated by the Borrower or any of its Significant Subsidiaries have been obtained and remain in full force and effect and are not subject to any appeals or further proceedings or to any unsatisfied conditions that may allow material modification or revocation. Neither the Borrower nor any of its Subsidiaries, nor, to the knowledge of the Borrower, the holder of such permits is in violation of any such permits, except for any violation which could not reasonably be expected to have a Material Adverse Effect.

§7. AFFIRMATIVE COVENANTS OF THE BORROWER. The Borrower agrees that, so long as any Obligation or Letter of Credit is outstanding or the Banks have any obligation to make Loans or any Issuing Bank has any obligation to issue, extend or renew any Letter of Credit hereunder, or the Banks have any obligations to reimburse any Issuing Bank for drawings honored under any Letter of Credit, it shall, and shall cause its Subsidiaries to, comply with the following covenants:

§7.1. Punctual Payment. The Borrower will duly and punctually pay or cause to be paid the principal of and interest on the Loans, all Reimbursement Obligations, fees and other amounts provided for in this Agreement and the other Loan Documents, all in accordance with the terms of this Agreement and such other Loan Documents.

§7.2. Maintenance of U.S. Office. The Borrower will maintain its chief executive offices at Houston, Texas, or at such other place in the United States of America as the Borrower shall designate upon 30 days' prior written notice to the Administrative Agent.

§7.3. Records and Accounts. The Borrower will, and will cause each of its Subsidiaries to, keep true and accurate records and books of account in which full, true and correct entries will be made in accordance with GAAP and with the requirements of all regulatory authorities and maintain adequate accounts and reserves for all taxes (including income taxes), depreciation, depletion, obsolescence and amortization of its properties, all other contingencies, and all other proper reserves.

§7.4. Financial Statements, Certificates and Information. The Borrower will deliver to the Banks:

(a) as soon as practicable, but, in any event not later than 100 days after the end of each fiscal year of the Borrower, the consolidated balance sheet of the Borrower as at the end of such year, consolidated statements of cash flows, and the related

consolidated statements of operations, each setting forth in comparative form the figures for the previous fiscal year, all such consolidated financial statements to be in reasonable detail, prepared in accordance with GAAP and, with respect to the consolidated financial statements, certified by Ernst & Young LLP or by other nationally recognized independent auditors selected by the Borrower and reasonably satisfactory to the Administrative Agent (the "Accountants"). In addition, simultaneously therewith, the Borrower shall provide the Banks with a written statement from such Accountants to the effect that they have read a copy of this Agreement, and that, in making the examination necessary to said certification, they have obtained no knowledge of any Default or Event of Default, or, if such Accountants shall have obtained knowledge of any then existing Default or Event of Default they shall disclose in such statement any such Default or Event of Default;

(b) as soon as practicable, but in any event not later than 60 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, copies of the consolidated balance sheet and statement of operations of the Borrower as at the end of such quarter, subject to year-end adjustments, and the related consolidated statement of cash flows, all in reasonable detail and prepared in accordance with GAAP (to the extent GAAP is applicable to interim unaudited financial statements) with a certification by the principal financial or accounting officer of the Borrower (the "CFO or the CAO") that the consolidated financial statements are prepared in accordance with GAAP (to the extent GAAP is applicable to interim unaudited financial statements) and fairly present, in all material respects, the consolidated financial condition of the Borrower as at the close of business on the date thereof and the results of operations for the period then ended, subject to year-end adjustments and the exclusion of detailed footnotes;

(c) simultaneously with the delivery of the financial statements referred to in (a) and (b) above, a certificate in the form of Exhibit C hereto (the "Compliance Certificate") signed by the CFO or the CAO or the Borrower's corporate treasurer, stating that the Borrower and its Subsidiaries are in compliance with the covenants contained in §§7, 8 and 9 hereof as of the end of the applicable period and setting forth in reasonable detail computations evidencing such compliance with respect to the covenants contained in §9 hereof and that no Default or Event of Default exists, provided that if the Borrower shall at the time of issuance of such Compliance Certificate or at any other time obtain knowledge of any Default or Event of Default, the Borrower shall include in such certificate or otherwise deliver forthwith to the Banks a certificate specifying the nature and period of existence thereof and what action the Borrower proposes to take with respect thereto;

(d) promptly following the filing or mailing thereof, copies of all material of a financial nature filed with the Securities and Exchange Commission or sent to the Borrower's and its Subsidiaries' stockholders generally; and

(e) from time to time such other financial data and other information as any of the Banks may reasonably request through the Administrative Agent.

The Borrower hereby authorizes each Bank to disclose any information obtained pursuant

to this Agreement to all appropriate governmental regulatory authorities where required by law; provided, however, this authorization shall not be deemed to be a waiver of any rights to object to the disclosure by the Banks of any such information which the Borrower has or may have under the federal Right to Financial Privacy Act of 1978, as in effect from time to time, except as to matters specifically permitted therein.

§7.5. Existence and Conduct of Business. The Borrower will, and will cause each Significant Subsidiary to, do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights and franchises; and effect and maintain its foreign qualifications (except where the failure of the Borrower or any Significant Subsidiary to remain so qualified could not reasonably be expected to have a Material Adverse Effect), licensing, domestication or authorization, except as any of the foregoing may be terminated by its Board of Directors in the exercise of its reasonable judgment; provided that such termination could not reasonably be expected to have a Material Adverse Effect. The Borrower will not, and will cause its Subsidiaries not to, become obligated under any contract or binding arrangement which, at the time it was entered into, could reasonably be expected to have a Material Adverse Effect. The Borrower will, and will cause each Subsidiary to, continue to engage primarily in any of the businesses now conducted by the Borrower and its Subsidiaries and in related, complementary or supplemental businesses, and any additional businesses acquired pursuant to the terms of §8.4(a) hereunder.

§7.6. Maintenance of Properties. The Borrower will, and will cause its Significant Subsidiaries to, cause all material properties used or useful in the conduct of their businesses to be maintained and kept in good condition, repair and working order (ordinary wear and tear excepted) and supplied with all necessary equipment and cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Borrower and its Significant Subsidiaries may be necessary so that the businesses carried on in connection therewith may be properly and advantageously conducted at all times; provided, however, that nothing in this section shall prevent the Borrower or any of its Subsidiaries from discontinuing the operation and maintenance of any of its properties if such discontinuance is, in the judgment of the Borrower or such Subsidiary, desirable in the conduct of its or their business and which could not reasonably be expected to have a Material Adverse Effect.

§7.7. Insurance. The Borrower will, and will cause its Subsidiaries to, maintain insurance of the kinds, covering the risks (other than risks arising out of or in any way connected with personal liability of any officers and directors thereof) and in the relative proportionate amounts usually carried by reasonable and prudent companies conducting businesses similar to that of the Borrower and its Subsidiaries, in amounts substantially similar to the existing coverage maintained by the Borrower and its Subsidiaries. Such insurance shall be with financially sound and reputable insurance companies (including captive insurance companies), funds or underwriters, or may be pursuant to self-insurance plans. In addition, the Borrower will furnish from time to time, upon the Administrative Agent's request, a summary of the insurance coverage of the Borrower and its Subsidiaries, which summary shall be in form and substance satisfactory to the Administrative Agent and, if requested by the Administrative Agent, will furnish to the Administrative Agent copies of the applicable policies.

§7.8. Taxes. The Borrower will, and will cause its Subsidiaries to, duly pay and discharge, or cause to be paid and discharged, before the same shall become overdue, all taxes, assessments and other governmental charges imposed upon it and its real properties, sales and activities, or any part thereof, or upon the income or profits therefrom, as well as all claims for labor, materials, or supplies, which if unpaid might by law become a Lien upon any of its property; provided, however, that any such tax, assessment, charge, levy or claim need not be paid if the failure to do so (either individually, or in the aggregate for all such failures) could not reasonably be expected to have a Material Adverse Effect and the validity or amount thereof shall currently be contested in good faith by appropriate proceedings and if the Borrower or such Subsidiary shall have set aside on its books adequate reserves with respect thereto as required by GAAP; and provided, further, that the Borrower or such Subsidiary will pay all such taxes, assessments, charges, levies or claims prior to the foreclosure on any Lien which may have attached as security therefor.

§7.9. Inspection of Properties, Books and Contracts. The Borrower will, and will cause its Significant Subsidiaries to, permit the Administrative Agent or any Bank or any of their designated representatives, upon reasonable notice, to visit and inspect any of the properties of the Borrower and its Significant Subsidiaries, to examine the books of account of the Borrower and its Significant Subsidiaries, or contracts (and to make copies thereof and extracts therefrom), and to discuss the affairs, finances and accounts of the Borrower and its Significant Subsidiaries with, and to be advised as to the same by, their officers, all at such times and intervals as may be reasonably requested.

§7.10. Compliance with Laws, Contracts, Licenses and Permits; Maintenance of Material Licenses and Permits. The Borrower will, and will cause each Subsidiary to, (i) comply with the provisions of its charter documents and by-laws; (ii) comply with all agreements and instruments by which it or any of its properties may be bound except where noncompliance could not reasonably be expected to have a Material Adverse Effect; (iii) comply with all applicable laws and regulations (including Environmental Laws), decrees, orders, judgments, licenses and permits, including, without limitation, all environmental permits (“Applicable Requirements”), except where noncompliance with such Applicable Requirements could not reasonably be expected to have a Material Adverse Effect; (iv) maintain all operating permits for all landfills now owned or hereafter acquired, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (v) dispose of hazardous waste only at licensed disposal facilities operating, to the Borrower’s knowledge, in compliance with Environmental Laws, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect. If at any time any authorization, consent, approval, permit or license from any officer, agency or instrumentality of any government shall become necessary or required in order that the Borrower or any Significant Subsidiary may fulfill any of its obligations hereunder or under any other Loan Document, the Borrower will immediately take or cause to be taken all reasonable steps within the power of the Borrower or such Significant Subsidiary to obtain such authorization, consent, approval, permit or license and furnish the Banks with evidence thereof.

§7.11. Environmental Indemnification. The Borrower covenants and agrees that it will indemnify and hold the Banks, the Issuing Banks and the Administrative Agent and their respective affiliates, and each of the representatives, agents and officers of each of the

foregoing, harmless from and against any and all claims, expense, damage, loss or liability incurred by the Banks, the Issuing Banks or the Administrative Agent (including all reasonable costs of legal representation incurred by the Banks, the Issuing Banks or the Administrative Agent) relating to (a) any Release or threatened Release of Hazardous Substances on the Real Property; (b) any violation of any Environmental Laws or Applicable Requirements with respect to conditions at the Real Property or other assets of the Borrower or its Subsidiaries, or the operations conducted thereon; or (c) the investigation or remediation of offsite locations at which the Borrower, any of its Subsidiaries, or their predecessors are alleged to have directly or indirectly Disposed of Hazardous Substances. It is expressly acknowledged by the Borrower that this covenant of indemnification shall survive the payment of the Loans and Reimbursement Obligations and satisfaction of all other Obligations hereunder and shall inure to the benefit of the Banks, the Issuing Banks, the Administrative Agent and their affiliates, successors and assigns.

§7.12. Further Assurances. The Borrower and the Guarantor will cooperate with the Administrative Agent and execute such further instruments and documents as the Administrative Agent shall reasonably request to carry out to the Majority Banks' satisfaction the transactions contemplated by this Agreement.

§7.13. Notice of Potential Claims or Litigation. The Borrower shall deliver to the Banks written notice of the initiation of any action, claim, complaint, investigation or any other notice of dispute or litigation against the Borrower or any of its Subsidiaries that could reasonably be expected to have a Material Adverse Effect, or which questions the validity or enforceability of any Loan Document, together with a copy of each such complaint or other notice received by the Borrower or any of its Subsidiaries if requested by the Administrative Agent within 30 days of receipt thereof or of the determination that such action could reasonably be expected to have a Material Adverse Effect, whichever occurs later (and the Borrower will make such determination in each case as promptly as practicable).

§7.14. Notice of Certain Events Concerning Environmental Claims. The Borrower will promptly, and in any event within ten (10) Business Days of the Borrower's obtaining knowledge thereof, notify the Banks in writing of any of the following events:

(i) the Borrower's or any Significant Subsidiary's obtaining knowledge of any violation of any Environmental Law regarding the Real Property or the Borrower's or any Subsidiary's operations which violation could reasonably be expected to have a Material Adverse Effect;

(ii) the Borrower's or any Significant Subsidiary's obtaining knowledge of any potential or known Release, or threat of Release, of any Hazardous Substance at, from, or into the Real Property which could reasonably be expected to have a Material Adverse Effect;

(iii) the Borrower's or any Significant Subsidiary's receipt of any notice of any material violation of any Environmental Law or of any Release or threatened Release of Hazardous Substances, including a notice or claim of liability or potential responsibility

from any third party (including any federal, state, provincial, territorial or local governmental officials) and including notice of any formal inquiry, proceeding, demand, investigation or other action with regard to (A) the Borrower's, any Significant Subsidiary's or any Person's operation of the Real Property, (B) contamination on, from, or into the Real Property, or (C) investigation or remediation of offsite locations at which the Borrower, any Significant Subsidiary, or its predecessors are alleged to have directly or indirectly Disposed of Hazardous Substances, if any thereof could reasonably be expected to have a Material Adverse Effect; or

(iv) the Borrower's or any Significant Subsidiary's obtaining knowledge that any expense or loss has been incurred by any governmental authority in connection with the assessment, containment, removal or remediation of any Hazardous Substances with respect to which the Borrower or any Significant Subsidiary has been alleged to be liable by such governmental authority or for which a Lien may be imposed on the Real Property by such governmental authority, if any thereof could reasonably be expected to have a Material Adverse Effect.

§7.15. Notice of Default. The Borrower will promptly notify the Banks in writing of the occurrence of any Default or Event of Default. If any Person shall give any notice or take any other action in respect of a claimed default (whether or not constituting an Event of Default) under this Agreement or any other note, evidence of indebtedness, indenture or other obligation evidencing indebtedness in excess of \$25,000,000 as to which the Borrower or any of its Significant Subsidiaries is a party or obligor, whether as principal or surety, the Borrower shall promptly upon obtaining actual knowledge thereof give written notice thereof to the Banks, describing the notice of action and the nature of the claimed default.

§7.16. Use of Proceeds. The proceeds of the Loans shall be used for general corporate purposes, to provide working capital, to backstop commercial paper, to provide letters of credit and to refinance existing Indebtedness of the Borrower and its Subsidiaries. No proceeds of the Loans shall be used in any way that will violate Regulations U or X of the Board of Governors of the Federal Reserve System.

§7.17. Certain Transactions. Except as disclosed in the Disclosure Documents prior to the Effective Date, and except for arm's length transactions pursuant to which the Borrower or any Subsidiary makes payments in the ordinary course of business, none of the officers, directors, or employees or any other affiliate of the Borrower or any Subsidiary are presently or shall be a party to any transaction with the Borrower or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Borrower or any Subsidiary, any corporation, partnership, trust or other entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee or partner.

§8. NEGATIVE COVENANTS OF THE BORROWER. The Borrower agrees that, so long as any Obligation or Letter of Credit is outstanding or the Banks have any obligation to make Loans or any Issuing Bank has any obligation to issue, extend or renew any Letter of

Credit hereunder, or the Banks have any obligation to reimburse any Issuing Bank for drawings honored under any Letter of Credit, it shall, and shall cause its Subsidiaries to, comply with the following covenants:

§8.1. Restrictions on Indebtedness. The Borrower will not permit any of its Subsidiaries to create, incur, assume, or be or remain liable, contingently or otherwise, with respect to any Indebtedness, or become or be responsible in any manner (whether by agreement to purchase any obligations, stock, assets, goods or services, or to supply or advance any funds, assets, goods or services or otherwise) with respect to any Indebtedness of any other Person (other than the Borrower or any of its Subsidiaries), other than:

(a) Indebtedness of the Borrower's Subsidiaries listed in Schedule 8.1(a) and any extension, renewal or refinancing of such Indebtedness, provided that the terms and conditions of any such extensions, renewals or refinancings do not increase the relative priority of the original Indebtedness and provided, further, that such extended, renewed or refinanced Indebtedness does not in the aggregate exceed the Dollar amount of the original Indebtedness; and

(b) Other Indebtedness of the Borrower's Subsidiaries (other than of the Guarantor) provided that the aggregate amount of all such Indebtedness under this §8.1(b), when added (without duplication) to the aggregate outstanding amount of secured Indebtedness of the Borrower and its Subsidiaries under subsections (k), (l) and (m) of the definition of "Permitted Liens" and Indebtedness with respect to Permitted Receivables Transactions, shall not exceed 15% of Consolidated Tangible Assets at any time.

§8.2. Restrictions on Liens. The Borrower will not, and will cause its Subsidiaries not to, create or incur or suffer to be created or incurred or to exist any Lien of any kind upon any property or assets of any character, whether now owned or hereafter acquired, or upon the income or profits therefrom; or transfer any of such property or assets or the income or profits therefrom for the purpose of subjecting the same to the payment of Indebtedness or performance of any other obligation in priority to payment of its general creditors; or acquire, or agree or have an option to acquire, any property or assets upon conditional sale or other title retention or purchase money security agreement, device or arrangement; or suffer to exist for a period of more than 30 days after the same shall have been incurred any Indebtedness or claim or demand against it which if unpaid might by law or upon bankruptcy or insolvency, or otherwise, be given any priority whatsoever over its general creditors; or sell, assign, pledge or otherwise transfer any accounts, contract rights, general intangibles or chattel paper, with or without recourse, except for Permitted Liens.

The Borrower and the Guarantor covenant and agree that if either of them or any of their Subsidiaries shall create or incur any Lien upon any of their respective properties or assets, whether now owned or hereafter acquired, other than Permitted Liens (unless prior written consent shall have been obtained from the Banks), the Borrower and the Guarantor will make or cause to be made effective provision whereby the Obligations and the Guaranteed Obligations will be secured by such Lien equally and ratably with any and all other Indebtedness thereby secured so long as such other Indebtedness shall be so secured; provided that the covenants of

the Borrower and the Guarantor contained in this sentence shall only be in effect for so long as the Borrower or the Guarantor shall be similarly obligated under any other Indebtedness; provided, further, that an Event of Default shall occur for so long as such other Indebtedness becomes secured notwithstanding any actions taken by the Borrower or the Guarantor to ratably secure the Obligations and the Guaranteed Obligations hereunder.

§8.3. Restrictions on Investments. Except to the extent provided in §8.4, neither the Borrower nor any Subsidiary may make or permit to exist or to remain outstanding any Investment, other than Investments in Cash Equivalents unless both before and after giving effect thereto (i) the Borrower and its Subsidiaries are in compliance with the covenants set forth in §§7, 8 and 9 hereof and (ii) there does not exist a Default or Event of Default and no Default or Event of Default would be created by the making of such Investment; provided that the aggregate amount of all Investments (excluding Investments in Cash Equivalents), does not exceed 15% of Consolidated Tangible Assets; and provided further that the ability of the Subsidiaries of the Borrower to incur any Indebtedness in connection with any Investment permitted by this §8.3 shall be governed by §8.1.

§8.4. Mergers, Consolidations, Sales.

(a) Neither the Borrower nor any Subsidiary shall be a party to any merger, consolidation or exchange of stock unless the Borrower shall be the surviving entity with respect to any such transaction to which the Borrower is a party and the Guarantor shall be the survivor of any merger with any other Subsidiary or a Subsidiary shall be the surviving entity (and continue to be a Subsidiary) with respect to any such transactions to which one or more Subsidiaries is a party (and the conditions set forth below are satisfied), or purchase or otherwise acquire all or substantially all of the assets or stock of any class of, or any partnership, membership or joint venture or other interest in, any other Person except as otherwise provided in §8.3 or this §8.4. Notwithstanding the foregoing, the Borrower and its Subsidiaries may purchase or otherwise acquire all or substantially all of the assets or stock of any class of, or joint venture or other interest in, any Person if the following conditions have been met: (i) the proposed transaction will not otherwise create a Default or an Event of Default hereunder; and (ii) the business to be acquired predominantly involves (A) the collection, transfer, hauling, disposal or recycling of solid waste or thermal soil remediation, or (B) other lines of businesses currently engaged in, or related, associated, complementary or supplementary thereto, whether from an operational, business, financial, technical or administrative standpoint; provided that the Borrower or its Subsidiaries may purchase or otherwise acquire all or substantially all of the assets or stock of any class of, or any partnership, membership or joint venture or other interest in, any Persons in unrelated businesses, not to exceed a total aggregate amount of \$400,000,000 during the term of this Agreement. Notwithstanding anything herein to the contrary, the ability of the Subsidiaries of the Borrower to incur any Indebtedness in connection with any transaction permitted pursuant to this §8.4 shall be governed by §8.1.

(b) Neither the Borrower nor any Subsidiary shall sell, transfer, convey or lease any assets or group of assets, including the sale or transfer of any property owned by the Borrower or any Subsidiary in order then or thereafter to lease such property or

lease other property which the Borrower or such Subsidiary intends to use for substantially the same purpose as the property being sold or transferred, or sell or assign, with or without recourse, any receivables, except (i) transfers of real or personal property among Subsidiaries of the Borrower, (ii) so long as no Default or Event of Default has occurred and is continuing, or would result therefrom, sales of assets or pursuant to a sale-leaseback transaction; provided that any net cash proceeds from any such sale or sale-leaseback shall, within 180 days, either be used to pay down outstanding Loans under this Agreement or be reinvested by such Person in assets of the business of the Borrower and its Subsidiaries, used for working capital, invested in Investments in accordance with the provisions of §8.3 or used for other general corporate purposes, (iii) sales of accounts receivable (and contract rights, general intangibles or chattel paper related thereto) more than sixty (60) days past due sold or assigned in the ordinary course of collecting past due accounts, or (iv) pursuant to a Permitted Receivables Transaction.

§8.5. Restricted Distributions and Redemptions. Neither the Borrower nor any of its Subsidiaries will (a) declare or pay any Distributions, or (b) redeem, convert, retire or otherwise acquire shares of any class of its capital stock (other than in connection with a merger permitted by §8.4 hereof or conversion into another form of equity of any preferred shares of the Borrower existing as of the Effective Date pursuant to the terms thereof), unless at the time of such Distribution or redemption no Default or Event of Default exists or would be created hereunder. Notwithstanding the above, any Subsidiary may make Distributions to the Borrower and the Borrower agrees that neither the Borrower nor any Significant Subsidiary will enter into any agreement restricting Distributions from such Significant Subsidiary to the Borrower.

§8.6. Employee Benefit Plans. None of the Borrower, any of its Subsidiaries, or any ERISA Affiliate will:

(a) engage in any “prohibited transaction” within the meaning of §406 of ERISA or §4975 of the Code which could result in a material liability for the Borrower on a consolidated basis; or

(b) permit any Guaranteed Pension Plan to incur an “accumulated funding deficiency”, as such term is defined in §302 of ERISA, whether or not such deficiency is or may be waived; or

(c) fail to contribute to any Guaranteed Pension Plan to an extent which, or terminate any Guaranteed Pension Plan in a manner which, could result in the imposition of a lien or encumbrance on the assets of the Borrower or the Guarantor pursuant to §302(f) or §4068 of ERISA; or

(d) permit or take any action which would result in the aggregate benefit liabilities (within the meaning of §4001 of ERISA), other than with respect to the Terminated Plans, of all Guaranteed Pension Plans exceeding the value of the aggregate assets of such Guaranteed Pension Plans, disregarding for this purpose the benefit liabilities and assets of any such Guaranteed Pension Plan with assets in excess of benefit liabilities.

The Borrower and its Subsidiaries will (i) promptly upon the request of any Bank or the Administrative Agent, furnish to the Banks a copy of the most recent actuarial statement required to be submitted under §103(d) of ERISA and Annual Report, Form 5500, with all required attachments, in respect of each Guaranteed Pension Plan, and (ii) promptly upon receipt or dispatch, furnish to the Banks any notice, report or demand sent or received in respect of a Guaranteed Pension Plan under §§302, 4041, 4042, 4043, 4063, 4065, 4066 and 4068 of ERISA, or in respect of a Multiemployer Plan, under §§4041A, 4202, 4219, 4242 or 4245 of ERISA.

§9. FINANCIAL COVENANTS OF THE BORROWER. The Borrower agrees that, so long as any Obligation or Letter of Credit is outstanding or the Banks have any obligation to make Loans or any Issuing Bank has any obligation to issue, extend or renew any Letter of Credit hereunder, or the Banks have any obligation to reimburse any Issuing Bank for drawings honored under any Letter of Credit, it shall comply with the following covenants:

§9.1. Interest Coverage Ratio. As of the end of any fiscal quarter of the Borrower, the Borrower will not permit the ratio of (a) EBIT for the four fiscal quarters then ending to (b) Consolidated Total Interest Expense for such period to be less than 2.75:1.00.

§9.2. Total Debt to EBITDA. As of the end of any fiscal quarter of the Borrower, the Borrower will not permit the ratio of (a) Total Debt to (b) EBITDA for the four fiscal quarters then ending to exceed 3.50:1.00.

§10. CONDITIONS PRECEDENT.

§10.1. Conditions To Effectiveness. The effectiveness of this Agreement and the obligations of the Banks to make any Loans and of any Issuing Bank to issue Letters of Credit and of the Banks to participate in Letters of Credit and otherwise be bound by the terms of this Agreement shall be subject to the satisfaction of each of the following conditions precedent:

§10.1.1. Corporate Action. All corporate action necessary for the valid execution, delivery and performance by the Borrower and the Guarantor of the Loan Documents shall have been duly and effectively taken, and evidence thereof certified by authorized officers of the Borrower and the Guarantor and satisfactory to the Administrative Agent shall have been provided to the Banks.

§10.1.2. Loan Documents, Etc. Each of the Loan Documents and other documents listed on the closing agenda shall have been duly and properly authorized, executed and delivered by the respective parties thereto and shall be in full force and effect in a form satisfactory to the Majority Banks.

§10.1.3. Certified Copies of Charter Documents. The Banks shall have received from each of the Borrower and the Guarantor, certified by a duly authorized officer of such Person to be true and complete on the Effective Date, (a) its charter or other incorporation documents, (b) its by-laws and (c) good standing certificates and foreign qualifications.

§10.1.4. Incumbency Certificate. The Banks shall have received an incumbency certificate, dated as of the Effective Date, signed by duly

authorized officers of the Borrower and the Guarantor giving the name and bearing a specimen signature of each individual who shall be authorized: (a) to sign the Loan Documents on behalf of the Borrower and the Guarantor; (b) to make Syndicated Loan Requests and Letter of Credit Requests; (c) to make Competitive Bid Quote Requests; and (d) to give notices and to take other action on the Borrower's or the Guarantor's behalf under the Loan Documents.

§10.1.5. Certificates of Insurance. The Administrative Agent shall have received a certificate of insurance from an independent insurance broker dated as of the Effective Date, or within 15 days prior thereto, identifying insurers, types of insurance, insurance limits, and policy terms, and otherwise describing the insurance coverage of the Borrower and its Subsidiaries.

§10.1.6. Opinion of Counsel. The Banks shall have received a favorable legal opinion from the Vice President and Assistant General Counsel of the Borrower and the Guarantor addressed to the Banks, dated the Effective Date, in form and substance satisfactory to the Administrative Agent, and a favorable legal opinion of Milbank, Tweed, Hadley & McCloy LLP, special New York counsel to the Administrative Agent, dated the Effective Date, as to the validity and binding effect of this Agreement.

§10.1.7. Satisfactory Financial Condition. Other than as disclosed in the Disclosure Documents, no material adverse change shall have occurred in the financial condition, results of operations, business, properties or prospects of the Borrower and its Subsidiaries, taken as a whole, since the Balance Sheet Date.

§10.1.8. Payment of Closing Fees. The Borrower shall have paid the agreed-upon closing fees to the Administrative Agent for the account of the Banks.

§10.1.9. Termination of Existing Credit Agreements. The Existing Credit Agreements shall be paid in full and terminated.

§10.1.10. Closing Certificate. The Borrower shall have delivered to the Administrative Agent a certificate, dated as of the Effective Date, stating that, as of such date (a) the representations and warranties set forth herein and in the other Loan Documents are true and correct, and (b) no Default or Event of Default has occurred and is continuing.

§11. CONDITIONS TO ALL LOANS. The obligations of the Banks to make or continue for an additional Interest Period in accordance with §2.7 any Loan and the obligation of any Issuing Bank to issue, extend, or renew any Letter of Credit at the time of and subsequent to the Effective Date is subject to the following conditions precedent:

§11.1. Representations True. The Borrower shall have certified to the Administrative Agent and the Banks that each of the representations and warranties of the Borrower and the Guarantor (as applicable) contained in this Agreement or in any document or instrument delivered pursuant to or in connection with this Agreement, other than the

representation and warranty in §6.5 hereof, is true as of the date as of which they were made and shall also be true at and as of the time of the making of such Loan or the issuance, extension, or renewal of any Letter of Credit, as applicable, with the same effect as if made at and as of that time (except to the extent of changes resulting from transactions contemplated or permitted by this Agreement and changes occurring in the ordinary course of business which either individually or in the aggregate do not result in a Material Adverse Effect, and to the extent that such representations and warranties relate expressly and solely to an earlier date).

§11.2. Performance; No Event of Default. The Borrower shall have performed and complied with all terms and conditions herein required to be performed or complied with by it prior to or at the time of the making of any Loan or the issuance, extension or renewal of any Letter of Credit, and at the time of the making of any Loan or the issuance, renewal or extension of any Letter of Credit there shall exist no Default or Event of Default or condition which would result in a Default or an Event of Default upon consummation of such Loan or issuance, extension, or renewal of any Letter of Credit, as applicable. Each request for a Loan or for issuance, extension or renewal of a Letter of Credit shall constitute certification by the Borrower that the condition specified in this §11.2 will be duly satisfied on the date of such Loan or Letter of Credit issuance, extension or renewal.

§11.3. Proceedings and Documents. All proceedings in connection with the transactions contemplated by this Agreement shall have been taken and all documents incident thereto shall have been delivered to the Banks as of the date of the making of any extension of credit in substance and in form satisfactory to the Banks, including without limitation a Syndicated Loan Request or a Letter of Credit Request and the Banks shall have received all information and such counterpart originals or certified or other copies of such documents as the Banks may reasonably request.

§12. EVENTS OF DEFAULT; ACCELERATION; TERMINATION OF COMMITMENT.

§12.1. Events of Default and Acceleration. If any of the following events (“Events of Default” or, if the giving of notice or the lapse of time or both is required, then, prior to such notice and/or lapse of time, “Defaults”) shall occur:

- (a) if the Borrower shall fail to pay any principal of the Loans when the same shall become due and payable, whether at the stated date of maturity or any accelerated date of maturity or at any other date fixed for payment;
- (b) if the Borrower shall fail to pay any interest or fees or other amounts owing hereunder (other than those specified in subsection (a) above) within five (5) Business Days after the same shall become due and payable whether at the Maturity Date or any accelerated date of maturity or at any other date fixed for payment;
- (c) if the Borrower shall fail to comply with any of the covenants contained in §§7.4, 7.5, 7.15, 7.16, 8 and 9 hereof;
- (d) if the Borrower shall fail to perform any term, covenant or agreement contained herein or in any of the other Loan Documents (other than those specified in

subsections (a), (b), and (c) above) and such failure shall not be remedied within 30 days after written notice of such failure shall have been given to the Borrower by the Administrative Agent or any of the Banks;

(e) if any representation or warranty contained in this Agreement or in any document or instrument delivered pursuant to or in connection with this Agreement shall prove to have been false in any material respect upon the date when made or repeated;

(f) if the Borrower or any of its Subsidiaries shall fail to pay when due, or within any applicable period of grace, any Indebtedness or obligations under Swap Contracts in an aggregate amount greater than \$50,000,000, or fail to observe or perform any material term, covenant or agreement contained in any one or more agreements by which it is bound, evidencing or securing any Indebtedness or obligations under Swap Contracts in an aggregate amount greater than \$50,000,000 for such period of time as would permit, or would have permitted (assuming the giving of appropriate notice if required) the holder or holders thereof or of any obligations issued thereunder to accelerate the maturity thereof or terminate its commitment with respect thereto;

(g) if the Borrower, the Guarantor or any Significant Subsidiary makes an assignment for the benefit of creditors, or admits in writing its inability to pay or generally fails to pay its debts as they mature or become due, or petitions or applies for the appointment of a trustee or other custodian, liquidator or receiver of the Borrower, the Guarantor or any Significant Subsidiary, or of any substantial part of the assets of the Borrower, the Guarantor or any Significant Subsidiary or commences any case or other proceeding relating to the Borrower, the Guarantor or any Significant Subsidiary under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation or similar law of any jurisdiction, now or hereafter in effect, or takes any action to authorize or in furtherance of any of the foregoing, or if any such petition or application is filed or any such case or other proceeding is commenced against the Borrower, the Guarantor or any Significant Subsidiary or the Borrower, the Guarantor or any Significant Subsidiary indicates its approval thereof, consent thereto or acquiescence therein;

(h) if a decree or order is entered appointing any such trustee, custodian, liquidator or receiver or adjudicating the Borrower or the Guarantor or any Significant Subsidiary bankrupt or insolvent, or approving a petition in any such case or other proceeding, or a decree or order for relief is entered in respect of the Borrower or the Guarantor or any Significant Subsidiary in an involuntary case under federal bankruptcy laws of any jurisdiction as now or hereafter constituted;

(i) if there shall remain in force, undischarged, unsatisfied and unstayed, for more than thirty days, whether or not consecutive, any final judgment against the Borrower or any Subsidiary which, with other outstanding final judgments against the Borrower and its Subsidiaries, exceeds in the aggregate \$25,000,000 after taking into account any undisputed insurance coverage;

(j) if, with respect to any Guaranteed Pension Plan, an ERISA Reportable Event shall have occurred and the Banks shall have determined in their reasonable discretion that such event reasonably could be expected to result in liability of the Borrower or any Subsidiary to the PBGC or such Plan in an aggregate amount exceeding \$25,000,000 and such event in the circumstances occurring reasonably could constitute grounds for the partial or complete termination of such Plan by the PBGC or for the appointment by the appropriate United States District Court of a trustee to administer such Plan; or a trustee shall have been appointed by the appropriate United States District Court to administer such Plan; or the PBGC shall have instituted proceedings to terminate such Plan;

(k) if any of the Loan Documents shall be cancelled, terminated, revoked or rescinded otherwise than in accordance with the terms thereof or with the express prior written agreement, consent or approval of the Banks, or any action at law, suit or in equity or other legal proceeding to cancel, revoke or rescind any of the Loan Documents shall be commenced by or on behalf of the Borrower, the Guarantor, or any of their respective stockholders, or any court or any other governmental or regulatory authority or agency of competent jurisdiction shall make a determination that, or issue a judgment, order, decree or ruling to the effect that, any one or more of the Loan Documents is illegal, invalid or unenforceable in accordance with the terms thereof; or

(l) if any person or group of persons (within the meaning of Section 13 or 14 of the Securities Exchange Act of 1934, as amended) shall have acquired beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under said Act) of 25% or more of the outstanding shares of common voting stock of the Borrower; or during any period of twelve consecutive calendar months, individuals who were directors of the Borrower on the first day of such period (together with any new directors whose election by such board or whose nomination for election by the shareholders of the Borrower was approved by a vote of a majority of the directors still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) shall cease to constitute a majority of the board of directors of the Borrower;

then, and in any such event, so long as the same may be continuing, the Administrative Agent may, and upon the request of the Majority Banks shall, by notice in writing to the Borrower, declare all amounts owing with respect to this Agreement and the other Loan Documents and all Reimbursement Obligations to be, and they shall thereupon forthwith become, immediately due and payable without presentment, demand, protest, notice of intent to accelerate, notice of acceleration to the extent permitted by law or other notice of any kind, all of which are hereby expressly waived by the Borrower; provided that in the event of any Event of Default specified in §12.1(g) or 12.1(h) with respect to the Borrower or the Guarantor, all such amounts shall become immediately due and payable automatically and without any requirement of notice from the Administrative Agent or any Bank. Upon demand by the Majority Banks after the occurrence of any Event of Default, the Borrower shall immediately provide to the Administrative Agent cash in an amount equal to the aggregate Maximum Drawing Amount to be held by the Administrative Agent as collateral security for the Reimbursement Obligations.

§12.2. Termination of Commitments. If any Event of Default pursuant to §§ 12.1(g) or 12.1(h) hereof shall occur with respect to the Borrower or the Guarantor, any unused portion of the Total Commitment hereunder shall forthwith terminate and the Banks and the Issuing Banks shall be relieved of all obligations to make Loans or to issue, extend or renew Letters of Credit hereunder; or if any other Event of Default shall occur, the Majority Banks may by notice to the Borrower terminate the unused portion of the Total Commitment hereunder, and, upon such notice being given, such unused portion of the Total Commitment hereunder shall terminate immediately and the Banks and the Issuing Banks shall be relieved of all further obligations to make Loans or to issue, extend or renew Letters of Credit hereunder. No termination of any portion of the Total Commitment hereunder shall relieve the Borrower of any of its existing Obligations to the Banks, the Issuing Banks or the Administrative Agent hereunder or elsewhere.

§12.3. Remedies. In case any one or more of the Events of Default shall have occurred and be continuing, and whether or not the Banks shall have accelerated the maturity of the Loans and other Obligations pursuant to §12.1, each Bank, upon notice to the other Banks, if owed any amount with respect to the Loans or the Reimbursement Obligations, may proceed to protect and enforce its rights by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement and the other Loan Documents or any instrument pursuant to which the Obligations to such Bank are evidenced, including, without limitation, as permitted by applicable law the obtaining of the ex parte appointment of a receiver, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any legal or equitable right of such Bank, any recovery being subject to the terms of §29 hereof. No remedy herein conferred upon any Bank or the Administrative Agent or the holder of any Note is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other provision of law.

§13. SETOFF. During the continuance of an Event of Default, any deposits or other sums credited by or due from any Bank to the Borrower and any securities or other property of the Borrower in the possession of such Bank may be applied to or set off against the payment of the Obligations and any and all other liabilities, direct, or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, of the Borrower to the Banks or the Administrative Agent. Any amounts set off with respect to the Obligations shall be distributed ratably in accordance with §29 among all of the Banks by the Bank setting off such amounts. If any Bank fails to share such setoff ratably, the Administrative Agent shall have the right to withhold such Bank's share of the Borrower's payments until each of the Banks shall have, in the aggregate, received a pro rata repayment.

§14. EXPENSES. Whether or not the transactions contemplated herein shall be consummated, the Borrower hereby promises to reimburse the Administrative Agent and the Joint Lead Arrangers and Joint Book Managers for all reasonable out-of-pocket fees and disbursements (including all reasonable attorneys' fees) incurred or expended in connection with the syndication, preparation, filing or recording, or interpretation of this Agreement, the other Loan Documents, or any amendment, modification, approval, consent or waiver hereof or thereof. The Borrower further promises to reimburse the Administrative Agent and the Banks for

all reasonable out-of-pocket fees and disbursements (including all reasonable legal fees and the allocable cost of in-house attorneys' fees) incurred or expended in connection with the enforcement of any Obligations or the satisfaction of any indebtedness of the Borrower hereunder or under any other Loan Document, or in connection with any litigation, proceeding or dispute hereunder in any way related to the credit hereunder. The Borrower also promises to pay the Administrative Agent all reasonable out-of-pocket fees and disbursements, incurred or expended in connection with the Competitive Bid Loan procedure under §4 hereof.

§15. THE AGENTS.

§15.1. Authorization and Action. Each Bank hereby irrevocably appoints Citibank as Administrative Agent hereunder and authorizes Citibank to take such action as Administrative Agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent by the terms hereof and thereof, together with such powers as are reasonably incidental thereto. As to any matters not expressly provided for by this Agreement and the other Loan Documents, the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Majority Banks (or, when expressly required hereby, all of the Banks), and such instructions shall be binding upon all Banks; provided, however, that the Administrative Agent shall not be required to take any action which exposes the Administrative Agent to personal liability or which is contrary to this Agreement or the other Loan Documents or applicable law.

§15.2. Administrative Agent's Reliance, Etc. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be liable to any of the Banks for any action taken or omitted to be taken by it or them under or in connection with this Agreement or the other Loan Documents, except for its or their own gross negligence or willful misconduct. Without limitation of the generality of the foregoing, the Administrative Agent: (i) may consult with legal counsel (including counsel for the Borrower), independent public accountants and other experts selected by it and shall not be liable to the Banks for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (ii) makes no warranty or representation to any Bank and shall not be responsible to any Bank for any statements, warranties or representations (whether written or oral) made in or in connection with this Agreement or the other Loan Documents; (iii) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or the other Loan Documents on the part of the Borrower or the Guarantor or to inspect the property (including the books and records) of the Borrower or the Guarantor or any of their Subsidiaries, and shall not be deemed to have knowledge or notice of any Default or Event of Default unless and until it shall have received, at its office specified in §22, a notice describing the same and entitled "Notice of Default"; (iv) shall not be responsible to any Bank for the due execution (other than its own), legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any related agreement, instrument or document furnished pursuant hereto; and (v) shall incur no liability to the Banks under or in respect of this Agreement by acting upon any notice, consent, certificate or other instrument or writing (which may be by telecopier, telegram, cable or telex) reasonably believed by it to be genuine and signed or sent by the proper party or parties.

§15.3. Citibank and Affiliates. With respect to its Commitment, Citibank shall have the same rights and powers under this Agreement and under the other Loan Documents as any other Bank and may exercise the same as though it were not the Administrative Agent, and the term “Bank” or “Banks” shall, unless otherwise expressly indicated, include Citibank in its individual capacity. Citibank and its Affiliates may accept deposits from, lend money to, act as trustee under indentures of, and generally engage in any kind of business with, the Borrower, the Guarantor, any of their Subsidiaries and any Person who may do business with or own securities of the Borrower, the Guarantor, or any such Subsidiary, all as if Citibank were not the Administrative Agent and without any duty to account therefor to the Banks.

§15.4. Bank Credit Decision. Each Bank acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Bank and based on the financial statements referred to in §6.4 and such other documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and the other Loan Documents. Each Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Bank and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Loan Documents.

§15.5. Indemnification. The Banks agree to indemnify the Administrative Agent (to the extent not reimbursed by the Borrower), ratably according to the respective amounts of their Commitments as most recently in effect at the time such indemnity is sought, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Administrative Agent in any way relating to or arising out of this Agreement or the other Loan Documents or any action taken or omitted by the Administrative Agent under this Agreement or the other Loan Documents, provided that no Bank shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent’s gross negligence or willful misconduct. Without limiting the foregoing, each Bank agrees to reimburse the Administrative Agent promptly upon demand for its ratable share as aforesaid of any out of pocket expenses (including counsel fees) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement and the other Loan Documents, to the extent that the Administrative Agent is not reimbursed for such expenses by the Borrower.

§15.6. Successor Administrative Agent. The Administrative Agent may resign at any time by giving written notice thereof to the Banks and the Borrower and may be removed at any time with or without cause by the Majority Banks. Upon any such resignation or removal, the Majority Banks shall have the right to appoint a successor Administrative Agent that, unless a Default or Event of Default shall have occurred and then be continuing, is reasonably acceptable to the Borrower. If no successor Administrative Agent shall have been so appointed by the Majority Banks, and shall have accepted such appointment, within 30 days after the retiring Administrative Agent’s giving of notice of resignation or the Majority Banks’

removal of the retiring Administrative Agent, then the retiring Administrative Agent may, on behalf of the Banks, appoint a successor Administrative Agent, which shall be a commercial bank organized under the laws of the United States of America or of any State thereof and having total assets of at least \$1,000,000,000. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. After any retiring Administrative Agent's resignation or removal hereunder as Administrative Agent, the provisions of this §15 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement.

§15.7. Lead Arrangers, Etc. The parties identified on the cover hereof as Lead Arrangers and Bookrunners, Syndication Agents and Documentation Agents shall have no obligations or liabilities under this Agreement and the other Loan Documents.

§15.8. Documents. The Administrative Agent will forward to each Bank, promptly after receipt thereof, a copy of each notice or other document furnished to the Administrative Agent for such Bank hereunder; provided, however, that, notwithstanding the foregoing, the Administrative Agent may furnish to the Banks a monthly summary with respect to Letters of Credit issued hereunder in lieu of copies of the related Letter of Credit Applications.

§15.9. Action by the Banks, Consents, Amendments, Waivers, Etc. (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Bank in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Banks hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrower or the Guarantor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent, any Bank or the Issuing Bank may have had notice or knowledge of such Default or Event of Default at the time.

(b) Except as otherwise provided in §3.1(a) hereof with respect to Schedule 3.1, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Majority Banks or by the Borrower and the Administrative Agent with the consent of the Majority Banks; provided that no such agreement shall (i) increase the Commitment of any Bank without the written consent of such Bank, (ii) reduce the principal amount of any Loan or Reimbursement Obligations, or reduce the rate of interest on the Loans or reduce any fees payable hereunder, without the written consent of each Bank affected thereby; (iii) postpone the date of any payment of the principal amount of any Loan, or any interest thereon, or any fees

payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Bank affected thereby; (iv) release the Borrower from its Obligations or the Guarantor from its Guaranteed Obligations hereunder without the written consent of each Bank; (v) modify §29(a) or any other provision of this Agreement providing for pro rata payments to or by the Banks; or (vi) change any of the provisions of this §15.9 or any provision of this Agreement requiring action by all the Banks, or the percentage of Banks constituting "Majority Banks", without the written consent of each Bank; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or any Issuing Bank hereunder without the prior written consent of the Administrative Agent or the Issuing Banks, as the case may be.

§16. INDEMNIFICATION. The Borrower agrees to indemnify and hold harmless the Banks, the Issuing Banks, the Joint Lead Arrangers and Joint Book Managers and the Administrative Agent and their affiliates, as well as the Banks' and the Administrative Agent's and their affiliates' shareholders, directors, agents, officers, subsidiaries and affiliates, from and against all damages, losses, settlement payments, obligations, liabilities, claims, suits, penalties, assessments, citations, directives, demands, judgments, actions or causes of action, whether statutorily created or under the common law, and reasonable costs and expenses incurred, suffered, sustained or required to be paid by an indemnified party by reason of or resulting from the transactions contemplated hereby, except any of the foregoing which result from the gross negligence or willful misconduct of such indemnified party. In any investigation, enforcement matter, proceeding or litigation, or the preparation therefor, the Banks and the Administrative Agent shall be entitled to select their own counsel and, in addition to the foregoing indemnity, the Borrower agrees to pay promptly the reasonable fees and expenses of such counsel (including the non-duplicative allocated cost of internal counsel), and settlement costs. In the event of the commencement of any such proceeding or litigation against the Banks or Administrative Agent by third parties, the Borrower shall be entitled to participate in such proceeding or litigation with counsel of their choice at their expense. The covenants of this §16 shall survive payment or satisfaction of payment of amounts owing with respect to any Note or the Loans and satisfaction of all the Obligations hereunder and under the Loan Documents, **IT BEING THE INTENT OF THE PARTIES HERETO THAT ALL SUCH INDEMNIFIED PARTIES SHALL BE INDEMNIFIED FOR THEIR ORDINARY SOLE OR CONTRIBUTORY NEGLIGENCE. NO PARTY SHALL BE LIABLE TO ANY OTHER PARTY IN RESPECT OF ANY INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES.**

§17. WITHHOLDING TAXES. The Borrower hereby agrees that:

(a) Any and all payments made by the Borrower hereunder shall be made free and clear of, and without deduction for, any and all present or future taxes, levies, fees, duties, imposts, deductions, charges or withholdings of any nature whatsoever, excluding, in the case of each of the Administrative Agent and each of the Banks, (i) taxes imposed on, or measured by, its net income or profits, (ii) franchise taxes imposed on it, (iii) taxes imposed by any jurisdiction as a direct consequence of it, or any of its affiliates, having a present or former connection with such jurisdiction, including, without limitation, being organized, existing or qualified to do business, doing business or maintaining a

permanent establishment or office in such jurisdiction, and (iv) taxes imposed by reason of its failure to comply with any applicable certification, identification, information, documentation or other reporting requirement (all such non-excluded taxes being hereinafter referred to as “Indemnifiable Taxes”). In the event that any withholding or deduction from any payment to be made by the Borrower hereunder is required in respect of any Indemnifiable Taxes pursuant to any applicable law, or governmental rule or regulation, then the Borrower will (i) direct to the relevant taxing authority the full amount required to be so withheld or deducted, (ii) forward to the Administrative Agent for delivery to the applicable Bank an official receipt or other documentation satisfactory to the Administrative Agent and the applicable Bank evidencing such payment to such taxing authority, and (iii) direct to the Administrative Agent for the account of the relevant Banks such additional amount or amounts as is necessary to ensure that the net amount actually received by each relevant Bank will equal the full amount such Bank would have received had no such withholding or deduction (including any Indemnifiable Taxes on such additional amounts) been required. Moreover, if any Indemnifiable Taxes are directly asserted against the Administrative Agent or any Bank with respect to any payment received by the Administrative Agent or such Bank by reason of the Borrower’s failure to properly deduct and withhold such Indemnifiable Taxes from such payment, the Administrative Agent or such Bank may pay such Indemnifiable Taxes and the Borrower will promptly pay all such additional amounts (including any penalties, interest or reasonable expenses) as is necessary in order that the net amount received by such Person after the payment of such Indemnifiable Taxes (including any Indemnifiable Taxes on such additional amount) shall equal the amount such Person would have received had not such Indemnifiable Taxes been asserted; provided that the Administrative Agent or such Bank, as the case may be, agrees to use commercially reasonable efforts, at the expense of the Borrower, to contest or otherwise challenge such Indemnifiable Taxes if the Administrative Agent or such Bank, as applicable, determines in good faith that a reasonable basis exists to do so. Any such payment shall be made promptly after the receipt by the Borrower from the Administrative Agent or such Bank, as the case may be, of a written statement setting forth in reasonable detail the amount of the Indemnifiable Taxes and the basis of the claim.

(b) The Borrower shall pay any present or future stamp or documentary taxes or any other excise or any other similar levies which arise from any payment made hereunder or from the execution, delivery or registration of, or otherwise with respect to, this Agreement or any other Loan Document (“Other Taxes”).

(c) The Borrower hereby indemnifies and holds harmless the Administrative Agent and each Bank for the full amount of Indemnifiable Taxes or Other Taxes (including, without limitation, any Indemnifiable Taxes or Other Taxes imposed on amounts payable under this §17) paid by the Administrative Agent or such Bank, as the case may be, and any liability (including penalties, interest and reasonable expenses) arising therefrom or with respect thereto, by reason of the Borrower’s failure to properly deduct and withhold Indemnifiable Taxes pursuant to paragraph (a) above or to properly pay Other Taxes pursuant to paragraph (b) above. Any indemnification payment from the Borrower under the preceding sentence shall be made promptly after receipt by the Borrower from the Administrative Agent or Bank of a written statement setting forth in

reasonable detail the amount of such Indemnifiable Taxes or such Other Taxes, as the case may be, and the basis of the claim.

(d) If the Borrower pays any amount under this §17 to the Administrative Agent or any Bank and such payee knowingly receives a refund or tax credit in respect of any taxes with respect to which such amount was paid, the Administrative Agent or such Bank, as the case may be, shall remit to the Borrower, promptly following the receipt thereof by such payee, an amount equal to the amount determined by such payee to be equal to the amount of any net reduction in taxes actually obtained by such payee and determined by it to be allocable to such refund or credit; provided, that the decision as to whether or not to claim any such refund or credit, and as to the amount and allocation of any such refund or credit so claimed, shall be made by each such payee in its sole and absolute discretion; and provided, further, that nothing herein shall be deemed to obligate any Bank or the Administrative Agent to disclose to the Borrower or the Guarantor its tax returns or any information regarding its tax affairs.

(e) In the event any taxing authority notifies the Borrower or the Guarantor that any of them has improperly failed to deduct or withhold any taxes (other than Indemnifiable Taxes) from a payment made hereunder to the Administrative Agent or any Bank, the Borrower shall timely and fully pay such taxes to such taxing authority.

(f) The Administrative Agent or the Banks shall, upon the request of the Borrower, take reasonable measures to avoid or mitigate the amount of Indemnifiable Taxes required to be deducted or withheld from any payment made hereunder if such measures can be taken without such Person in its sole judgment suffering any legal, regulatory or economic disadvantage.

(g) Without prejudice to the survival of any other agreement of the parties hereunder, the agreements and obligations of the Borrower contained in this §17 shall survive the payment in full of the Obligations.

§18. TREATMENT OF CERTAIN CONFIDENTIAL INFORMATION.

§18.1. Confidentiality. Each of the Banks and the Administrative Agent agrees, on behalf of itself and each of its affiliates, directors, officers, employees and representatives, to use reasonable precautions to keep confidential, in accordance with their customary procedures for handling confidential information of the same nature and in accordance with safe and sound banking practices, any non-public information supplied to it by the Borrower or any of its Subsidiaries pursuant to this Agreement that is identified by such Person as being confidential at the time the same is delivered to the Banks or the Administrative Agent, provided that nothing herein shall limit the disclosure of any such information (a) after such information shall have become public other than through a violation of this §18, or becomes available to any of the Banks or the Administrative Agent on a nonconfidential basis from a source other than the Borrower, (b) to the extent required by statute, rule, regulation or judicial process, (c) to counsel for any of the Banks or the Administrative Agent, (d) to bank examiners or any other regulatory authority having jurisdiction over any Bank or any of its affiliates or the Administrative Agent, or to auditors

or accountants, (e) to the Administrative Agent, any Bank or any Financial Affiliate, (f) in connection with any litigation to which any one or more of the Banks, the Administrative Agent or any Financial Affiliate is a party, or in connection with the enforcement of rights or remedies hereunder or under any other Loan Document, (g) to an affiliate of any Bank or the Administrative Agent, (h) to any actual or prospective assignee or participant or any actual or prospective counterparty (or its advisors) to any swap or derivative transactions referenced to credit or other risks or events arising under this Agreement or any other Loan Document so long as such assignee, participant or counterparty, as the case may be, agrees to be bound by the provisions of §18.1, or (i) with the consent of the Borrower.

§18.2. Prior Notification. Unless specifically prohibited by applicable law or court order, each of the Banks and the Administrative Agent shall, prior to disclosure thereof, notify the Borrower of any request for disclosure of any such non-public information by any governmental agency or representative thereof (other than any such request in connection with an examination of the financial condition of such Bank by such governmental agency) or pursuant to legal process.

§18.3. Other. In no event shall any Bank or the Administrative Agent be obligated or required to return any materials furnished to it or any Financial Affiliate by the Borrower or any of its Subsidiaries. The obligations of each Bank under this §18 shall supersede and replace the obligations of such Bank under any confidentiality letter in respect of this financing signed and delivered by such Bank to the Borrower prior to the date hereof and shall be binding upon any assignee of, or purchaser of any participation in, any interest in any of the Loans or Reimbursement Obligations from any Bank.

§19. SURVIVAL OF COVENANTS, ETC. Unless otherwise stated herein, all covenants, agreements, representations and warranties made herein, in the other Loan Documents or in any documents or other papers delivered by or on behalf of the Borrower or the Guarantor pursuant hereto shall be deemed to have been relied upon by the Banks, the Issuing Banks and the Administrative Agent, notwithstanding any investigation heretofore or hereafter made by them, and shall survive the making by the Banks of the Loans and the issuance, extension or renewal of any Letters of Credit by any Issuing Bank, as herein contemplated, and shall continue in full force and effect so long as any amount due under this Agreement, any Obligation, or any Letter of Credit remains outstanding and unpaid or any Bank has any obligation to make any Loans or any Issuing Bank has any obligation to issue, extend, or renew any Letters of Credit hereunder. All statements contained in any certificate or other paper delivered by or on behalf of the Borrower pursuant hereto or in connection with the transactions contemplated hereby shall constitute representations and warranties by the Borrower hereunder.

§20. ASSIGNMENT AND PARTICIPATION. It is understood and agreed that each Bank shall have the right to assign at any time all or a portion of its Commitment Percentage and interests in the risk relating to the Loans, outstanding Letters of Credit and its Commitment hereunder in an amount equal to or greater than \$5,000,000 (or, if a Bank's Commitment is less than \$5,000,000, in a minimum amount equal to such Bank's Commitment; provided that prior to any Commitment reductions pursuant to §2.3.1, such Bank's Commitment was at least \$5,000,000) to additional banks, other financial institutions or Bank Affiliates with the prior written approval of the Administrative Agent and each Issuing Bank and, so long as no Event of

Default has occurred and is continuing, the Borrower (provided that the Borrower's consent shall not be required in the case of an assignment to a Bank Affiliate or to an Approved Fund), which approvals shall not be unreasonably withheld. Any Bank may at any time, and from time to time, assign to any branch, lending office, or Bank Affiliate all or any part of its rights and obligations under the Loan Documents by notice to the Administrative Agent and the Borrower. It is further agreed that each bank or other financial institution which executes and delivers to the Administrative Agent and the Borrower hereunder an Assignment and Acceptance substantially in the form of Exhibit D hereto (an "Assignment and Acceptance") together with an assignment fee in the amount of \$3,500 payable by the assigning Bank to the Administrative Agent, shall, on the date specified in such Assignment and Acceptance, become a party to this Agreement and the other Loan Documents for all purposes of this Agreement and the other Loan Documents, and its portion of the Commitment, the Loans and Letters of Credit shall be as set forth in such Assignment and Acceptance. The Bank assignor thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (except for indemnity rights arising out of the period prior to such assignment) and be released from its obligations under this Agreement and the other Loan Documents. Upon the execution and delivery of such Assignment and Acceptance (a) to the extent applicable, the Borrower shall issue Notes (and replacement Notes) or the Administrative Agent shall make appropriate entries on the applicable loan account(s) to reflect such assignment of Loan(s); and (b) this Agreement and Schedule 1 shall be deemed to be appropriately amended to reflect (i) the status of the bank, financial institution or Bank Affiliate as a party hereto and (ii) the status and rights of the Banks hereunder.

Each Bank shall also have the right to grant participations to one or more banks, other financial institutions or Bank Affiliates in its Commitment, the Loans and outstanding Letters of Credit. The documents evidencing any such participation shall limit such participating bank's, financial institution's or Bank Affiliate's, voting rights with respect to this Agreement to the matters set forth in §15.9(b)(i) – (v).

Notwithstanding the foregoing, no assignment or participation shall operate to increase the Total Commitment hereunder or otherwise alter the substantive terms of this Agreement, and no Bank which retains a Commitment hereunder shall have a Commitment of less than \$5,000,000, except as a result of reductions in the Total Commitment pursuant to §2.3 hereof.

Anything contained in this §20 to the contrary notwithstanding, any Bank may at any time pledge all or any portion of its interest and rights under this Agreement (including all or any portion of its Notes) to any of the twelve Federal Reserve Banks organized under §4 of the Federal Reserve Act, 12 U.S.C. §341. No such pledge or the enforcement thereof shall release the pledgor Bank from its obligations hereunder or under any of the other Loan Documents.

The Borrower agrees that in addition to disclosures made in accordance with standard and customary banking practices any Bank may disclose information obtained by such Bank pursuant to this Agreement to assignees or participants and potential assignees or participants hereunder; provided that such assignees or participants or potential assignees or participants shall agree to be bound by §18 hereof.

§21. PARTIES IN INTEREST. All the terms of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto and thereto; provided, that neither the Borrower nor the Guarantor shall assign or transfer its rights or obligations hereunder or thereunder without the prior written consent of each of the Banks.

§22. NOTICES, ETC. (a) Subject to clauses (b) and (c) of this §22, all notices and other communications made or required to be given pursuant to this Agreement or the other Loan Documents shall be in writing and shall be delivered in hand, mailed by registered or certified United States first class mail, postage prepaid, or sent by telegraph, telex or facsimile and confirmed by letter, addressed as follows:

(i) if to the Borrower or the Guarantor, at 1001 Fannin Street, Suite 4000, Houston, Texas 77002, Attention: Treasurer, facsimile number (713) 942-1580, with a copy to Attention: General Counsel, facsimile number (713) 209-9710; or

(ii) if to the Administrative Agent, at 2 Penns Way, Suite 110, New Castle, Delaware 19720, Attention: Tara Wooster, facsimile number (212) 994-0961; or

(iii) if to any Bank, at the last address provided to the Administrative Agent; or such other address for notice as shall have last been furnished in writing to the Person giving the notice.

Any such notice or demand shall be deemed to have been duly given or made and to have become effective (a) if delivered by hand to a responsible officer of the party to which it is directed, at the time of the receipt thereof by such officer, (b) if sent by registered or certified first-class mail, postage prepaid, seven Business Days after the posting thereof, and (c) if sent by telex, facsimile, or cable, at the time of the dispatch thereof, if in normal business hours in the country of receipt, or otherwise at the opening of business on the following Business Day.

(b) The Borrower hereby agrees that it will provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to this Agreement and the other Loan Documents, including, without limitation, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to a request for a new, or a conversion of an existing, Borrowing or other extension of credit (including any election of an interest rate or Interest Period relating thereto), (ii) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (iii) provides notice of any Default or Event of Default under this Agreement or (iv) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit thereunder (all such non-excluded communications being referred to herein collectively as "Communications"), by transmitting the Communications in an electronic/soft medium in a format acceptable to the Administrative Agent to oploanswebadmin@citigroup.com. In addition, the Borrower agrees to continue to provide the Communications to the Administrative Agent in the manner specified in this Agreement but only to the extent requested by the Administrative Agent.

(c) The Borrower further agrees that the Administrative Agent may make the Communications available to the Banks by posting the Communications on Intralinks or a substantially similar electronic transmission system (the "Platform").

(d) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, AN WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE AGENT PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS AFFILIATES OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS OR REPRESENTATIVES (COLLECTIVELY, "AGENT PARTIES") HAVE ANY LIABILITY TO THE BORROWER, ANY BANK OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE BORROWER'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY AGENT PARTY IS FOUND IN A FINAL NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH AGENT PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

(e) The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of this Agreement. Each Bank agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Bank for purposes of this Agreement. Each Bank agrees to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Bank's e-mail address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such e-mail address.

(f) Nothing herein shall prejudice the right of the Administrative Agent or any Bank to give any notice or other communication pursuant to this Agreement in any other manner specified herein.

§23. MISCELLANEOUS. The rights and remedies herein expressed are cumulative and not exclusive of any other rights which the Banks, the Issuing Banks or the Administrative Agent would otherwise have. The captions in this Agreement are for convenience of reference only and shall not define or limit the provisions hereof. This Agreement and any amendment hereof may be executed in several counterparts and by each party on a separate counterpart, each of which

when so executed and delivered shall be an original, but all of which together shall constitute one instrument. In proving this Agreement it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought. This Agreement, to the extent signed and delivered by means of a facsimile machine, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto, each other party hereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto shall raise the use of a facsimile machine to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine as a defense to the formation of a contract and each party forever waives such defense.

§24. CONSENTS, ETC. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated, except as provided in this §24, subject to the provisions of §15.9. No waiver shall extend to or affect any obligation not expressly waived or impair any right consequent thereon. Except as otherwise expressly provided in this Agreement, any consent or approval required or permitted by this Agreement to be given by the Banks may be given, and any term of this Agreement or of any other instrument related hereto or mentioned herein may be amended, and the performance or observance by the Borrower or the Guarantor of any terms of this Agreement or such other instrument or the continuance of any Default or Event of Default may be waived (either generally or in a particular instance and either retroactively or prospectively) with, but only with, the written consent of the Borrower and the Majority Banks. To the extent permitted by law, no course of dealing or delay or omission on the part of any of the Banks, the Issuing Banks or the Administrative Agent in exercising any right shall operate as a waiver thereof or otherwise be prejudicial thereto. No notice to or demand upon the Borrower or the Guarantor shall entitle the Borrower to other or further notice or demand in similar or other circumstances.

§25. WAIVER OF JURY TRIAL. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, THE NOTES OR ANY OF THE OTHER LOAN DOCUMENTS, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. EXCEPT AS PROHIBITED BY LAW, THE BORROWER AND THE GUARANTOR HEREBY WAIVE ANY RIGHT EITHER OF THEM MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION REFERRED TO IN THE PRECEDING SENTENCE ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE BORROWER AND THE GUARANTOR EACH (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY BANK, ANY ISSUING BANK, THE ADMINISTRATIVE AGENT OR ANY AGENT HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH BANK, SUCH ISSUING BANK, THE ADMINISTRATIVE AGENT OR SUCH AGENT WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS AND (B) ACKNOWLEDGES THAT THE ADMINISTRATIVE AGENT, THE BANKS, AND THE ISSUING BANKS HAVE BEEN INDUCED TO ENTER INTO THIS

AGREEMENT AND THE OTHER LOAN DOCUMENTS BECAUSE OF, AMONG OTHER THINGS, THE BORROWER'S AND THE GUARANTOR'S WAIVERS AND CERTIFICATIONS CONTAINED HEREIN.

§26. GOVERNING LAW; SUBMISSION TO JURISDICTION. THIS AGREEMENT AND EACH OF THE OTHER LOAN DOCUMENTS ARE CONTRACTS UNDER THE LAWS OF THE STATE OF NEW YORK AND SHALL, PURSUANT TO NEW YORK GENERAL OBLIGATIONS LAW §5-1401, BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK. THE BORROWER AND THE GUARANTOR CONSENT AND AGREE THAT ANY SUIT FOR THE ENFORCEMENT OF THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR ANY FEDERAL COURT SITTING THEREIN AND CONSENTS TO THE NONEXCLUSIVE JURISDICTION OF SUCH COURT AND SERVICE OF PROCESS IN ANY SUCH SUIT BEING MADE UPON THE BORROWER IN ACCORDANCE WITH LAW AT THE ADDRESS SPECIFIED IN §22. THE BORROWER AND THE GUARANTOR HEREBY WAIVE ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY SUCH SUIT OR ANY SUCH COURT OR THAT SUCH SUIT IS BROUGHT IN AN INCONVENIENT FORUM.

§27. SEVERABILITY. The provisions of this Agreement are severable and if any one clause or provision hereof shall be held invalid or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

§28. GUARANTY.

§28.1. Guaranty. For value received and hereby acknowledged and as an inducement to the Banks and the Issuing Banks to make the Loans available to the Borrower, and issue, extend or renew Letters of Credit for the account of the Borrower, the Guarantor hereby unconditionally and irrevocably guarantees (a) the full punctual payment when due, whether at stated maturity, by acceleration or otherwise, of all Obligations of the Borrower now or hereafter existing whether for principal, interest, fees, expenses or otherwise, and (b) the strict performance and observance by the Borrower of all agreements, warranties and covenants applicable to the Borrower in the Loan Documents and (c) the obligations of the Borrower under the Loan Documents (such Obligations collectively being hereafter referred to as the "Guaranteed Obligations").

§28.2. Guaranty Absolute. The Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms hereof, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of any Bank, any Issuing Bank or the Administrative Agent with respect thereto. The liability of the Guarantor under the guaranty granted under this Agreement with regard to the Guaranteed Obligations shall be absolute and unconditional irrespective of:

- (a) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations or any other amendment or waiver of or any consent to departure from this Agreement or any other Loan Document (with regard to such Guaranteed Obligations);
- (b) any release or amendment or waiver of or consent to departure from any other guaranty for all or any of its Guaranteed Obligations;
- (c) any change in ownership of the Borrower;
- (d) any acceptance of any partial payment(s) from the Borrower or the Guarantor; or
- (e) any other circumstance whatsoever which might otherwise constitute a defense available to, or a discharge of, a guarantor or surety or the Borrower in respect of its Obligations under any Loan Document.

The guaranty under this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any Guaranteed Obligation is rescinded or must otherwise be returned by the Banks, the Issuing Banks or the Administrative Agent upon the insolvency, bankruptcy or reorganization of the Borrower or otherwise, all as though such payment had not been made.

§28.3. Effectiveness; Enforcement. The guaranty under this Agreement shall be effective and shall be deemed to be made with respect to each Loan and each Letter of Credit as of the time it is made, issued or extended, or becomes a Letter of Credit under this Agreement, as applicable. No invalidity, irregularity or unenforceability by reason of any bankruptcy or similar law, or any law or order of any government or agency thereof purporting to reduce, amend or otherwise affect any liability of the Borrower, and no defect in or insufficiency or want of powers of the Borrower or irregular or improperly recorded exercise thereof, shall impair, affect, be a defense to or claim against such guaranty. The guaranty under this Agreement is a continuing guaranty and shall (a) survive any termination of this Agreement, and (b) remain in full force and effect until payment in full of, and performance of, all Guaranteed Obligations and all other amounts payable under this Agreement. The guaranty under this Agreement is made for the benefit of the Administrative Agent, the Issuing Banks and the Banks and their successors and assigns, and may be enforced from time to time as often as occasion therefor may arise and without requirement on the part of the Administrative Agent, the Issuing Banks or the Banks first to exercise any rights against the Borrower, or to resort to any other source or means of obtaining payment of any of the said obligations or to elect any other remedy.

§28.4. Waiver. Except as otherwise specifically provided in any of the Loan Documents, the Guarantor hereby waives promptness, diligence, protest, notice of protest, all suretyship defenses, notice of acceptance and any other notice with respect to any of its Guaranteed Obligations and the guaranty under this Agreement and any requirement that the Banks, the Issuing Banks or the Administrative Agent protect, secure, perfect any security interest or Lien or any property subject thereto or exhaust any right or take any action against the Borrower or any other Person. The Guarantor also irrevocably waives, to the fullest extent

permitted by law, all defenses which at any time may be available to it in respect of its Guaranteed Obligations by virtue of any statute of limitations, valuation, stay, moratorium law or other similar law now or hereafter in effect.

§28.5. Expenses. The Guarantor hereby promises to reimburse (a) the Administrative Agent for all reasonable out-of-pocket fees and disbursements (including all reasonable attorneys' fees), incurred or expended in connection with the preparation, filing or recording, or interpretation of the guaranty under this Agreement, the other Loan Documents or any amendment, modification, approval, consent or waiver hereof or thereof, and (b) the Administrative Agent, the Issuing Banks and the Banks and their respective affiliates for all reasonable out-of-pocket fees and disbursements (including reasonable attorneys' fees), incurred or expended in connection with the enforcement of its Guaranteed Obligations (whether or not legal proceedings are instituted). The Guarantor will pay any taxes (including any interest and penalties in respect thereof) other than the Banks' taxes based on overall income or profits, payable on or with respect to the transactions contemplated by the guaranty under this Agreement, the Guarantor hereby agreeing jointly and severally to indemnify each Bank with respect thereto.

§28.6. Concerning Joint and Several Liability of the Guarantor.

(a) The Guarantor hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the Borrower, with respect to the payment and performance of all of its Guaranteed Obligations (including, without limitation, any Guaranteed Obligations arising under this §28), it being the intention of the parties hereto that all such Guaranteed Obligations shall be the joint and several Guaranteed Obligations of the Guarantor and the Borrower without preferences or distinction among them.

(b) If and to the extent that the Borrower shall fail to make any payment with respect to any of its Obligations as and when due or to perform any of its Guaranteed Obligations in accordance with the terms thereof, then in each such event the Guarantor will make such payment with respect to, or perform, such Guaranteed Obligation.

(c) The Guaranteed Obligations of the Guarantor under the provisions of this §28 constitute full recourse obligations of the Guarantor enforceable against the Guarantor to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of this Agreement or any other circumstance whatsoever.

(d) Except as otherwise expressly provided in this Agreement, the Guarantor hereby waives notice of acceptance of its joint and several liability, notice of any Loans made, or Letters of Credit issued under this Agreement, notice of any action at any time taken or omitted by the Administrative Agent, the Issuing Banks or the Banks under or in respect of any of the Guaranteed Obligations, and, generally, to the extent permitted by applicable law, all demands, notices and other formalities of every kind in connection with this Agreement. The Guarantor hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Guaranteed Obligations, the acceptance of any payment of any of the Guaranteed Obligations, the

acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by the Administrative Agent, the Issuing Banks or the Banks at any time or times in respect of any Default or Event of Default by the Borrower or the Guarantor in the performance or satisfaction of any term, covenant, condition or provision of this Agreement or any other Loan Document, any and all other indulgences whatsoever by the Administrative Agent, the Issuing Banks or the Banks in respect of any of the Guaranteed Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Guaranteed Obligations or the addition, substitution or release, in whole or in part, of the Borrower or the Guarantor. Without limiting the generality of the foregoing, the Guarantor assents to any other action or delay in acting or failure to act on the part of the Banks, the Issuing Banks or the Administrative Agent with respect to the failure by the Borrower or the Guarantor to comply with its respective Obligations or Guaranteed Obligations, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which might, but for the provisions of this §28, afford grounds for terminating, discharging or relieving the Guarantor, in whole or in part, from any of the Guaranteed Obligations under this §28, it being the intention of the Guarantor that, so long as any of the Guaranteed Obligations hereunder remain unsatisfied, the Guaranteed Obligations of the Guarantor under this §28 shall not be discharged except by performance and then only to the extent of such performance. The Guaranteed Obligations of the Guarantor under this §28 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to the Borrower or the Guarantor or the Banks, the Issuing Banks or the Administrative Agent. The joint and several liability of the Guarantor hereunder shall continue in full force and effect notwithstanding any absorption, merger, consolidation, amalgamation or any other change whatsoever in the name, membership, constitution or place of formation of the Borrower or the Guarantor, the Banks, the Issuing Banks or the Administrative Agent.

(e) The Guarantor shall be liable under this §28 only for the maximum amount of such liabilities that can be incurred under applicable law without rendering this §28 voidable under applicable law relating to fraudulent conveyance and fraudulent transfer, and not for any greater amount. Accordingly, if any obligation under any provision under this §28 shall be declared to be invalid or unenforceable in any respect or to any extent, it is the stated intention and agreement of the Guarantor, the Administrative Agent, the Issuing Banks and the Banks that any balance of the obligation created by such provision and all other obligations of the Guarantor under this §28 to the Banks, the Issuing Banks or the Administrative Agent shall remain valid and enforceable, and that all sums not in excess of those permitted under applicable law shall remain fully collectible by the Banks, the Issuing Banks and the Administrative Agent from the Borrower or the Guarantor, as the case may be.

(f) The provisions of this §28 are made for the benefit of the Administrative Agent, the Issuing Banks and the Banks and their successors and assigns, and may be enforced in good faith by them from time to time against the Guarantor as often as occasion therefor may arise and without requirement on the part of the Administrative Agent, the Issuing Banks or the Banks first to marshal any of

their claims or to exercise any of their rights against the Borrower or the Guarantor or to exhaust any remedies available to them against the Borrower or the Guarantor or to resort to any other source or means of obtaining payment of any of the obligations hereunder or to elect any other remedy. The provisions of this §28 shall remain in effect until all of the Guaranteed Obligations shall have been paid in full or otherwise fully satisfied and the Commitments have expired and all outstanding Letters of Credit have expired, matured or otherwise been terminated. If at any time, any payment, or any part thereof, made in respect of any of the Guaranteed Obligations, is rescinded or must otherwise be restored or returned by the Banks, the Issuing Banks or the Administrative Agent upon the insolvency, bankruptcy or reorganization of the Borrower or the Guarantor, or otherwise, the provisions of this §28 will forthwith be reinstated in effect, as though such payment had not been made.

§28.7. Waiver. Until the final payment and performance in full of all of the Obligations, the Guarantor shall not exercise and the Guarantor hereby waives any rights the Guarantor may have against the Borrower arising as a result of payment by the Guarantor hereunder, by way of subrogation, reimbursement, restitution, contribution or otherwise, and will not prove any claim in competition with the Administrative Agent, the Issuing Banks or any Bank in respect of any payment hereunder in any bankruptcy, insolvency or reorganization case or proceedings of any nature; the Guarantor will not claim any setoff, recoupment or counterclaim against the Borrower in respect of any liability of the Borrower to the Guarantor; and the Guarantor waives any benefit of and any right to participate in any collateral security which may be held by the Administrative Agent, the Issuing Banks or any Bank.

§28.8. Subrogation; Subordination. The payment of any amounts due with respect to any indebtedness of the Borrower for money borrowed or credit received now or hereafter owed to the Guarantor is hereby subordinated to the prior payment in full of all of the Obligations. The Guarantor agrees that, after the occurrence of any default in the payment or performance of any of the Obligations, the Guarantor will not demand, sue for or otherwise attempt to collect any such indebtedness of the Borrower to the Guarantor until all of the Obligations shall have been paid in full. If, notwithstanding the foregoing sentence, the Guarantor shall collect, enforce or receive any amounts in respect of such indebtedness while any Obligations are still outstanding, such amounts shall be collected, enforced and received by the Guarantor as trustee for the Banks, the Issuing Banks and the Administrative Agent and be paid over to the Administrative Agent at Default, for the benefit of the Banks, the Issuing Banks, and the Administrative Agent on account of the Obligations without affecting in any manner the liability of the Guarantor under the other provisions hereof.

§29. PARI PASSU TREATMENT.

(a) Notwithstanding anything to the contrary set forth herein, each payment or prepayment of principal and interest received after the occurrence of an Event of Default hereunder shall be distributed pari passu among the Banks, in accordance with the aggregate outstanding principal amount of the Obligations owing to each Bank divided by the aggregate outstanding principal amount of all Obligations.

(b) Each Bank agrees that if it shall, through the exercise of a right of banker's lien, setoff or counterclaim against any Borrower (pursuant to §13 or otherwise), including a secured claim under Section 506 of the Bankruptcy Code or other security or interest arising from or in lieu of, such secured claim, received by such Bank under any applicable bankruptcy, insolvency or other similar law or otherwise, obtain payment (voluntary or involuntary) in respect of the Notes, Loans, Reimbursement Obligations and other Obligations held by it (other than pursuant to §5.5, §5.6 or §5.8) as a result of which the unpaid principal portion of the Notes and the Obligations held by it shall be proportionately less than the unpaid principal portion of the Notes and the Obligations held by any other Bank, it shall be deemed to have simultaneously purchased from such other Bank a participation in the Notes and the Obligations held by such other Bank, so that the aggregate unpaid principal amount of the Notes and the Obligations and participations in Notes and Obligations held by each Bank shall be in the same proportion to the aggregate unpaid principal amount of the Notes and the Obligations then outstanding as the principal amount of the Notes and the Obligations held by it prior to such exercise of banker's lien, setoff or counterclaim was to the principal amount of all Notes and Obligations outstanding prior to such exercise of banker's lien, setoff or counterclaim; provided, however, that if any such purchase or purchases or adjustments shall be made pursuant to this §29 and the payment giving rise thereto shall thereafter be recovered, such purchase or purchases or adjustments shall be rescinded to the extent of such recovery and the purchase price or prices or adjustments restored without interest. The Borrower expressly consents to the foregoing arrangements and agrees that any Person holding such a participation in the Obligations deemed to have been so purchased may exercise any and all rights of banker's lien, setoff or counterclaim with respect to any and all moneys owing by the Borrower to such Person as fully as if such Person had made a Loan directly to the Borrower in the amount of such participation.

§30. FINAL AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

§31. USA PATRIOT ACT. Each Bank hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Bank to identify the Borrower in accordance with the Act.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first set forth above.

THE BORROWER AND GUARANTOR:

WASTE MANAGEMENT, INC.

By: /s/ Cherie C. Rice
Name: Cherie C. Rice
Title: Vice President - Finance and Treasurer

WASTE MANAGEMENT HOLDINGS, INC.

By: /s/ Cherie C. Rice
Name: Cherie C. Rice
Title: Vice President and Treasurer

By: /s/ Amanda K. Maki
Name: Amanda K. Maki
Title: Assistant Secretary

THE ADMINISTRATIVE AGENT:

CITIBANK, N.A., as Administrative Agent

By: /s/ Carolyn A. Kee

Name: Carolyn A. Kee

Title: Vice President

THE BANKS:

JPMORGAN CHASE BANK

By: /s/ Robert T. Sacks

Name: Robert T. Sacks

Title: Managing Director

FLEET NATIONAL BANK

By: /s/ Maria F. Maia

Name: Maria F. Maia

Title: Managing Director

CITIBANK, N.A.

By: /s/ Carolyn A. Kee

Name: Carolyn A. Kee

Title: Vice President

BARCLAYS BANK PLC

By: /s/ Nicholas Bell
Name: Nicholas Bell
Title: Director

DEUTSCHE BANK AG, NEW YORK BRANCH

By: /s/ Jean Hannigan

Name: Jean Hannigan

Title: Director

By: /s/ Oliver Riedinger

Name: Oliver Riedinger

Title: Vice President

ABN AMRO BANK N.V.

By: /s/ Terrence J. Ward

Name: Terrence J. Ward

Title: Senior Vice President

By: /s/ Ignacio Pineros

Name: Ignacio Pineros

Title: Vice President

BNP PARIBAS

By: /s/ John Stacy
Name: John Stacy
Title: Managing Director

By: /s/ Aurora L. Abella
Name: Aurora Abella
Title: Vice President

THE BANK OF NOVA SCOTIA

By: /s/ William E. Zarrett

Name: William E. Zarrett

Title: Managing Director

CALYON, NEW YORK BRANCH

By: /s/ F. Frank Herrera

Name: F. Frank Herrera

Title: Director

By: /s/ Gill Realon

Name: Gill Realon

Title: Director

PNC BANK, NATIONAL ASSOCIATION

By: /s/ Phillip K. Liebscher

Name: Phillip K. Liebscher

Title: Vice President

SUNTRUST BANK

By: /s/ Daniel S. Komitor

Name: Daniel S. Komitor

Title: Director

THE ROYAL BANK OF SCOTLAND PLC

By: /s/ Philippe Sandmeier

Name: Philippe Sandmeier

Title: Senior Vice President

WACHOVIA BANK, N.A.

By: /s/ John G. Taylor

Name: John G. Taylor

Title: Vice President

**BAYERISCHE HYPO- UND VEREINSBANK AG, NEW
YORK BRANCH**

By: /s/ Yoram Dankner

Name: Yoram Dankner

Title: Managing Director

By: /s/ Richard Cordover

Name: Richard Cordover

Title: Director

COMERICA BANK

By: /s/ Kenyatta B. Gibbs

Name: Kenyatta B. Gibbs

Title: Vice President

KEYBANK NATIONAL ASSOCIATION

By: /s/ Brendan A. Lawlor

Name: Brendan A. Lawlor

Title: Senior Vice President

MIZUHO CORPORATE BANK, LTD.

By: /s/ Greg Botshon

Name: Greg Botshon

Title: Senior Vice President

SUMITOMO MITSUI BANKING CORPORATION

By: /s/ Edward McColly

Name: Edward McColly

Title: Vice President & Department Head

CREDIT SUISSE FIRST BOSTON
acting through its Cayman Islands Branch

By: /s/ Phillip Ho
Name: Phillip Ho
Title: Director

By: /s/ Mikhail Faybusovich
Name: Mikhail Faybusovich
Title: Associate

MELLON BANK, N.A.

By: /s/ Lawrence C. Ivey

Name: Lawrence C. Ivey

Title: First Vice President

MERRILL LYNCH BANK USA

By: /s/ Frank K. Stepan

Name: Frank K. Stepan

Title: Vice President

THE BANK OF NEW YORK

By: /s/ David T. Sunderwirth

Name: David T. Sunderwirth

Title: Vice President

UFJ BANK LIMITED

By: /s/ John T. Feeney

Name: John T. Feeney

Title: Vice President

UNION PLANTERS BANK, N.A.

By: /s/ Carol S. Geraghty

Name: Carol S. Geraghty

Title: Vice President

WILLIAM STREET CREDIT CORPORATION

By: /s/ Jennifer M. Hill

Name: Jennifer M. Hill

Title: Chief Financial Officer

KBC BANK N.V.

By: /s/ Robert Snauffer

Name: Robert Snauffer

Title: First Vice President

By: /s/ Eric Raskin

Name: Eric Raskin

Title: Vice President

THE NORINCHUKIN BANK

By: /s/ Masanori Shoji

Name: Masanori Shoji

Title: Joint General Manager

BANK OF TAIWAN

By: /s/ Eunice Shiou-Jsu Yeh

Name: Eunice Shio-Jsu Yeh

Title: SVP & GM

THE BANK OF TOKYO MITSUBISHI, LTD.

By: /s/ Joey Powell
Name: Joey Powell
Title: Assistant Vice President

By: /s/ Doug Barnell
Name: Doug Barnell
Title: Vice President & Manager

US BANK NATIONAL ASSOCIATION

By: /s/ John Holland
Name: John Holland
Title: Senior Vice President

CATHAY UNITED

By: /s/ Allen Y.L. Peng

Name: Allen Y.L. Peng

Title: EVP & General Manager

BANK OF COMMUNICATIONS

By: /s/ Hong Tu
Name: Hong Tu
Title: General Manager

FIRST COMMERCIAL BANK

By: /s/ Bruce M. J. Ju

Name: Bruce M. J. Ju

Title: VP & General Manager

FORM OF SYNDICATED LOAN REQUEST

WASTE MANAGEMENT, INC.
 Revolving Credit Agreement
 (the "Credit Agreement) dated as of October 15, 2004

Syndicated Loan Request under Section 2.6(a)

Total Commitment _____

Loans outstanding _____

Amount of this Request _____

Maximum Drawing Amount of outstanding
 Letters of Credit _____

Canadian dollar component C\$ _____

US dollar equivalent of C\$ component US\$ _____

Total of all outstanding and requested Loans plus
 Maximum Drawing Amount of all outstanding
 Letters of Credit plus Amount of this Request
 (must not exceed Total Commitment) _____

Proposed Drawdown Date _____

Interest Rate Option (Base Rate or Eurodollar) _____

Interest Period (if Eurodollar) _____

Conversion under Section 2.7

Amount to be converted from Eurodollar to Base
 Rate: _____

Amount to be converted from Base Rate to
 Eurodollar: _____

Amount to be maintained as Eurodollar Loan _____

Conversion Date _____

Interest Period (if Eurodollar) _____



I certify that the above is true and correct, and that all of the conditions set forth in §11 of the Credit Agreement have been satisfied as of the date hereof.

WASTE MANAGEMENT, INC.

By: _____

Name:

Title:

Date



FORM OF LETTER OF CREDIT REQUEST

WASTE MANAGEMENT, INC.
Revolving Credit Agreement
(the "Credit Agreement") dated as of October 15, 2004

Letter of Credit Request Under Section 3.1

Total Commitment _____

Maximum Drawing Amount of Letters of Credit
outstanding _____

Amount of this Request from Letter of Credit
Application (attached) _____

— U.S. Dollars _____

— Canadian Dollars _____

Loans Outstanding _____

Maximum Drawing Amount of all outstanding and
Requested Letters of Credit
(must not exceed the Total Commitment minus Total of
all Loans outstanding) _____

I certify that the above is true and correct, and that all of the conditions set forth in §11 of the Credit Agreement have been satisfied as of the date hereof.

WASTE MANAGEMENT, INC.

By: _____

Name:

Title:

Date

FORM OF COMPLIANCE CERTIFICATE**WASTE MANAGEMENT, INC.**

Compliance Certificate dated _____

I, _____, [Chief Financial Officer] [Chief Accounting Officer] [Corporate Treasurer] of **WASTE MANAGEMENT, INC.** (the "Borrower") certify that no Default or Event of Default exists and that the Borrower is in compliance with Sections 7, 8 & 9 of the Revolving Credit Agreement dated as of October 15, 2004 (as amended, modified, supplemented, restated and in effect from time to time, the "Credit Agreement"), [as of the end of the quarter ended _____]. Computations to evidence compliance with §9 of the Credit Agreement are detailed below. Capitalized terms used herein without definition shall have the meanings assigned to such terms in the Credit Agreement.

By: _____
 Name:
 Title:

§9.1 Interest Coverage Ratio

Consolidated Net Income (or Deficit)	\$ _____ (i)
Plus (without duplication):	
interest expense	\$ _____ (ii)
equity in losses (earnings) of	
unconsolidated entities	\$ _____ (iii)
income tax expense	\$ _____ (iv)
non-cash writedowns or writeoffs of assets	\$ _____ (v)
Minus non-cash extraordinary gains on the sale of assets	\$ _____ (vi)
EBIT (sum of (i) through (v))	\$ _____ (a)
Consolidated Net Income of Acquired Businesses	\$ _____ (i)
Plus (without duplication):	
interest expense	\$ _____ (ii)
equity in losses (earnings) of	
unconsolidated entities	\$ _____ (iii)
income tax expense	\$ _____ (iv)
non-cash writedowns or write-offs of assets	\$ _____ (v)
non-recurring extraordinary charges	\$ _____ (vi)
EBIT of Acquired Businesses (sum of (i) through (vi))	\$ _____ (b)
Sum of (a) plus (b)	\$ _____ (c)

Consolidated Total Interest Expense	\$ _____(d)
Ratio of (c) to (d)	_____:
Minimum ratio	2.75:1

§9.2 Total Debt to EBITDA

EBIT (from §9.1 item (c) above)	\$ _____(i)
Plus:	
Depreciation expense	\$ _____(ii)
Amortization expense	\$ _____(iii)
 EBITDA (sum of (i) through (iii))	 \$ _____(iv)

The sum of the following (calculated on a consolidated basis for the Borrower and its Subsidiaries):

Indebtedness for borrowed money	\$ _____(v)
Obligations for deferred purchase price of property or services (other than trade payables)	\$ _____(vi)
Obligations evidenced by debt instruments	\$ _____(vii)
Obligations under conditional sales	\$ _____(viii)
Obligations, liabilities and indebtedness under Capitalized Leases	\$ _____(ix)
Obligations, liabilities and indebtedness under bonding arrangements (to the extent that a surety has been called upon to make payment on a bond) Guaranties of the	\$ _____(x)
Indebtedness of others	\$ _____(xi)
Indebtedness secured by liens or encumbrances on property	\$ _____(xii)
Reimbursement obligations with respect to letters of credit	\$ _____(xiii)
 Total Debt (sum of v – xiv)	 \$ _____(xiv)

Ratio of (xv) to (iv)	_____:
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Maximum ratio:	3.50:1.00
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FORM OF ASSIGNMENT AND ACCEPTANCE

Dated as of _____, _____

Reference is made to the **REVOLVING CREDIT AGREEMENT** dated as of October 15, 2004 (as amended and in effect from time to time, the "Credit Agreement"), by and among **WASTE MANAGEMENT, INC.**, a Delaware corporation (the "Borrower"), **WASTE MANAGEMENT HOLDINGS, INC.**, a wholly-owned Subsidiary of the Borrower (the "Guarantor"), certain Banks, and **CITIBANK, N.A.**, as Administrative Agent (the "Administrative Agent"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Credit Agreement.

[_____] (the "Assignor") and [_____] (the "Assignee") hereby agree as follows:

1. Assignment. Subject to the terms and conditions of this Assignment and Acceptance, the Assignor hereby sells and assigns to the Assignee, and the Assignee hereby purchases and assumes without recourse to the Assignor, the rights, benefits, indemnities and obligations of the Assignor under the Credit Agreement equal to _____% of its Commitment Percentage and _____% of its interest in and under the Loans and the risk relating to outstanding Letters of Credit, each as in effect immediately prior to the Effective Date (as hereinafter defined).

2. Assignor's Representations. The Assignor (i) represents and warrants that (A) it is legally authorized to enter into this Assignment and Acceptance, (B) as of the date hereof, its Commitment is \$ _____, its Commitment Percentage is _____%, and the aggregate outstanding principal balance of its Loans equals \$ _____, and the aggregate outstanding amount of its participations in Letters of Credit equals \$ _____ (in each case before giving effect to the assignment contemplated hereby or any contemplated assignments which have not yet become effective), and (C) immediately after giving effect to all assignments which have not yet become effective, the Assignor's Commitment Percentage will be sufficient to give effect to this Assignment and Acceptance, (ii) makes no representations or warranty, express or implied, and assumes and shall have no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement or any of the other Loan Documents or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant thereto or the attachment, perfection or priority of any security interest or mortgage, other than that it is the legal and beneficial owner of the interest being assigned by it hereunder free and clear of any claim or encumbrance; and (iii) makes no representation or warranty and assumes and shall have no responsibility with respect to the financial condition of the Borrower or any of its Subsidiaries or any other Person primarily or secondarily liable in respect of any of the Obligations, or the performance or observance by the Borrower or any of its Subsidiaries or any other Person primarily or secondarily liable in respect of any of the Obligations of any of its obligations under the Credit Agreement or any of the other Loan Documents or any other instrument or document delivered or executed pursuant thereto.

The Administrative Agent shall make the appropriate entries on the applicable loan accounts to reflect the assignment of Loans.

3. Assignee's Representations. The Assignee (i) represents and warrants that (A) it is duly and legally authorized to enter into this Assignment and Acceptance, (B) the execution, delivery and performance of this Assignment and Acceptance do not conflict with any provision of law or of the charter or by-laws of the Assignee, or of any agreement binding on the Assignee, (C) all acts, conditions and things required to be done and performed and to have occurred prior to the execution, delivery and performance of this Assignment and Acceptance, and to render the same the legal, valid and binding obligation of the Assignee, enforceable against it in accordance with its terms, have been done and performed and have occurred in due and strict compliance with all applicable laws, (ii) confirms that it has received a copy of the Credit Agreement and each of the other Loan Documents, together with copies of the most recent financial statements delivered pursuant to §§6.4 and 7.4 of the Credit Agreement and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Acceptance; (iii) agrees that it will, independently and without reliance upon the Assignor, the Administrative Agent, or any other Bank and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement and the other Loan Documents; (iv) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under the Credit Agreement and the other Loan Documents as are delegated to the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto; (v) agrees that it will perform in accordance with their terms all the obligations which by the terms of the Credit Agreement are required to be performed by it as a Bank; and (vi) acknowledges that it has made arrangements with the Assignor satisfactory to the Assignee with respect to its pro rata share of Letter of Credit Fees in respect of outstanding Letters of Credit.

4. Effective Date. The effective date for this Assignment and Acceptance shall be _____ (the "Effective Date"). Following the execution of this Assignment and Acceptance, each party hereto shall deliver its duly executed counterpart hereof to the Administrative Agent for acceptance by the Administrative Agent. The Credit Agreement shall thereupon be amended to reflect the status and rights of the Banks thereunder.

5. Rights Under Credit Agreement. Upon such acceptance and amendment, from and after the Effective Date, (i) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Acceptance, have the rights and obligations of a Bank thereunder, and (ii) the Assignor shall, with respect to that portion of its interest under the Credit Agreement assigned hereunder, relinquish its rights and be released from its obligations under the Credit Agreement; provided, however, that the Assignor shall retain its rights to be indemnified pursuant to §16 of the Credit Agreement with respect to any claims or actions with reference to matters arising prior to the Effective Date.

6. Payments. Upon such acceptance and amendment, from and after the Effective Date, the Administrative Agent shall make all payments in respect of the rights and interests assigned hereby (including payments of principal, interest, fees and other amounts) to the Assignee. The Assignor and the Assignee shall make any appropriate adjustments in payments for periods prior

to the Effective Date by the Administrative Agent or with respect to the making of this assignment directly between themselves.

7. Governing Law. THIS AGREEMENT AND ACCEPTANCE IS A CONTRACT UNDER THE LAWS OF THE STATE OF NEW YORK AND SHALL, PURSUANT TO NEW YORK GENERAL OBLIGATIONS LAW §5-1401, BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

8. Counterparts. This Assignment and Acceptance may be executed in any number of counterparts which shall together constitute but one and the same agreement.

IN WITNESS WHEREOF, intending to be legally bound, each of the undersigned has caused this Assignment and Acceptance to be executed on its behalf by its officer thereunto duly authorized, as of the date first above written.

[ASSIGNOR]

By: _____
Name:
Title:

[ASSIGNEE]

By: _____
Name:
Title:

CONSENTED TO:

CITIBANK, N.A.,
as Administrative Agent

By: _____
Name:
Title:

WASTE MANAGEMENT, INC.

By: _____
Name:
Title:

Waste Management Holdings, Inc. executes this Assignment and Acceptance solely for purposes of ratifying their guaranty under §28 of the Credit Agreement.

WASTE MANAGEMENT HOLDINGS, INC.

By: _____

Name:

Title:

FORM OF COMPETITIVE BID QUOTE REQUEST

WASTE MANAGEMENT, INC.
Revolving Credit Agreement
(the "Credit Agreement") dated as of October 15, 2004

Competitive Bid Quote Request under Section 4.3

Total Commitment _____

Competitive Bid Loans Outstanding _____

Competitive Bid Loans Requested _____

Maximum Drawing Amount of outstanding Letters of Credit _____

Syndicated Loans (including Swing Line Loans) outstanding _____

Total of all Outstanding and Requested Competitive Bid Loans (must not exceed the lesser of the Total Commitment minus Total of all Syndicated Loans outstanding (including Swing Line Loans) and Maximum Drawing Amount of outstanding Letters of Credit) _____

Type of Competitive Bid Loans Requested Eurodollar/Absolute

Requested Drawdown Date _____

Principal Amount of Competitive Bid Loan Requested	Requested Interest Period(s)
_____	_____

I certify that the above is true and correct, and that all of the conditions set forth in §11 of the Credit Agreement have been satisfied as of the date hereof.

WASTE MANAGEMENT, INC.

By: _____

Name:

Title:

Date

WASTE MANAGEMENT, INC.
(the "Borrower")
Revolving Credit Agreement
(the "Credit Agreement) dated as of October 15, 2004

FORM OF INVITATION FOR COMPETITIVE BID QUOTES

ATTN:

REF:

RE: INVITATION FOR COMPETITIVE BID QUOTES

AGT DTD / /

CITIBANK, N.A., AS ADMINISTRATIVE AGENT INVITATION FOR COMPETITIVE BID QUOTES DATED / /

PURSUANT TO SECTION 4.3 OF THE ABOVE REFERENCED CREDIT AGREEMENT, YOU ARE INVITED TO SUBMIT A COMPETITIVE BID QUOTE TO THE BORROWER FOR THE FOLLOWING PROPOSED COMPETITIVE BID LOAN(S)

DATE OF BORROWING: / /

AGGREGATE AMOUNT REQUESTED:

PRINCIPAL AMOUNT INTEREST PERIOD

SUCH COMPETITIVE BID QUOTES SHOULD OFFER COMPETITIVE BID RATE(S)/MARGIN(S).

PLEASE RESPOND IN WRITING TO THIS INVITATION BY NO LATER THAN _____ A.M./P.M. (NE YORK TIME ON / / TO ONE OF THE FOLLOWING:

PRIMARY FAX NO. [_____ (Attn: _____) *Confirm*]

ALTERNATE FAX NO. [_____ (Attn: _____) *Confirm*]

NOTE: PLEASE FOLLOW-UP YOUR SUBMITTED WRITTEN BID(S) WITH PHONE VERIFICATION TO CONFIRM. IF YOU ARE UNABLE TO SEND YOUR FAX DUE TO AN OCCUPIED FAX LINE, PLEASE CALL BY ___ A.M./P.M. IN ADDITION, PLEASE SUBMIT YOUR BID(S) IN SUBSTANTIALLY THE FORM OF "EXHIBIT G" TO THE CREDIT AGREEMENT.

QUOTES RECEIVED AFTER _____ A.M./P.M. (NEW YORK TIME) WILL NOT BE FORWARDED TO THE BORROWER.



SUBMITTED BIDS MUST BE TEN MILLION DOLLARS OR LARGER MULTIPLE OF ONE MILLION DOLLARS. ALSO, PLEASE SPECIFY LIMITATION AMOUNTS, IF APPLICABLE.

CITIBANK, N.A.,
as Administrative Agent

By: _____

Name: _____

Title: _____

Date: _____

FORM OF COMPETITIVE BID QUOTE

WASTE MANAGEMENT, INC.
Revolving Credit Agreement
(the "Credit Agreement") dated as of October 15, 2004

Competitive Bid Quote under Section 4.5

Bank _____
Person to Contact _____

Date of Competitive Bid Quote Request _____
Type of Competitive Bid Loans Requested Eurodollar/Absolute
Requested Drawdown Date _____

Principal Amount of Competitive Bid Loan Offered	Requested Interest Period(s)	Proposed Competitive Bid Rate/Competitive Bid Margin
_____	_____	_____

I certify that the above is true and correct, and that the offer(s) set forth above irrevocably obligates us to make such Competitive Bid Loan(s) if such offer(s) is/are accepted by the Borrower and all of the conditions set forth in §11 of the Credit Agreement have been satisfied as of the requested Drawdown Date.

[NAME OF BANK]

By: _____
Name: _____
Title: _____
Date: _____



**FORM OF NOTICE OF ACCEPTANCE/REJECTION
OF COMPETITIVE BID QUOTE(S)**

WASTE MANAGEMENT, INC.
Revolving Credit Agreement
(the "Credit Agreement") dated as of October 15, 2004

Notice of Competitive Bid Quote(s) under Section 4.7

Date of Competitive Bid Quote Request _____
Type of Competitive Bid Loans Requested Eurodollar/Absolute
Requested Drawdown Date _____

We hereby **accept** the following Competitive Bid Quote(s):

Principal Amount of Quotes	Interest Period(s)	Competitive Rate/ Competitive Bid Margin	Bank
_____	_____	_____	_____

We hereby **reject** the following Competitive Bid Quote(s):

Principal Amount of Quotes	Interest Period(s)	Competitive Rate/ Competitive Bid Margin	Bank
_____	_____	_____	_____

The accepted and rejected Competitive Bid Quotes described above constitute all Competitive Bid Quotes submitted by the Banks in accordance with §4.5 of the Credit Agreement.

WASTE MANAGEMENT, INC.

By: _____

Name: _____

Title: _____

Date: _____

BANKS; COMMITMENTS

BANK	COMMITMENT
JPMorgan Chase Bank	\$ 210,000,000
Fleet National Bank	\$ 200,000,000
Citibank, N.A.	\$ 170,000,000
Barclays Bank PLC	\$ 145,000,000
Deutsche Bank AG, New York Branch	\$ 145,000,000
ABN AMRO Bank N.V.	\$ 115,000,000
BNP Paribas	\$ 115,000,000
The Bank of Nova Scotia	\$ 115,000,000
Calyon, New York Branch	\$ 90,000,000
PNC Bank, National Association	\$ 90,000,000
SunTrust Bank	\$ 90,000,000
The Royal Bank of Scotland plc	\$ 90,000,000
Wachovia Bank, N.A.	\$ 90,000,000
Bayerische Hypo- und Vereinsbank AG, New York Branch	\$ 55,000,000
Comerica Bank	\$ 55,000,000
KeyBank National Association	\$ 55,000,000
Mizuho Corporate Bank, Ltd.	\$ 55,000,000
Sumitomo Mitsui Banking Corporation	\$ 55,000,000
Credit Suisse First Boston	\$ 40,000,000
Mellon Bank, N.A.	\$ 40,000,000
Merrill Lynch Bank USA	\$ 40,000,000
The Bank of New York	\$ 40,000,000
UFJ Bank Limited	\$ 40,000,000
Union Planters Bank, N.A.	\$ 40,000,000
William Street Credit Corporation	\$ 40,000,000
KBC Bank N.V.	\$ 35,000,000
The Norinchukin Bank	\$ 30,000,000
Bank of Taiwan	\$ 25,000,000
The Bank of Tokyo Mitsubishi, Ltd.	\$ 25,000,000
US Bank National Association	\$ 25,000,000
Cathay United Bank	\$ 20,000,000
Bank of Communications	\$ 10,000,000
First Commercial Bank	\$ 10,000,000
TOTAL COMMITMENTS	\$2,400,000,000

EXISTING LIENS

Secured Debt

Tax-exempt project bonds issued by Subsidiaries, as disclosed in Note 3, Debt and Interest Rate Derivatives, to the Borrower's condensed consolidated financial statements included within its Quarterly Report on Form 10-Q for the quarter ended June 30, 2004 and Note 7, Debt and Interest Rate Derivatives, to the Borrower's condensed consolidated financial statements included within its Annual Report on Form 10-K for the year ended December 31, 2003.

Tax-exempt bonds issued by Subsidiaries in California to finance vehicles and equipment used to perform collection services under municipal contracts.

Capital Leases

Various capital leases entered into by Subsidiaries in the ordinary course of business for operating equipment and facilities.

ISSUING BANK LIMITS

Fleet National Bank	\$1,000,000,000
JPMorgan Chase Bank	\$ 500,000,000
Citibank, N.A.	\$ 250,000,000
PNC Bank, National Association	\$ 500,000,000
Wachovia Bank, N.A.	\$ 500,000,000
SunTrust Bank	\$ 250,000,000
BNP Paribas	\$ 300,000,000
	and, as to Canadian Dollar Letters of Credit, C\$200,000,000

FORM OF INCREASE/DECREASE LETTER

Date _____

Reference is made to the REVOLVING CREDIT AGREEMENT dated as of October 15, 2004 (as amended and in effect from time to time, the "Credit Agreement"), by and among WASTE MANAGEMENT, INC., a Delaware corporation (the "Borrower"), WASTE MANAGEMENT HOLDINGS, INC., a wholly-owned Subsidiary of the Borrower (the "Guarantor"), certain Banks, and CITIBANK, N.A., as Administrative Agent (the "Administrative Agent"), and specifically to Schedule 3.1 attached thereto.

The undersigned, being an Issuing Bank as defined in the Credit Agreement, hereby agrees pursuant to Section 3.1 of the Credit Agreement that the limit set forth in said Schedule 3.1 with respect to the undersigned shall, effective on the date hereof, be changed to \$_____.

The Borrower, the Guarantor and the Administrative Agent acknowledge the foregoing.

This letter agreement may be executed in any number of counterparts, and shall be governed by and construed in accordance with the law of the State of New York.

Very truly yours,

[Name of Issuing Bank]

By: _____

Title:

WASTE MANAGEMENT, INC.

By: _____

Title:

WASTE MANAGEMENT HOLDINGS, INC.

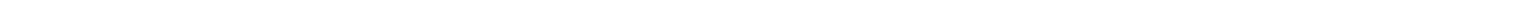
By: _____

Title:

CITIBANK, N.A., as Administrative Agent

By: _____

Title:



EXISTING LETTERS OF CREDIT

	LC NUMBER	BENEFICIARY	EFF DATE	EXP DATE	AMOUNT
<i>BANK OF AMERICA</i>	7401615	State Street Bank and Trust, as Trustee	4/29/1999	7/1/2005	\$ 1,323,728.48
	7411500	Wisconsin DNR	5/1/2003	5/1/2005	\$ 62,149,043.00
	7411904	Fleet National Bank	7/1/2003	7/1/2005	\$ 28,600,000.00
	7412800	Deutsche Bank Trust Company	11/20/2003	11/20/2005	\$ 10,118,357.00
	7413784*	TCEQ	3/30/2004	3/30/2005	\$ 227,837.00
	7413955	Koch Pulp & Paper Trading, LLC	3/31/2004	3/31/2005	\$ 40,000,000.00
	C7119975	Virginia DEQ	6/10/1988	9/1/2005	\$ 491,552.00
					\$142,910,517.48
<i>BANK ONE</i>	00343889*	Pennsylvania DEP	11/3/2003	11/3/2005	\$ 516,696.00
	SLT323822*	Pennsylvania DEP	3/13/2001	3/31/2005	\$ 11,618,013.00
					\$ 12,134,709.00
<i>BNP</i>	S401407	National Union Fire Insurance Co.	4/6/1999	4/30/2005	\$ 2,323,000.00
	S401642	ACE Overseas	3/27/2001	3/1/2006	\$ 1,200,000.00
	S401645	City of Del Mar	3/30/2001	6/30/2005	\$ 100,000.00
					\$ 3,623,000.00
<i>DEUTSCHE BANK</i>	839-53169	Massachusetts DEP/Oak Brook Bank	10/27/1994	11/1/2004	\$ 3,600,000.00

	LC NUMBER	BENEFICIARY	EFF DATE	EXP DATE	AMOUNT
					\$ 3,600,000.00
<i>FLEET</i>	1S1251247	New Jersey DEP	1/26/2001	1/30/2006	\$ 2,782,650.29
	1S1278952	New Castle County	6/21/2001	6/20/2005	\$ 340.00
	1S1279564	Town of Plainville	6/28/2001	6/30/2005	\$ 5,000.00
	1S1282117	CIWMB	8/2/2001	8/1/2005	\$ 200,000.00
	1S1288305	County Commissioners of Worcester County	9/30/2001	6/30/2005	\$ 250,000.00
	1S1303357	City of Tampa	12/31/2001	12/31/2004	\$ 1,500,000.00
	1S1303916	New York DEC	1/15/2002	1/15/2006	\$ 10,519,941.00
	1S1305224	ACE	1/16/2002	12/31/2005	\$ 60,700,000.00
	1S1311615	ACE USA	2/7/2002	2/28/2006	\$ 19,000,000.00
	1S1324248	Mellon Trust of California	4/30/2002	4/30/2005	\$ 1,474,902.19
	1S1332706	City of Wheaton	6/14/2002	6/30/2005	\$ 500,000.00
	1S1335027	ACE Insurance Company	12/16/2002	12/31/2005	\$ 19,000,000.00
	1S1335030*	TCEQ	12/17/2002	12/17/2005	\$ 6,372,019.00
	1S1335031	ACE Insurance Company	1/22/2003	12/31/2005	\$105,000,000.00
	1S1335033*	New Hampshire DES	6/4/2003	6/4/2006	\$ 6,847,416.00
	1S1335035*	TCEQ	4/1/2003	4/1/2005	\$ 1,952,603.00
	1S1335043	Pennsylvania DEP	3/14/2003	3/14/2006	\$ 10,219,006.00
	1S1335045	Vermont Commissioner of Insurance	7/28/2003	7/28/2005	\$ 23,000,000.00
	1S1335049	County of Los Angeles, Dept. of Public Works	7/3/2003	7/9/2005	\$ 10,000.00
	1S1335054*	TCEQ	7/7/2003	7/7/2005	\$ 7,614,114.00
	1S1335059	Pennsylvania DEP	5/5/2003	5/5/2006	\$ 3,238,570.00
	1S1335064	City of Chicago	5/16/2003	5/16/2005	\$ 250,000.00
	1S1335074	ACE Insurance Company	1/1/2004	12/31/2005	\$105,000,000.00
	1S1335075	ACE Insurance Company of Texas	1/1/2004	12/31/2005	\$ 9,000,000.00

LC NUMBER	BENEFICIARY	EFF DATE	EXP DATE	AMOUNT
1S1451465	Island County	11/4/2003	11/4/2005	\$ 1,118,000.00
1S50061694	Village of Hawthorn Woods	10/24/1997	11/30/2005	\$ 50,000.00
1S50062069	City of Holland, MI	6/28/1999	7/15/2005	\$ 150,000.00
1S64016601*	TCEQ	2/25/2004	2/25/2005	\$ 3,537,200.00
1S64016602	National Resource Recovery, Ltd.	4/12/2004	4/12/2005	\$ 50,000.00
1S64016603	National Resource Recovery, Ltd.	5/12/2004	5/12/2005	\$ 200,000.00
1S64016607	Oregon DEQ	5/17/2004	5/17/2005	\$15,033,276.00
50060791	Prairie Crossing H.A.	2/11/1994	2/11/2005	\$10,000,000.00
50060807	Reliance Insurance	1/1/1994	1/1/2006	\$ 1,373,000.00
50060830	City of Stockton	3/17/1994	1/13/2005	\$ 250,000.00
50061032	Pennsylvania Manu. Assoc. Ins. Co.	7/21/1995	7/21/2005	\$ 2,300,000.00
50061302	Louisiana DNR	9/11/1996	10/1/2005	\$ 1,733,241.00
50061331	Anne Arundel County, Maryland	10/8/1996	10/8/2005	\$ 379,703.00
50061368	Anne Arundel County, Maryland	11/19/1996	11/19/2005	\$ 33,471.00
50061572	Shade Township	6/10/1997	9/1/2005	\$ 1,748,866.00
50061606	City of Grand Terrace	7/23/1997	7/22/2005	\$ 10,000.00
50061643	National Union Fire Ins. Co. of Pittsburgh	10/1/1997	5/16/2005	\$ 881,250.00
50061680	West Virginia DEP	10/10/1997	3/31/2005	\$ 32,000.00
50061771	City of Azusa/DEC Mine Reclamation	1/28/1999	3/31/2005	\$ 499,311.00
50061772	City of Irwindale/DEC Mine Reclamation	1/28/1999	3/31/2005	\$ 31,413.00
50061801	National Union, et al	3/31/1998	1/1/2006	\$13,363,137.00
50061869	Village of Holiday Hills	7/30/1998	8/1/2005	\$ 10,000.00
50061897	Stafford County	9/9/1998	9/30/2005	\$ 130,000.00
50061909	Vermont Commissioner of Insurance	9/8/1998	9/30/2005	\$ 250,000.00
50061910	Consumers Power Company	9/9/1998	5/4/2005	\$ 349,054.00
50061917	American Home Assurance Co.	9/10/1998	3/30/2005	\$ 2,645,000.00

	LC NUMBER	BENEFICIARY	EFF DATE	EXP DATE	AMOUNT
	50061925	Antrim Township	9/10/1998	6/16/2005	\$ 480,000.00
	50061998	City of Two Rivers	1/22/1999	6/30/2005	\$ 5,000.00
	50062000	Village of Third Lake	1/22/1999	11/30/2004	\$ 75,000.00
	50062006	Reliance Insurance Company	2/17/1999	2/25/2006	\$ 8,222,435.00
	50062042	Cumberland County Improvement Authority	5/17/1999	6/1/2005	\$ 300,000.00
	50062044	Continental Casualty Company	5/7/1999	6/30/2005	\$ 30,000,000.00
	50062049	City of Farmington Hills & City of Farmington	5/21/1999	10/1/2005	\$ 1,000,000.00
	50062050	Rayford Hudson	5/21/1999	5/1/2005	\$ 3,120,000.00
	50062053	City of Chicago	5/21/1999	12/31/2004	\$ 100,000.00
	50062054	City of Chicago	5/21/1999	12/31/2004	\$ 500,000.00
	50062065	Village of Northfield	6/4/1999	4/30/2005	\$ 500,000.00
	50062075	City of Indian Wells	8/10/1999	7/1/2005	\$ 10,000.00
	50062114	Delaware DNREC	2/10/2000	12/31/2005	\$ 9,830,614.43
	50062124	Kittitas County of Washington	5/13/2000	5/13/2005	\$ 100,000.00
	50062141	National Union Fire Ins. Co.	6/15/2000	6/30/2005	\$ 3,085,000.00
					\$507,922,532.91
JPMORGAN	P010299 (867261)	The Bank of New York, as Trustee	9/1/1995	9/30/2005	\$ 3,575,513.70
CHASE					
	P010300 (867678)	The Bank of New York, as Trustee	4/23/1996	6/30/2005	\$ 5,793,498.00
	P010301 (867885)	The Bank of New York, as Trustee	9/26/1996	12/31/2004	\$ 4,414,094.00
	P010302 (867886)	The Bank of New York, as Trustee	9/19/1996	12/31/2004	\$ 20,323,221.00
	P224666 (D205048)	Continental Casualty Company	8/31/2000	6/29/2005	\$ 90,684,000.00
	P224668 (D-214841)	Stafford County Board of Supervisors	6/7/2001	12/7/2004	\$ 7,725.00
	P224669 (D-216965)	Stafford County Board of Supervisors	8/24/2001	7/24/2005	\$ 75,577.00

LC NUMBER	BENEFICIARY	EFF DATE	EXP DATE	AMOUNT
P224670 (I275983/I-445329)	National Union	5/5/1993	5/5/2005	\$ 742,500.00
P224672 (I276041)	National Union	5/1/1995	5/1/2005	\$ 385,900.00
P224678 (I445690)	National Union Fire Insurance Company of Pittsburgh	5/25/1994	5/31/2005	\$ 421,000.00
P224679 (I449973)	National Union	12/13/1994	12/31/2005	\$ 150,000.00
P224680 (I455132)	National Union	8/8/1995	8/8/2005	\$ 900,000.00
P224681 (I459334)	National Union Fire Insurance Company	1/30/1996	1/31/2006	\$ 1,911,666.00
P224691	Israel Electric Corporation-Bank Hapoalim-Tel Aviv	11/18/1999	8/12/2005	\$ 1,080,400.00
P224694 (I449058)	Central Valley Regional WQCB	10/28/1994	10/30/2005	\$ 203,400.00
P225252	Bank of New York	3/1/2001	3/18/2005	\$ 20,279,452.06
P225809	Bank of New York	5/29/2002	5/29/2005	\$ 10,118,357.00
P227887	Bank of New York	7/24/2002	7/24/2005	\$ 20,236,713.00
P228576	Bank of New York	8/9/2002	8/9/2005	\$ 14,327,593.00
P230274	Bank of New York	9/24/2002	9/24/2005	\$ 10,118,357.00
P230584	Bank of New York	10/4/2002	10/4/2005	\$ 20,236,713.00
P231095	Deutsche Bank Trust Company	10/23/2002	10/23/2005	\$ 14,165,699.00
P231096	Deutsche Bank Trust Company	10/23/2002	10/23/2005	\$ 25,295,891.00
P231097	Deutsche Bank Trust Company	10/23/2002	10/23/2005	\$ 4,755,628.00
P231098	Deutsche Bank Trust Company	10/23/2002	10/23/2005	\$ 20,236,713.00
P232178	Bank of New York	11/26/2002	11/26/2005	\$ 25,295,891.00
P244624	Deutsche Bank Trust Company	1/15/2004	1/15/2005	\$ 30,355,069.00
P247295	Deutsche Bank Trust Company	4/14/2004	4/14/2005	\$ 35,414,247.00
Y365525	State Street Bank and Trust Company	5/20/1998	5/20/2005	\$ 2,650,000.00
				\$384,154,817.76

	LC NUMBER	BENEFICIARY	EFF DATE	EXP DATE	AMOUNT
<i>SUNTRUST</i>	ATL/P601487	Orange County, Florida	4/3/2002	10/22/2005	\$17,014,246.00
	F841477	Indian River County Solid Waste Disposal District	6/26/2003	6/23/2005	\$ 500,000.00
	P000125	Metropolitan Dept. of Water & Sewerage Services of Davidson County	12/13/2002	12/11/2004	\$ 60,000.00
	P000515	Orange County Public Works, Florida	5/1/2003	5/1/2005	\$ 169,125.00
					\$17,743,371.00
<i>WACHOVIA</i>	LC870-093799	State Street Bank and Trust Company	12/16/1997	1/5/2006	\$36,686,795.00
	LC870-097201	State Street Bank and Trust	1/29/1998	2/18/2006	\$ 2,500,000.00
	LC870-099286 (80002)	Bank of New York	4/2/1998	11/5/2005	\$10,376,667.00
	LC870-112455 (80005)	Bank of New York	8/5/1999	11/5/2005	\$15,260,000.00
	LC870-123638	Bank of New York	9/27/2000	10/1/2005	\$20,346,667.00
	LC870-123639	Bank of New York	9/27/2000	10/1/2005	\$10,173,334.00
	SM203351W*	New York DEC	5/30/2003	5/31/2005	\$68,657,993.00
	SM204054W	Bank of New York	7/15/2003	7/15/2005	\$15,177,535.00
	SM204293W	Bank of New York	7/31/2003	7/31/2005	\$25,295,891.00
	SM204597W	Deutsche Bank Trust Company	8/25/2003	8/25/2005	\$10,121,644.00
	SM204784W	Deutsche Bank Trust Company	9/9/2003	9/9/2005	\$30,355,069.00
	SM205017W	Deutsche Bank Trust Company	9/26/2003	9/26/2005	\$ 7,386,400.00
	SM205019W	Deutsche Bank Trust Company	9/26/2003	9/26/2005	\$ 2,731,957.00
	SM205020W	Deutsche Bank Trust Company	9/26/2003	9/26/2005	\$ 1,467,162.00
	SM205026W	Deutsche Bank Trust Company	9/26/2003	9/26/2005	\$ 7,538,176.00
	SM205027W	Deutsche Bank Trust Company	9/26/2003	9/26/2005	\$11,130,192.00
	SM205506W	Deutsche Bank Trust Company	10/31/2003	10/31/2005	\$ 6,657,879.00

LC NUMBER	BENEFICIARY	EFF DATE	EXP DATE	AMOUNT
SM205507W	Deutsche Bank Trust Company	10/31/2003	10/31/2005	\$ 8,519,656.00
SM205508W	Deutsche Bank Trust Company	10/31/2003	10/31/2005	\$ 3,769,088.00
SM205509W	Deutsche Bank Trust Company	10/31/2003	10/31/2005	\$ 4,224,414.00
SM205510W	Deutsche Bank Trust Company	10/31/2003	10/31/2005	\$ 4,401,485.00
				\$ 302,778,004.00
Aggregate Amount:				1,374,866,952.15

LITIGATION

See the disclosure provided in (1) the “*Litigation*” section of **Note 8, Commitments and Contingencies**, to Borrower’s condensed consolidated financial statements included within its Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2004 and (2) the “*Litigation*” section of **Note 10, Commitments and Contingencies**, to Borrower’s consolidated financial statements included within its Annual Report on Form 10-K for the fiscal year ended December 31, 2003.

ENVIRONMENTAL COMPLIANCE

See the disclosure provided in (1) **Note 2, Landfill and Environmental Remediation Liabilities** and the “*Environmental Matters*” and “*Litigation*” sections of **Note 8, Commitments and Contingencies**, to Borrower’s condensed consolidated financial statements included within its Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2004 and (2) **Note 4, Landfill and Environmental Remediation Liabilities**, and the “*Environmental Matters*” and “*Litigation*” sections of **Note 10, Commitments and Contingencies**, to Borrower’s consolidated financial statements included within its Annual Report on Form 10-K for the fiscal year ended December 31, 2003.

EXISTING INDEBTEDNESS

Indebtedness of Waste Management Holdings, Inc. and Subsidiaries

Instrument		Estimated Amount at 10/15/04	Interest Rate
Waste Management Holdings, Inc. Senior Notes			
\$200,000,000 due 05/15/05		2,974,000	6.650%
\$100,000,000 due 05/15/05		99,955,996	7.000%
\$300,000,000 due 10/15/06		299,825,019	7.000%
\$148,440,000 due 03/15/11		147,413,539	7.650%
\$250,000,000 due 05/01/18		243,854,136	8.750%
\$450,000,000 due 08/01/26		448,975,000	7.100%
Total Senior Notes		\$1,242,997,691	
Waste Management Holdings, Inc. Convertible Bonds			
01/24/05		34,053,981	5.750%
Total Convertible Bonds		\$ 34,053,981	
Tax Exempt Revenue Bonds			
	Maturity Date	Estimated Amount at 10/15/04	Interest Rate
Amelia, Virginia	04/01/27	26,800,000	4.900%
Arkansas	08/01/21	15,000,000	3.000%
Arkansas	06/01/28	15,000,000	Variable
Brazoria County 2003A	05/01/28	12,000,000	2.500%
Bucks County	12/01/22	25,000,000	4.900%
California CMCFA 2004	09/01/14	15,000,000	4.100%
California CPCFA	07/01/31	19,000,000	5.125%
California CPCFA	07/01/27	38,435,000	4.450%
California CPCFA	01/01/22	48,500,000	3.125%
California CPCFA	12/01/27	15,000,000	4.850%
California CPCFA Series 2003A	11/01/38	35,700,000	5.000%
Carolina North	08/01/14	6,500,000	4.000%
Carolina South	11/01/16	12,500,000	4.100%
Charles City	02/01/09	40,600,000	4.875%

Tax Exempt Revenue Bonds	Maturity Date	Estimated Amount at 10/15/04	Interest Rate
Charles City (Virginia)	04/01/27	10,000,000	6.250%
Charles City 2003A	08/01/27	10,000,000	5.125%
Charles City 2004 A	02/01/29	30,000,000	Variable
Chesser A	04/01/18	6,701,792	7.375%
City of Granite City Illinois	05/01/27	30,320,000	5.000%
City of Hampton	09/01/28	10,000,000	Variable
City of Minor Lane Heights 2003	03/01/21	11,000,000	Variable
Cobb County 2004 A-1	04/01/33	10,000,000	2.100%
Cobb County 2004 A-2	04/01/33	10,000,000	3.100%
Colorado	07/01/27	14,160,000	Variable
Colorado 2003	08/01/38	10,000,000	Variable
Colorado 2004	07/01/18	10,840,000	5.700%
Countryside	04/01/21	5,670,000	Variable
Countryside	09/01/21	4,320,000	Variable
County of Graves Series 2003	03/01/21	2,700,000	Variable
County of Laurel 2003	03/01/21	7,300,000	Variable
County of Logan 2003	03/01/21	7,450,000	Variable
CSCDA	04/01/11	25,000,000	2.900%
Denton County 2003B	05/01/28	10,000,000	3.500%
East Central Alabama 2003	10/01/28	3,725,000	Variable
Gilliam County	08/01/25	15,900,000	4.150%
Gilliam County	07/01/29	25,000,000	2.500%
Gilliam County 2003A	07/01/38	15,000,000	4.875%
Gloucester 2003A	09/01/38	10,000,000	5.125%
Gulf Coast 2004A	04/01/19	35,000,000	Variable
Hampton (Wachovia)	04/01/13	10,000,000	Variable
Harris County 2003D (Gulf Coast Waste)	04/01/12	25,000,000	3.200%
Harrison County, WV 2003A	08/01/24	8,420,000	Variable
Illinois	09/01/27	30,000,000	Variable
Illinois	10/01/23	20,000,000	Variable
Illinois (Waste Management Holdings, Inc. Indebtedness)	01/01/10	34,570,000	5.050%
Indiana	10/01/25	25,000,000	Variable
Indiana	10/01/25	14,000,000	Variable
Indiana	10/01/31	10,000,000	2.700%
King George	06/01/23	20,000,000	4.100%
Maine Series 2003	02/01/16	30,000,000	2.900%
Maricopa (Arizona)	12/01/31	15,580,000	4.800%
Maryland Series 2002	04/01/16	10,200,000	2.300%
Massachusetts DFA 2002	05/01/27	15,000,000	5.500%
Massachusetts DFA 2003	06/01/14	15,000,000	5.450%
Michigan Strategic Series 2001	08/01/27	35,000,000	3.750%

Tax Exempt Revenue Bonds	Maturity Date	Estimated Amount at 10/15/04	Interest Rate
Michigan Strategic Series 2002	12/01/12	35,000,000	4.200%
Michigan Strategic Fund 2004 A	12/01/13	22,000,000	2.200%
Michigan Strategic Fund 2004 B	12/01/13	13,000,000	3.000%
Mississippi	03/01/27	10,000,000	2.300%
Mississippi 2003	07/01/28	10,000,000	Variable
Mississippi 2004	03/01/29	10,000,000	3.350%
Mobile, AL Series 2003	10/01/28	4,175,000	Variable
Nashville (Tennessee)	08/01/31	10,000,000	4.100%
Nebraska Series 2003A	11/01/33	10,000,000	Variable
Nevada	10/01/14	10,000,000	4.550%
New Jersey	11/01/13	20,000,000	4.000%
New Jersey 2004 A-1	06/01/15	10,000,000	2.850%
New Jersey 2004 A-2	06/01/15	15,000,000	5.300%
New York City 1997	12/01/17	20,000,000	Variable
New York Series 2002	05/01/12	31,000,000	4.000%
New York Series 2002 B	05/01/19	25,000,000	Variable
New York Series 2004A	07/01/17	20,000,000	4.450%
North Sumter, AL Series 2003	10/01/28	4,350,000	Variable
Ohio Series 2003	03/01/21	1,450,000	Variable
Ohio WDA	11/01/22	45,865,000	4.850%
Ohio WDA 2004	07/01/21	15,000,000	4.500%
Okeechobee	03/01/05	1,750,000	Variable
Okeechobee	03/01/06	1,750,000	Variable
Okeechobee	08/01/24	15,000,000	Variable
Okeechobee 2004A	07/01/39	15,970,000	4.200%
Rhode Island	04/01/16	8,000,000	2.750%
Richland (SC)	06/01/15	10,000,000	Variable
Savannah 2004A	07/01/16	5,000,000	5.500%
Schuylkill/Pine Grove	10/01/19	11,700,000	5.100%
South Carolina 2003A	07/01/24	15,000,000	Variable
Southwestern Illinois	10/01/27	4,700,000	Variable
State of New Hampshire	05/01/27	20,000,000	2.900%
State of New Hampshire	09/01/12	20,000,000	Variable
State of New Hampshire 2003	08/01/24	15,000,000	2.900%
Sussex Co.	06/01/28	10,000,000	5.125%
Sussex Co. Virginia	09/01/27	10,000,000	Variable
Tennessee 2003	07/01/33	25,000,000	Variable
Travis County 2003C	05/01/28	12,000,000	3.200%
Valley Facility (MidAm)	05/01/18	24,400,000	5.100%
Washington 2000-H	10/01/25	13,650,000	Variable
Washington 2000-I	10/01/25	13,650,000	Variable

Tax Exempt Revenue Bonds	Maturity Date	Estimated Amount at 10/15/04	Interest Rate
Washington 2000-L	12/01/25	7,235,000	Variable
Washington 2001-C	02/01/26	22,000,000	Variable
Washington 2002-D	07/01/30	20,000,000	Variable
Washington 2002-E	10/01/27	20,000,000	Variable
Wisconsin Series 2003A	04/01/16	50,000,000	2.500%
Wood County, WV	04/01/24	6,580,000	Variable
Yavapai (2003A-1)	03/01/28	20,000,000	3.650%
Yavapai (2003A-2)	03/01/28	17,420,000	4.450%
Yavapai (Arizona)	06/01/27	30,000,000	4.625%
Total Tax Exempt Bonds		1,760,536,792	

Tax Exempt Project Bonds	Maturity Date	Estimated Amount at 10/15/04	Interest Rate
Claremont Bonds	07/01/05	1,485,000	5.100%
Claremont Bonds	07/01/06	1,620,000	5.200%
Claremont Bonds	07/01/07	3,100,000	5.300%
Concord Debt Series A	01/01/18	31,315,000	Variable
Concord Debt Series B	01/01/18	4,925,000	Variable
Gloucester Bonds	12/01/09	32,585,000	6.850%
Gloucester Bonds	12/01/09	6,930,000	7.000%
Westchester Debt	07/01/05	8,630,000	5.400%
Westchester Debt	07/01/06	9,080,000	5.500%
Westchester Debt	07/01/07	14,695,000	5.600%
Westchester Debt	07/01/08	15,425,000	5.700%
Westchester Debt	07/01/09	16,225,000	5.750%
Westchester Debt	07/01/05	7,290,000	5.000%
Westchester Debt	07/01/06	7,845,000	5.130%
Westchester Debt	07/01/07	7,890,000	5.200%
Westchester Debt	07/01/08	3,405,000	6.000%
Westchester Debt	07/01/09	8,300,000	5.500%
Net Premium on Westchester		(5,745)	
North Broward	12/01/04	11,765,000	5.000%
North Broward	12/01/05	12,975,000	5.000%
North Broward	12/01/06	14,315,000	5.000%
North Broward	12/01/07	15,805,000	5.000%
North Broward	12/01/08	22,190,000	5.500%
North Broward	12/01/09	17,040,000	5.380%
North Broward	12/01/10	17,955,000	5.380%
North Broward	12/01/11	15,480,000	4.500%

Tax Exempt Project Bonds	Maturity Date	Estimated Amount at 10/15/04	Interest Rate
Premium on North Broward		2,948,137	
South Broward	12/01/04	14,010,000	5.000%
South Broward	12/01/05	15,430,000	5.000%
South Broward	12/01/06	17,010,000	5.000%
South Broward	12/01/07	18,755,000	5.000%
South Broward	12/01/08	26,225,000	5.500%
South Broward	12/01/09	20,240,000	5.380%
South Broward	12/01/10	21,330,000	5.380%
South Broward	12/01/11	14,865,000	4.500%
Premium on South Broward		3,475,678	
North Andover		44,278,100	6.300%
Discount on North Andover		(92,400)	
Massachusetts	05/01/27	10,000,000	Variable
Other Project Bonds	Various Maturities	5,300,000	9.250%
Total Project Bonds		\$ 522,038,770	
Other Indebtedness			
Wheelabrator LLC Bonds – NE Maryland	01/01/05	16,175,000	7.200%
Wheelabrator LLC Bonds – NE Maryland	01/01/06	17,440,000	7.200%
Wheelabrator LLC Bonds – NE Maryland	01/01/07	14,890,000	7.200%
Wheelabrator LLC Bonds – CRRA	01/01/05	3,900,000	4.750%
Wheelabrator LLC Bonds – CRRA	07/01/05	12,000,000	5.000%
Wheelabrator LLC Bonds – CRRA	01/01/06	2,000,000	4.875%
Wheelabrator LLC Bonds – CRRA	07/01/06	15,000,000	5.375%
Wheelabrator LLC Bonds – CRRA	01/01/07	18,200,000	5.000%
Wheelabrator LLC Bonds – CRRA	01/01/08	4,500,000	5.000%
Wheelabrator LLC Bonds – CRRA	07/01/08	15,000,000	5.500%
Wheelabrator LLC Bonds – CRRA	01/01/09	13,225,000	5.125%
Millbury	Various Maturities	29,867,345	
Other Notes and capital leases		453,503,023	
Total Other Indebtedness		\$ 615,700,368	
Total Indebtedness		\$4,175,327,603	

WASTE MANAGEMENT, INC.

COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES
(In Millions, Except Ratios)
(Unaudited)

	Nine Months Ended September 30,	
	2004	2003
Income before income taxes, cumulative effect of changes in accounting principles, equity in losses of unconsolidated entities and minority interests	\$ 939	\$ 791
Fixed charges deducted from income:		
Interest expense	344	329
Implicit interest in rents	38	52
	382	381
Earnings available for fixed charges	\$ 1,321	\$ 1,172
Interest expense	\$ 344	\$ 329
Capitalized interest	16	16
Implicit interest in rents	38	52
Total fixed charges	\$ 398	\$ 397
Ratio of earnings to fixed charges	3.3 x	3.0 x

SECTION 302 CERTIFICATION

I, David P. Steiner, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Waste Management, Inc.;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a –(15e) and 15d – (15e)) for the registrant and have:
 - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
 - b. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - c. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a. all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 28, 2004

By: /s/ David P. Steiner

David P. Steiner
Chief Executive Officer

SECTION 302 CERTIFICATION

I, Robert G. Simpson, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Waste Management, Inc.;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a – (15e) and 15d – (15e)) for the registrant and have:
 - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
 - b. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - c. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a. all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 28, 2004

By: /s/ Robert G. Simpson

Robert G. Simpson
Senior Vice President and
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Waste Management, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2004 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert G. Simpson, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Robert G. Simpson

Robert G. Simpson
*Senior Vice President and
Chief Financial Officer*

October 28, 2004