

§ 801.40

[REDACTED]

FACSIMILE  
WRITER'S DIRECT DIAL NUMBER:

August 9, 1990

FEDERAL EXPRESS

Federal Trade Commission  
6th Street and Pennsylvania, N.W.  
Washington, D.C. 20580

Att.: Patrick Sharpe, Esq.

Dear Pat:

This is to supplement my letter to Tom Hancock of August 6 and today's telephone conversations about the proposed transaction.

It would appear to me that the formation of Holdings I and Holdings II should be governed by § 801.40. It is formation of these entities that accomplishes the shift in control of the Company to Corporation "A". The subsequent merger only serves to increase control from 50% to 80% and, in itself, would, therefore, not be reportable. If there were no merger, there would be no change in the potential competitive impact of the transaction, but in your view, the reporting requirements would be different. As I also noted, such an interpretation has the potential to permit, without compliance, all similar joint ventures so long as (i) no participant will own 50% of the holding company and (ii) there is some sort of merger. This could not be the intention of § 801.40.

I hope the Department will reconsider its position. Please be so kind as to call on Monday to discuss this matter.

Yours truly,

[REDACTED]

GK:ep

*The formation of the companies are steps in a subsequent merger. Since it is a merger, § 801.40 cannot apply. If there were no merger, then it will be subject to § 801.40! (PS)*

[REDACTED]

August 13, 1990

Via Telecopy and Federal Express

[REDACTED]

Dear [REDACTED]

The purpose of this letter is to confirm the terms of our agreement in principle with respect to the purchase and leaseback of the fifteen facilities (the "Facilities") shown on the attached Exhibit II between [REDACTED] Inc., a [REDACTED], and [REDACTED] or affiliates thereof [REDACTED]). The purchase price will be \$112.3 million.

Attached hereto and incorporated into this letter by reference is Exhibit I, which sets forth our understanding of the principal terms of our agreement. As soon as practical after the date hereof, [REDACTED] will submit a draft of the definitive purchase agreement and proposed form of lease for your review and shall in good faith negotiate additional provisions of the definitive purchase and lease agreements not specified on Exhibit I. The definitive agreements will contain representations and warranties, affirmative covenants and conditions precedent as are customary in transactions of this type and such other provisions as shall be mutually agreeable.

Each party agrees to use its best efforts and to take such corporate and other action as shall be necessary and appropriate to cause the acquisition of the Facilities by [REDACTED] and the subsequent leaseback by you or your affiliates to be duly consummated as soon as practical with one group of facilities totaling approximately \$76 million expected to close by September 30, 1990 ("Group 1") and the remaining group closing no later than March 31, 1991, but in no event prior to February 15, 1991 ("Group 2"). Each party also agrees to cause its officers, directors and agents to cooperate fully with each other in connection with the transactions contemplated hereby.

EXHIBIT A

[REDACTED]  
August 13, 1990

Page Two

The form of a satisfactory Standby Irrevocable Letter of Credit is attached as Exhibit III.

The obligation of [REDACTED] to consummate the transactions will be subject to:

1. Receipt of all necessary consents and approvals from governmental authorities and others required for [REDACTED] to operate and for [REDACTED] to acquire the Facilities.
2. Receipt of evidence that the zoning ordinances, general plans and all other land use regulations of the cognizant municipal jurisdictions and all private covenants, conditions and restrictions if any, affecting the Facilities permit the transfer and use of the Facilities (and reconstruction and resumption of use in the event of damage, destruction, or cessation of use) for the business presently conducted thereon as a matter of right for an unlimited time period and not merely as a legal non-conforming use.
3. Receipt of evidence of proper licensing and compliance with other legal requirements, including but not limited to all permits, licenses, conditional use permits, certificates of need, and proof that each Facility is in compliance, in all material respects, with all applicable federal, state and local laws, ordinances and regulations and all insurance requirements, and has all necessary current provider agreements.
4. Disclosures in writing, for [REDACTED] review, of all pending or threatened litigation or governmental proceedings seeking to enjoin, challenge or collect material damages in connection with [REDACTED] the Facilities or the acquisition.
5. Receipt of title commitments satisfactory to [REDACTED] in current ALTA extended coverage owner's form for each of the Facilities. Each such policy shall provide coverage satisfactory to [REDACTED] with respect to: covenants, conditions and restrictions affecting the property; completion, dedication and maintenance of, and access to, streets adjoining the property; the ability to conduct the business of the Facility within, and compliance with, the

requirements of applicable zoning and other land use regulations, as described in Item 2 above (to the extent such coverage is available in the relevant state at a reasonable cost); insuring over and against parties in possession of the Facilities; and such other title issues as required by ██████. Each policy shall be in an amount at least equal to the acquisition price for the Facility. ██████ shall also have received chain of title reports showing all previous owners and lessees of the Facilities from 1940 to the present.

6. Receipt of a final "as-built" ALTA survey for each of the properties. The surveys shall be certified to ██████ and the title company as being true and accurate and shall identify thereon all easements (including utility easements), building lines, roads and such other items as may be required by ██████ or the title company. The surveys shall indicate that there are no encroachments onto any adjacent property or onto any building line or easement affecting any of the properties.
7. Verification that no material adverse change in the financial condition, business, or prospects of the lessees or ██████ has occurred.
8. Satisfactory completion of environmental due diligence, including but not limited to receipt of a written report satisfactory to ██████ from a qualified geotechnical or engineering firm acceptable to ██████ concerning the presence of hazardous substances on, in, or under the properties.
9. Receipt of legal opinions from counsel to ██████ and its affiliates satisfactory to ██████ including matters such as due organization; valid existence; good standing; due authorization; enforceability; violation of law or codes; cause of an event of default; zoning; receipt of all approvals, consents, permits, licenses, and certificates of need; litigation; eminent domain; and environmental matters.
10. For the Group 1 facilities there has been no material adverse change in operating performance of the Existing Facilities.

11. [REDACTED] closing of the Group 2 facilities shall be contingent upon 1) the closing taking place no earlier than February 15, 1991 and no later than March 31, 1991, 2) [REDACTED] closing sale/leasebacks or asset sales with third parties, with a minimum aggregate purchase price of \$45 million, 3) [REDACTED] achieving net revenue less operating expenses ("Operating Income"), of no less than \$67 million for the three months ended January 31, 1991 or \$71 million for the three months ended February 28, 1991 (whichever month end immediately precedes the closing) 4) no default on the [REDACTED] bank agreements and 5) receipt of facility financial statements demonstrating operating performance of the Facilities at or above fiscal year 1991 budgeted levels as presented to the LBO bank group for the July 27th, 1990 meeting. [REDACTED] at its sole discretion may waive any of the foregoing contingencies.
12. Approval of the transactions contemplated hereby by [REDACTED]s bank group and approval of new covenants by [REDACTED]s bank group which will allow [REDACTED] to operate at the forecasted levels without default.
13. [REDACTED] obligation to close the Facilities included in the transaction but not yet inspected by [REDACTED] (see Exhibit II) is subject to satisfactory inspection by management of [REDACTED] and [REDACTED] consultants. If the inspection of any facility is unsatisfactory to [REDACTED], then [REDACTED] may substitute another facility reasonably satisfactory to [REDACTED].


The obligation of [REDACTED] to consummate the Group 1 transaction will be subject to:


1. Receipt of evidence of proper licensing and compliance with other legal requirements, including but not limited to, all permits, licenses and certificates of need required to permit the transfer.
2. Approval of the Group 1 transactions contemplated hereby by [REDACTED] bank group on or before August 22, 1990.

The obligation of [REDACTED] to consummate the Group 2 transaction will be subject to:

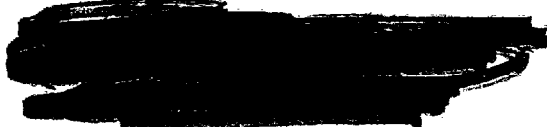
1. Receipt of evidence of proper licensing and compliance with other legal requirements, including but not limited to, all permits, licenses and certificates of need required to permit the transfer.

  
August 13, 1990  
Page Five


2. Approval of the Group 2 transactions contemplated hereby by  bank group.

We are pleased to submit this letter to you. If you are in agreement with the foregoing, please indicate by signing and returning to the undersigned the enclosed copy of the letter along with your wire of \$400,000 payable as a commitment fee to  by August 15, 1990. Also, please initial each page of the exhibits.

Very truly yours,



Agreed to and confirmed this \_\_\_\_\_ day of August, 1990.



By: \_\_\_\_\_

Title: \_\_\_\_\_



Exhibit I

Sale/Leaseback  
Lease Term Sheet

Acquisition Price:

██████████ will acquire and concurrently lease back to ██████████ the Facilities shown on the attached Schedule I for \$112,300,000. The Group 1 facilities will close on or before September 30, 1990 and the Group 2 facilities, subject to certain conditions specified elsewhere herein, will close no earlier than February 15, 1991 and no later than March 31, 1991. (See Exhibit II for the list of facilities in Group 1 and Group 2.) The acquisition does not include the moveable personal property.

Base Rent:

The Base Rent will be the Base Lease Rate times the acquisition price paid in equal monthly installments, in advance. The Base Lease Rate, currently estimated at 12.7%, will be 395 basis points above the 10 Year Treasury Rate at the close of business, 5 business days prior to the date of closing.

The Base Rent will be adjusted at the end of year 10 by 50% of any increase (but not decrease) in the 5 year Treasury Note rate since the lease commencement date.

Beginning with the rent due on April 1, 1991, for each Group 2 facility that has not closed, the Base Rent for each Group 1 facility lease shall be increased by an amount equal to 6 basis points multiplied by the acquisition price of the facility. The rent increases set forth in this paragraph will only apply if any of the Group 2 facilities does not close (unless ██████████ fails to comply with its obligations under this agreement) and ██████████ achieves Operating Income of at least \$67 million for the three months ended January 31, 1991.

Additional Rent:

Additional Rent will equal the greater of CPI Rent or Percentage Rent, computed on a facility by facility basis. Additional Rent is to be calculated and paid quarterly beginning with the first quarter of the second lease year. Beginning in year 3 of the lease term and continuing in each year thereafter, 80% of the highest annual Additional Rent for the prior years of the lease shall become Minimum Additional Rent.

CPI rent is to be structured so that CPI rent increases are equal to one-half of the increase in the Consumer Price Index.

Exhibit I

Sale/Leaseback  
Lease Term Sheet

Additional Rent (Continued):

Percentage Rent will equal 5% of annual revenues less contractual allowances and bad debts ("Gross Revenues") in excess of Base Revenues up to the Transition Point. Base Revenues, for percentage rent purposes, will equal first lease year Gross Revenues for the Existing Facilities (See Exhibit II) and 85% of second lease year Gross Revenues for the New Facilities (See Exhibit II). The beginning of the lease year shall be the first day of the month following closing.

When aggregate rent for all of the Facilities (annual Base Rent plus Additional Rent, regardless of whether Percentage or CPI Rent is paid) equals 135% of the first year Base Rent for all of the Facilities (the "Transition Point"), Percentage Rent will be 5% of annual Gross Revenues in excess of Base Revenues up to the Transition Point plus 3% of annual Gross Revenues after the Transition Point. Gross Revenues and Base Revenues will not include any sublease revenue attributable to the

Term:

The Facilities will be leased on a completely net basis for a primary term of 15 years with four 5 year renewal options at the then fair market lease rates. All Facilities must be renewed as one group and not individually.

Supplemental Rent:

For each Facility lease, one-half of one percent of the purchase price will be paid as supplemental rent at the end of year 10.

Right of First Refusal:

For any facility, the lessee shall have a right of first refusal to purchase such facility during the entire lease term and during any renewal as long as there is not an existing default under the lease. If the lessee exercises this right of first refusal, the purchase price shall not be in excess of the greater of i) fair market value or ii) original cost, including the cost of any capital additions funded by Fair market value shall be defined as the fee simple real estate value as encumbered by the lease, as determined by appraisal.



Exhibit I

Sale/Leaseback  
Lease Term Sheet

Letter of Credit (New Facilities):

An annually renewed letter of credit ("L/C") from a commercial bank satisfactory to [REDACTED], equal to 12 months' Base Rent, will be required for the New Facilities only (See Exhibit III). Such L/C requirement will be waived if and when each of the New Facilities achieves cash flow coverage, after a 6% management fee, of 2.0 to 1 for 12 consecutive months and when [REDACTED] receives credit ratings on its senior unsecured debt of at least "BB" from Moodys rating agency and at least "Ba" from Standard and Poors rating agency. The L/C requirement shall be reinstated if either of such ratings is downgraded below "BB" or "Ba", respectively, or if any one of the New Facilities fails to meet the coverage test established above for any subsequent consecutive 6-month period. [REDACTED] will have the right to draw on the L/C(s) to cover any losses on default.

Letter of Credit/Security Deposit (Existing Facilities):

A security deposit in an amount equal to three months' Base Rent or a letter of credit in the same amount will be required for the Existing Facilities only. The letter of credit shall be renewed annually. [REDACTED] shall have the right to draw upon the security deposit or the letter of credit to cover any losses on default. [REDACTED] will use its best efforts to obtain a letter of credit rather than providing the security deposit.

Commitment Fees:

The total commitment fee shall be .75% of the acquisition price. Prior to the signing of the commitment, [REDACTED] paid [REDACTED] a portion of said commitment fee, in the amount of \$100,000. Upon acceptance of the commitment, [REDACTED] will pay to [REDACTED] an additional \$400,000 of the commitment fee. After execution of the commitment, if the transaction does not close for any reason, then [REDACTED] will retain the \$500,000 of the commitment fee previously submitted to it and the commitment shall be terminated. [REDACTED] will pay to [REDACTED] the balance of the commitment fee as follows: At the Group 1 closing, .75% of the Group 1 acquisition price less the \$500,000 previously paid, and approximately 45 days prior to the estimated Group 2 closing, .75% of the Group 2 acquisition price.

Exhibit I

Sale/Leaseback  
Lease Term Sheet

Expenses:

Subsequent to the execution of the commitment, [REDACTED] shall pay its own legal and appraisal expenses, and all fees to consultants rendering opinions to [REDACTED] with regard to the proposed acquisition. At the Group 1 closing, [REDACTED] shall reimburse [REDACTED] for costs incurred prior to execution of the commitment and paid for by [REDACTED] for [REDACTED] and [REDACTED].

[REDACTED] consultants. [REDACTED] will pay all other costs and expenses associated with the purchase/leaseback and the commitment, whether or not the purchase/leaseback is consummated, including but not limited to, [REDACTED] legal fees, title insurance premiums and costs, taxes (including transfer taxes), escrow fees, survey fees, recording fees and expenses.

[REDACTED] will deliver a copy of the completed appraisals to [REDACTED] whether or not the transaction closes.

Sublease:

A lessee must obtain the prior written consent of [REDACTED] for any sublease or assignment of a Facility. Such consent is at the sole and absolute discretion of [REDACTED]. In the event [REDACTED] approves an assignment or sublease, [REDACTED] may require lessee to pay to [REDACTED] in consideration for consent to sublease or assignment (i) 50% of any profit on the sublease or (ii) 50% of the gross revenues received from the assignment. [REDACTED] approval will not be required and no consideration will be paid for any sublease to tenants of the [REDACTED] or to majority owned affiliates of [REDACTED].

Personal Property:

The personal property shall belong to the lessees. At the end of the lease term or any renewal option, if the lessee does not renew the lease or purchase the property, then [REDACTED] shall have the option to purchase the personal property at fair market value.

Brokers Fees:

Each party to this agreement in principle represents to the other that no actions of such party have entitled any broker, finder or other person to any commission or finder's fee in connection with the transactions contemplated hereby.

Exhibit I

Sale/Leaseback  
Lease Term Sheet

Cross-Default and Cross-Collateralization:

A default under any of the New Facility leases shall be considered a default under all of the leases between [REDACTED] and [REDACTED] or affiliates thereof. A default under any Existing Facility lease shall be considered a default under all other Existing Facility leases between [REDACTED] and [REDACTED] or affiliates thereof, but not a default under the New Facility leases. The letter of credit for the New Facilities shall be cross-collateralized among all New Facility leases. The letter of credit or the security deposit for the Existing Facilities shall be cross-collateralized among all Existing Facility leases. Also, a default and acceleration of single debt issues of [REDACTED] or any of its affiliates over \$15 million or a group of debt issues over \$60 million will be a default under all of the leases.

Additional Security:

For the New Facilities only, [REDACTED] shall take a first, secured interest in the licenses, certificates of need, receivables, and the stock of the subsidiary lessees. [REDACTED]'s LBO bank group may take a second lien on the stock of the subsidiary lessees.

Insurance:

The policies must name [REDACTED] as additional insured with a rider that [REDACTED] must be notified of any material change. The following policies will be required:

General Liability insurance will be required with a limit of not less than \$1,000,000 per occurrence, \$9,000,000 excess, with a deductible of not more than \$100,000.

[REDACTED] Liability insurance will be required with a limit of not less than \$1,000,000 per occurrence and excess of at least \$9,000,000. The existing \$2,500,000 deductible will be permissible.

Comprehensive Auto Liability insurance will be required with a primary limit of \$2,000,000 per occurrence and excess of \$75,000,000 after the next \$500,000.

Excess limits of a minimum of \$75,000,000, will be required for General, [REDACTED] and Auto coverage.

All Risk, 100% replacement cost, property coverage insurance will be required with a 90% coinsurance clause with a permissible deductible of \$10,000. [REDACTED] to be named loss payee as owner. Loss of Rent coverage

Exhibit I

Sale/Leaseback  
Lease Term Sheet

Insurance (Continued):

for 12 months will be required payable to [REDACTED].

[REDACTED] will maintain or cause to be maintained with financially sound and reputable insurers (which for the purposes of maintaining general liability, [REDACTED] liability and property insurance may be [REDACTED] Insurance Co., Ltd.) insurance with respect to its properties and business as stated above.

Right of First Refusal:

[REDACTED] will have the right of first refusal to provide on equal or better terms the next \$50 million of sale and leaseback funding to [REDACTED] after the [REDACTED] transactions contemplated herein and approximately \$45 million third-party sale/leaseback transactions contemplated herein. This right of first refusal shall expire on the third anniversary of the Group 1 lease commencement date.

Capital Additions:

If no event of default shall have occurred, [REDACTED] shall have the right to construct Capital Additions to a facility costing less than 10% of the fair market value of the facility without the prior written consent of [REDACTED]. If the cost of the Capital Additions to a facility exceeds in the aggregate 10% of the fair market value of the facility, then [REDACTED] written consent shall be required, which consent may be withheld in [REDACTED] sole and absolute discretion. [REDACTED] shall first request [REDACTED] to provide funds to pay for any Capital Addition. If [REDACTED] declines to provide such funding on terms reasonably acceptable to [REDACTED], then [REDACTED] may provide or arrange such funds. If the funds are provided or arranged by [REDACTED] and the amount of the Capital Addition exceeds \$100,000, then the calculation of Additional Rent for the facility shall be modified as follows:

There will be no Additional Rent charged for the facility during the first 12 months after completion of the Capital Addition. In lieu of Additional Rent during this 12 month period, Charter will pay the same amount of total rent paid in the 12 months prior to completion of the Capital Addition (Base Rent and Additional Rent) multiplied by 103.5%. 12 months after completion of the Capital Addition, payment of Additional Rent shall resume, with Gross Revenues attributable to the Capital Addition being excluded from Gross Revenues for purposes of calculating Additional Rent. For purposes of calculation of the amount of such exclusion, the Gross Revenues attributable to such Capital Addition shall be deemed to be an amount which bears the same proportion to the total Gross Revenues from the entire facility as the fair market added value of the Capital Addition bears to the Fair Market Value of

Exhibit I

Sale/Leaseback  
Lease Term Sheet

Capital Additions (Continued):

the entire facility, including all capital additions, immediately after completion of the Capital Addition.

In no event shall annual rent increases for a facility be less than 3.5% in any year after completion of a Capital Addition at that facility which exceeds \$100,000 and is financed by [REDACTED]

Upon expiration of the lease, [REDACTED] will compensate [REDACTED] for the net book value of the Capital Additions financed by [REDACTED] by, at [REDACTED] option, either purchasing the Capital Addition with cash or delivering a purchase money promissory note which is due not later than 18 months after expiration of the lease and shall bear interest at the prime rate.

Use of Proceeds:

[REDACTED] shall use the proceeds from the sale of the Facilities for one or more of the following purposes: (i) payment of non-affiliated third-party borrowings of each subsidiary making the sale (the "Subsidiary"), (ii) establishment of a separate bank account in an amount sufficient to pay existing trade creditors of each Subsidiary as of the time of closing, (iii) payment of existing indebtedness of the Subsidiary to [REDACTED] Inc. and [REDACTED], (iv) payment of other intercompany indebtedness owed by each Subsidiary at the time of closing. [REDACTED] also shall use the proceeds from the sale of the Facilities in a manner consistent with covenants in documentation for its senior bank debt and public debt issues dealing with "Sale of Assets." [REDACTED] shall provide a letter from the agent of its senior bank debt acknowledging receipt of any proceeds in payment of existing senior bank debt. [REDACTED] shall further provide documentation of all of the wire transfers evidencing said payment of senior bank debt.

Purchase Option (New Facilities):

The Lessees shall have an option to purchase the New Facilities at the end of the primary lease term and at the end of any renewal term at the greater of i) fair market value less any amounts owed to [REDACTED] under the capital additions provisions or ii) [REDACTED] original cost, including the value of any capital additions funded by [REDACTED]. Fair market value shall be defined as the fee simple real estate value, as determined by appraisal. The New Facilities must be purchased as a group.

Exhibit I

Lease Term Sheet

The following terms will be effective only as long as [REDACTED] or any of its subsidiaries remains indebted to the LBO bank group under the current bank financing agreements, as amended, or any bank refinancing thereof:

Leasehold Mortgage:

[REDACTED] will consent to [REDACTED] or any [REDACTED] subsidiary Lessee granting leasehold mortgages on the Facilities to the LBO bank group. Leasehold mortgage terms will be subject to [REDACTED] reasonable review and approval.

Banks Right to Cure:

[REDACTED] LBO bank group shall have the right to cure any monetary default or any non-monetary default curable by the bank group. [REDACTED] will be required to give notice to the agent of the LBO bank group upon the issuance of a default notice by [REDACTED] to [REDACTED] or any [REDACTED] subsidiary Lessee.

Operations on Default:

Upon a default by [REDACTED] or any [REDACTED] subsidiary Lessee, or exercise by the LBO bank group of its right to cure a non-monetary default or to foreclose on the leasehold interest, [REDACTED] shall have the right to approve any new manager or operator of the Facilities which consent shall not be unreasonably withheld.

Assignment of Right of First Refusal and Purchase Option:

[REDACTED] will permit [REDACTED] or any [REDACTED] subsidiary Lessee to assign its right of first refusal with respect to the Facilities and purchase option with respect to the New Facilities to the LBO bank group. [REDACTED] will give notice to [REDACTED] upon the LBO bank group's exercise of the right of first refusal or purchase option.

Right to Substitute Facilities:

[REDACTED] will have the right to substitute a facility to cure a non-monetary default not curable by [REDACTED] or any [REDACTED] subsidiary Lessee; provided, however, such substitution shall only be permitted if (i) it will qualify as a like-kind exchange under Section 1031 of the Internal Revenue code; and (ii) it will satisfy the requirements to be provided by [REDACTED] related to [REDACTED] taxation as a real estate investment trust.

Exhibit I

Lease Term Sheet

Right to Substitute Facilities (Continued):

The rent and other factors for such substitute facility shall provide [REDACTED] with an expected future return and yield substantially equivalent to or greater than [REDACTED]'s return and yield from the substituted facility at the time of such substitution (or in the case of damage or destruction, the yield immediately prior to such damage or destruction) and as reasonably projected over the remaining term of the lease, taking into account any cash paid or received and any other relevant factors. The substitute facility must also be otherwise reasonably acceptable to [REDACTED]. [REDACTED] hereby agrees to assume all costs incurred by [REDACTED] in connection with the substitution of facilities.

Financial Covenants:

The leases shall not contain any financial covenants, other than the financial covenants described in this commitment. The leases shall not prohibit encumbrances on property of [REDACTED] or any [REDACTED] subsidiary Lessee not owned by [REDACTED] or any other negative pledges related to property of [REDACTED] or any [REDACTED] subsidiary Lessee not owned by [REDACTED].

Exhibit II

List of Facilities/Purchase Prices

Existing Facilities:

Purchase Price

Group #

Existing Facilities:	Purchase Price	Group #
[REDACTED]	\$10,000,000 *	2
[REDACTED]	\$5,500,000 *	2
[REDACTED]	\$5,600,000	1
[REDACTED]	\$7,600,000	1
[REDACTED]	\$6,900,000	1
[REDACTED]	\$6,500,000	1
[REDACTED]	\$6,300,000 *	1
[REDACTED]	\$6,800,000	2
[REDACTED]	\$8,800,000 *	2
[REDACTED]	\$18,500,000	1
[REDACTED]	\$5,200,000 *	1
[REDACTED]	\$6,100,000	1
[REDACTED]	\$6,100,000	1
[REDACTED]	\$5,000,000	2
[REDACTED]	\$7,400,000 *	1
	<u>\$112,300,000</u>	

\* Inspection not complete

*[Handwritten signature]*



Irrevocable Standby Letter of Credit  
Page Two

This Letter of Credit shall expire at 2:00 p.m. at the offices of  
[bank] on the expiration date.

Any draft drawn hereunder must bear the legend "Drawn under  
[bank] Letter of Credit Number [L/C #] dated [L/C Date]."  
Except so far as otherwise expressly stated, this Letter of Credit  
is subject to the "Uniform Customs and Practice for Documentary  
Credits (1983 Revision), International Chamber of Commerce Brochure  
No. 400." We hereby agree with you and all persons negotiating  
such drafts that all drafts drawn and negotiated in compliance with  
the terms of this Letter of Credit will be duly honored upon  
presentment and delivery of the documents specified above by  
certified or registered mail, or in person, to [bank], located  
at [bank address] if negotiated on or before the expiration  
date shown above.

Very truly yours,

By: \_\_\_\_\_

Title: \_\_\_\_\_





EXHIBIT III

IRREVOCABLE STANDBY LETTER OF CREDIT

[REDACTED]

Date: \_\_\_\_\_

Letter of Credit #: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

GENTLEMEN:

We hereby establish our Irrevocable Letter of Credit in your favor for account of \_\_\_\_\_ available by your draft(s) on us payable at sight not to exceed a total of \$ \_\_\_\_\_ (\$ \_\_\_\_\_) when accompanied by this Letter of Credit and the following documents:

1. A certificate purported to be executed by a representative of \_\_\_\_\_ stating that [lessee], as lessee, has committed an Event of Default under the lease dated [date], executed between \_\_\_\_\_, as lessor, and [lessee], as lessee, or that [lessee] or any of the affiliates of [lessee] set forth in Schedule A attached hereto and made a part hereof, has committed, as lessee, an event of default under any other lease between \_\_\_\_\_ or an affiliate of \_\_\_\_\_, as lessor, and [lessee] or an affiliate of [lessee], as lessee, and stating the amount for which a draw under this Letter of Credit is made; (or) a certificate purported to be executed by a representative of \_\_\_\_\_ stating that [lessee], as lessee, has not supplied a replacement Letter of Credit for this instrument prior to thirty (30) days in advance of the expiration of this instrument for the account of \_\_\_\_\_ Inc.
2. The original Letter of Credit must accompany all drafts unless a partial draw is presented, in which case the original must accompany the final draft.

Partial drawings are permitted, with the Letter of Credit being reduced, without amendment, by the amount(s) drawn hereunder.

[REDACTED]