

cially owned, collectively, by any two or more of such persons; or ten per centum (10%) or more of the voting securities of such Trustee is beneficially owned either by an underwriter for the Company or by any director, partner or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons;

(6) such Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as in this subsection (d) defined, (A) five per centum (5%) or more of the voting securities, or ten per centum (10%) or more of any other class of security, of the Company, not including the bonds issued under this Indenture and securities issued under any other indenture, under which such Trustee is also trustee, or (B) ten per centum (10%) or more of any class of security of an underwriter for the Company;

(7) such Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as in this subsection (d) defined, five per centum (5%) or more of the voting securities of any person who, to the knowledge of such Trustee, owns ten per centum (10%) or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, the Company;

(8) such Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as in this subsection (d) defined, ten per centum (10%) or more of any class of security of any person who, to the knowledge of such Trustee, owns fifty (50) per centum or more of the voting securities of the Company; or

(9) such Trustee owns, on May 15 in any calendar year in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of twenty-five per centum (25%) or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraphs (6), (7) or (8) of this subsection (d). As to any such securities of which such Trustee acquired ownership through becoming executor, administrator or testamentary

trustee of an estate which included them, the provisions of the preceding sentence shall not apply for a period of two (2) years from the date of such acquisition, to the extent that such securities included in such estate do not exceed twenty-five per centum (25%) of such voting securities or twenty-five per centum (25%) of any such class of security. Promptly after May 15, in each calendar year, such Trustee shall make a check of its holdings of such securities in any of the above-mentioned capacities as of May 15. If the Company fails to make payment in full of principal or interest upon the bonds when and as the same become due and payable, and such failure continues for thirty (30) days thereafter, such Trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such thirty-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by said Trustee, with sole or joint control of such securities vested in it, shall, but only so long as such failure shall continue, be considered as though beneficially owned by said Trustee for the purposes of paragraphs (6), (7) and (8) of this subsection (d).

The specifications of percentages in paragraphs (3) to (9), inclusive, of this subsection (d) shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purpose of paragraph (3) or (7) of this subsection (d).

For the purposes of paragraphs (6), (7), (8) and (9) of this subsection (d), the terms "security" and "securities" shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay money lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness; (B) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for thirty (30) days or more and shall not have been cured; and (C) a Trustee shall not be deemed to be the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for an obligation which is

not in default as above defined, or (ii) any security which it holds as collateral security under this Indenture, irrespective of any default hereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent, or depository, or in any similar representative capacity.

The percentages of voting securities and other securities specified in this subsection (d) shall be calculated in accordance with the following provisions:

(a) A specified percentage of the voting securities of a Trustee, the Company or any other person referred to in this Section (each of whom is referred to as a "person" in this paragraph and in the following paragraph) means such amount of the outstanding voting securities of such person as entitles the holder or holders thereof to cast such specified percentage of the aggregate votes which the holders of all the outstanding voting securities of such person are entitled to cast, in the direction or management of the affairs of such person.

(b) A specified percentage of a class of securities of a person means such percentage of the aggregate amount of securities of the class outstanding.

(c) The term "amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to capital shares, and the number of units, if relating to any other kind of security.

(d) The term "outstanding" means issued and not held by or for the account of the issuer. The following securities shall not be deemed outstanding within the meaning of this definition:

(1) Securities of an issuer held in a sinking fund relating to securities of the issuer of the same class;

(2) Securities of an issuer held in a sinking fund relating to another class of securities of the issuer, if the obligation evidenced by such other class of securities is not in default as to principal or interest or otherwise;

(3) Securities pledged by the issuer thereof as security for an obligation of the issuer not in default as to principal or interest or otherwise;

(4) Securities held in escrow if placed in escrow by the issuer thereof;

provided, however, that any voting securities of an issuer shall be deemed outstanding if any person other than the issuer is entitled to exercise the voting rights thereof.

(e) A security shall be deemed to be of the same class as another security if both securities confer upon the holder thereof substantially the same rights and privileges. provided, however, that, in the case of secured evidences of indebtedness, all of which are issued under a single indenture, differences in the interest rates or maturity dates of various series thereof shall not be deemed sufficient to constitute such series different classes, and provided further, that, in the case of unsecured evidences of indebtedness, differences in the interest rate or maturity dates thereof shall not be deemed sufficient to constitute them securities of different classes, whether or not they are issued under a single indenture.

For the purposes of this § 1214, the term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a person, or any security issued under or pursuant to any trust, agreement, or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a person; the term "director" means any director of a corporation, or any individual performing similar functions with respect to any organization whether incorporated or unincorporated; the term "executive officer" means the president, every vice president, every trust officer, the cashier, the secretary, and the treasurer of a corporation, and any individual customarily performing similar functions with respect to any organization whether incorporated or unincorporated, but shall not include the chairman of the board of directors; the term "underwriter" when used with reference to the Company means every person who, within three years prior to the time as of which the determination is made, has purchased from the Company with a view to, or has sold for the Company in connection with, the distribution of any security of the Company out.